Opinion

Allen Mendenhall: Alabama must confront the financial inquisition

Allen Mendenhall | 08.14.25

(Photo credit: iStock)

Last week, I took a scalpel to the sacrosanct myth that American megabanks operate in anything resembling a free market. They don't. They're coddled by government guarantees and shielded from the consequences of recklessness.

Yet they wield their power to punish dissenters, particularly those of a conservative persuasion, with all the subtlety of a commissar. If they wish to enjoy the public teat, they ought to submit to public scrutiny. Debanking legislation at the state level is not only appropriate, but also overdue.

This week, accordingly, I turn to the insights of Todd Zywicki – lawyer, free market economist, and I'm proud to say, my friend – whose academic commentary on the matter exposes the rot at the core of this growing financial inquisition. Zywicki includes in his conception of debanking not merely the closing of accounts, but also denials of service by corporations such as PayPal.

Zywicki amplifies my thesis that megabanks function as quasi-governmental entities, their existence sustained by public largesse that mocks market rhetoric. His contribution, however, is more robust: financial institutions that have gorged on public privilege must be held accountable to taxpayers. Specifically, they require treatment as common carriers, legally compelled to serve without viewpoint discrimination.

This principle requires no regulatory innovation. The common carrier doctrine originated in medieval common law's organic wisdom, recognizing that certain enterprises – such as ferry operators, innkeepers, and grain elevators – become so deeply woven into the fabric of commerce that they surrender the luxury of arbitrary exclusion.

Crucially and historically, this was a private law doctrine that emerged from the commercial practices of interacting firms themselves; the law merely reflected in judicial decisions what merchants and traders had already established as necessary and customary norms of fair dealing.

"I have been unable to locate any reports of leftwing individuals or organizations or prominent Democratic Party officials who have been debanked for political or ideological reasons," Zwicki declares.

What a coincidence! This phenomenon is politically one-sided.

The Trump administration will provide at least some temporary relief from political debanking (for instance, last week it issued this executive order). But Democrats have discovered that debanking works like a charm for silencing political opponents.

Today's megabanks aren't private enterprises any more than Amtrak is a railroad company. In our modern regulatory landscape, bank regulators and banks have become so intertwined that they form a complex, managerial bureaucratic structure.

Zywicki wisely notes that treating banks as common carriers would actually benefit the banks themselves: it would remove them from the political swamp they've waded into.

When banks rely on federal deposit insurance, emergency lending, and implicit bailout promises, they graduate from private actors to public utilities. Privilege purchased with taxpayer money demands reciprocal responsibility: service notwithstanding customers' political convictions.

The Alabama Legislature should seize the opportunity in the next session to pass robust protections against debanking, ensuring that financial access cannot be weaponized for political purposes.

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