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America?s Chief Magistrate and the Spirit of ?76 [1]

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The year 1776 was a revolutionary milestone for individual liberty, with the publication of Adam Smith?s The Wealth of Nations setting forth the path of economic freedom and a Declaration proclaimed by thirteen American colonies ringing the tocsin for political independence.

But a solemn spectre of ?76 hung over the United States this November as Americans voted for representatives and senators in Congress and a Chief Magistrate to occupy the White House ? for the promise of economic and political liberty has turned dark.

Individual liberty

The spirit of ?76 was animated by the desire for personal freedom, both in our relations with others and in our transactions with them. Adam Smith wrote against the mercantilist system which thwarted innovation and entrepreneurship, while the Declaration of Independence [3] affirmed that ?all men are created equal? and ?endowed ... with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness?; that we establish governments to protect these rights, said governments ?deriving their just powers from the consent of the governed?.

In an early lecture [4] anticipating The Wealth of Nations, Smith was recorded to have said

> Little else is requisite to carry a State to the highest degree of opulence from the lowest barbarism, but peace, easy taxes, and a tolerable administration of justice; all the rest being brought about by the natural course of things. All governments which thwart this natural course, which force things into another channel, or which endeavour to arrest the progress of society at a particular point, are unnatural, and to support themselves are obliged to be oppressive and tyrannical.

Smith?s ?unnatural course? is now commonplace. It is impossible to pick up a newspaper, switch on the television, or surf the internet without being inundated with propaganda about how government can improve our lives through intervention, paid for through the imposition of ?oppressive and tyrannical? taxation. ?Since time immemorial two political systems have confronted one another and both have good arguments to support them,? wrote the nineteenth-century economist, Frédéric Bastiat [5]. ?According to one, the state has to do a great deal, but it also has to take a great deal. According to the other, its twin action should be little felt. A choice has to be made between these two systems.?

Governments now do ?a great deal? never before imagined, and while the heights of politicisation may be unheard of, the phenomenon isn?t. In ancient Greece, Aristotle taught that ?it would be absurd for

someone to think that political science or practical wisdom is the best science, unless human beings are the best things in the cosmos (*Nicomachean Ethics*, 1141a)? ? he thought not; these sentiments were echoed in mediaeval times by Thomas Aquinas: ?Man is not ordained to the body politic, according to all that he is and has; and so it does not follow that every action of his acquires merit or demerit in relation to the body politic (*Summa Theologica*, I-II, 21.4, ad 3).?

But in civil society to-day, most relations are graded on whether or not they contribute to ?social democracy?, with bitter recriminations for anyone refusing to justify himself by seeking sanction from the majority. ?What else would you expect?? retortsTrevor Burrus [6], an associate at the Cato Institute.

> Over the past 50 years, politics has crept into nearly every area of our lives, affecting our most personal and consequential decisions. Our political parties no longer fight over simple regulations of interstate commerce and tariffs, we fight, on a ***national*** level, over the nature of American health care and how we will educate our children. How could these fights not be schismatic, vicious, and underhanded?

Since politics has invaded every corner of our lives, everything has become political, and fair game for a ?great deal? of unwelcome intrusion.

Constitutionally limited government

Of Bastiat?s two systems, America?s founders had envisioned a union of limited government, whose actions ?should be little felt?; witness James Madison?s promise in Federalist No. 45 [7], that ?the powers delegated by the proposed Constitution to the federal government are few and defined. Those which are to remain in the State governments are numerous and indefinite.? Yet the constitutional framework of the Founders ? that ?the State governments may be regarded as constituent and essential parts of the federal government; whilst the latter is nowise essential to the operation or organization of the former? ? has been set upon its head. Washington intrudes upon state jurisdiction as a matter of fact, usurping powers it has no authority to assume. Nowhere is this reversal more evident that in the office of the president. As Gene Healy writes in *The Cult of the Presidency* [8],

> Neither Left nor Right sees the president as the Framers saw him: a constitutionally constrained chief executive with an important, but limited job: to defend the country when attacked, check Congress when it violates the Constitution, enforce the law?and little else....
>
> Congress, not the executive branch, was to be the prime mover in setting national policy ... the chief magistrate?s role was mainly defensive. He could interpose himself between Congress and the people when Congress acted beyond its authority, but he was neither Tribune of the People nor Chief Legislator. His true role at home was at once more humble and more important: Constitutional Guardian. Modest but firm, dignified but not regal: this was the president as the Framers envisioned him.

Any existential threat to America is first posed by government itself [9] ? continuing deficits (now annually in the trillion-dollar zone); accumulating debt (with harrowing GDP ratios); and burgeoning entitlement burdens for various welfare and social security programmes. The Republican presidential ticket ? arguably the more fiscally prudent of the two major parties ? abandoned fiscal guidelines based on constitutional, limited government principles [10] and adopted a utilitarian standard for cutting government waste [11]: ?As president, Mitt Romney will ask a simple question about every federal program: is it so important, so critical, that it is worth borrowing money from China to pay for it?? (Mainstream GOP attitudes toward increased military spending and ?loose? monetary policy are anathema to libertarian conservatives, for

instance, who warn that America?s sovereign debt crisis will lead to imminent financial collapse.)

Although Smith would question ? as did the Framers ? faith in the chief magistrate?s acumen to arbitrate any economic scheme (for good or ill) for the American people. ?The sovereign is completely discharged from a duty, in the attempting to perform which he must always be exposed to innumerable delusions, and for the proper performance of which no human wisdom or knowledge could ever be sufficient,? he proclaimed; ?the duty of superintending the industry of private people, and of directing it towards the employments most suitable to the interest of the society (IV.ix.51 [12]).? But Smith knew of the proclivities of political leaders.

> It is the highest impertinence and presumption, therefore, in kings and ministers, to pretend to watch over the ?conomy of private people, and to restrain their expence either by sumptuary laws, or by prohibiting the importation of foreign luxuries. They are themselves always, and without any exception, the greatest spendthrifts in the society. Let them look well after their own expence, and they may safely trust private people with theirs. If their own extravagance does not ruin the state, that of their subjects never will (II.iii.36 [13]).

Unfortunately, impertinence and presumption are most often the coin of the realm for politicians. Nor is this despondent critique fuelled by partisan affiliations. True, the cause of limited, constitutional government with individual liberty and responsibility has more ostensible supporters in one of the two major political parties than the other. This applies especially to those Tea Party members of the GOP who espouse the enumerated powers Madison described above and an ever-more constrained role for America?s contemporary chief magistracy. Sadly, in reality, fidelity to the constitution is contingent upon which party enjoys power. Healy calls this equivocation ?Situational Constitutionalism?:

> ...the Right had largely abandoned its distaste for presidential activism and had begun to look upon executive power as a key weapon in the battle against creeping liberalism. Sadly, that pattern is all too common in political battles over the scope of presidential power. The tendency to support enhanced executive power when one?s friends hold the executive branch....

?Government Failure?

In America of the twenty-first century, many would aver that the very opposite of Smith?s triad of ?peace, easy taxes, and a tolerable administration? dominates the agenda. Within the school of Public Choice Theory, this is known as ?government failure?.

The faults of the market are well-known; innovation causes old industries to wither away, and unemployment and financial dislocations occur as the marketplace adapts to new economic realities. To address this supposed ?market failure?, governments step into the breach, but they are no more omniscient than chief magistrates ? and what results instead is ?government failure?. The State?s misadventures in mercantilist policy, for instance, animated Smith?s Wealth of Nations.

> The stateman, who should attempt to direct private people in what manner they ought to employ their capitals, would not only load himself with a most unnecessary attention, but assume an authority which could safely be trusted, not only to no single person, but to no council or senate whatever, and which would nowhere be so dangerous as in the hands of a man who had folly and presumption enough to fancy himself fit to exercise it (IV.ii.10 [14]).

The IEA?s Arthur Seldon summed up the ?dilemma of democracy [15]? brilliantly: ?Government remedies are begun before the market?s imperfections have been removed by growing knowledge of its continuing

flow of new, competing alternatives,? he observed. ?They are applied too widely to where the market has not yet emerged, but could have been foreseen, to where it is expanding. And they are maintained long after they have become superfluous and could be replaced by the new supplies and demands.?

Seldon?s remedy was equally apt ? ?The option is no longer for politicians to tell the people what they will do in government but to confess what they cannot do. The question for the future is increasingly not ?What should government do now?? but increasingly ?What can government do???

More troubling, however, are politicians? vested interests in government intervention. Public Choice observes that the desire to get elected means that public officials are not always so pure in their pursuit of the common good, and will promise state-sponsored incentives to ensure their victory at the ballot box. Frédéric Bastiat opined in The Law [16] that

...when plunder is organized by law for the benefit of the classes that make it, all the classes that have been plundered attempt, by either peaceful or revolutionary means, to have a say in the making of laws. Depending on the level of enlightenment which they have attained, these classes may set themselves two very different aims when they pursue the acquisition of their political rights; they may either wish to stop legal plunder or they may aspire to take part in it.

Increasingly, Bastiat?s latter scenario has come to pass.

And the struggle continues

But all is not lost. ?The uniform, constant, and uninterrupted effort of every man to better his condition, the principle from which publick and national, as well as private opulence is originally derived,? wrote Smith optimistically, ?is frequently powerful enough to maintain the natural progress of things toward improvement, in spite both of the extravagance of government, and of the greatest errors of administration (II.iii.31 [13]).? And inThe State [5], Bastiat believed that a system of justice could prevail.

> As for us, we consider that the state is not, nor should it be, anything other than a common force, instituted not to be an instrument of mutual oppression and plunder between all of its citizens, but on the contrary to guarantee to each person his own property and ensure the reign of justice and security.

(Canadians of a certain age will recall Liberal prime minister Pierre Trudeau?s reflections when he lost majority government in 1972, when he quoted from the popular prose poem, Desiderata: ?no doubt the universe is unfolding as it should.?)

Ultimately, if Americans are to restore constitutionally limited government instituted to guarantee their personal liberty, then they must revive the Spirit of ?76. One avenue lies with the states, by adhering jealously to constitutional prerogatives and the power to ?nullify [17]? or ?interpose [18]? between their citizens and federal over-reach; another with citizens themselves who must remember the principles of the Declaration, by withholding their consent to the leviathan within their midst. ?A healthier political culture would follow the Framers not just in their skepticism toward power, but in their sense that the federal government was one of limited responsibilities and limited powers?, notes Gene Healy in a speech on the contemporary chief magistracy [19]. ?Until we restore that sense of limits, I?m afraid that we?re going to get more of the same, no matter who becomes president.? God bless America.

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