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Statement On The Packwood Family Limitation Proposal

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"The power to tax is the power to destroy." Is John Marshall's famous dictum to find a fresh application in an attempt to employ the taxing power to undermine the morality of our people and destroy the integrity of the family? There is reason to fear that this is the thrust of a radical proposal for population management and control, prominently sponsored by Oregon's Senator Robert Packwood, which is making rather a strong bid for popular support. It would use the power to tax as a threat and deterrent to any American family which would presume to exceed a given norm of population limitation.

Marshall's phrase, found in his judgment striking down the effort of the State of Maryland to impose a tax upon the United States Bank, back in 1819, echoes as a refrain through the decades of American constitutional history. The Federalist Chief Justice was perfectly clear in his mind that if any State, motivated by whatever high theory of republicanism, were to be conceded the right to levy taxes on the Federal government or its agencies,

ultimately no limit could be assigned to the extension of that right, and the end of the national compact would be in sight.

The lapidary dictum as been transposed, during the subsequent century and a half, to serve in dozens of contexts, some of which would be hard to reconcile with its original framework. It has been used as a bludgeon to clobber the national government itself, when the case was argued that Federal taxation was in fact destroying the several States or at least reducing them to practical impotency. It has been cited (with full conviction or with tongue in cheek) by all manner of business men and industrialists, some of them honest men striving to wrest a living in a highly competitive world, some of them the "malefactors of great wealth" who were the objects of Teddy Roosevelt's unmitigated wrath. It has been thus used in protest against taxation from any source, Federal, State, or local, which they saw as threatening the confiscation of their goods, or the cramping of their style of life, or the curtailment of their profits.

But the destruction envisioned thus far by the prophets of doom has been either economic or political. If taxation is confiscatory it destroys the economy; if it upsets the extremely delicate balance between national unity and state sovereignty, then it destroys the compact, changing the nation either into a congeries of quarreling entities or into a species of federalist tyranny, spelling an end to our political liberty. But it has hardly occurred to any responsible American prior to our day that taxation might also be used to tamper with the moral structure of the American people.

As currently proposed by Senator Packwood, legislation would be enacted imposing tax penalties on those families bearing more than a statutory two children. Hence, on the unfortunate birth of a third child, Mr and Mrs Jones would automatically fall into a category of higher taxation, or of fewer exemptions, which comes to the same thing.

It is not immediately apparent whether the penalty scale could or should be adjusted, arithmetically or geometrically, so that those malefactors who would defy the law by bringing even larger numbers of children into the world (for the deliberate purpose of pollution?) could be made to suffer even more drastically.

The proposal has been widely acclaimed, and if press reports are to be believed, Mr. Packwood is receiving support from many sources. It has been claimed that his is the only practical proposal on record for avoiding population catastrophe, for saving the nation, if not the world, from ecological disaster. The urgency of the problem, the magnitude of the

impending disaster, we are told, make any objections, based on social, theological figments as the Judaic-Christian moral code or upon political theories of basic human freedom and dignity, both futile and irresponsible. No question of the good faith of the proponents of the measure. But to jettison morality and freedom is no way to ride out the storm.

It may be recalled, in this connection, that it was precisely upon the success of such propaganda techniques — the Big Scare, the Jewish Bait — and upon the creation of just such a mood of immediate urgency, that Adolf Hitler, four decades ago, persuaded the most literate nation in the world to go the way of National Socialism. His appeal, be it further remembered, was directed principally at German youth, ready enough as it was at that time to discard what were considered to be outworn concepts of moral behavior and the discredited democratic ideal of individual dignity. The theory, common to both Nazism and Marxism, that the individual is no more than a creature of the omnipotent state, was sold to the bulk of the nation, or at any rate to a sufficiently strong and vocal minority capable of overwhelming any opposition, either in public debate or at the polls.

It may also be remembered, this time from our own American experience, that an attempt to legislate a particular brand of morality — the prohibition of alcoholic beverages, came a fearful cropper. It was dubbed a "noble experiment", but it created a mood of contempt of the law whose evil effects have by no means been eliminated.

Aside from any historical parallel or comparison, however, the essential

point here is that such a proposal as Senator Packwood's is nothing less than an attempt to legislate morals. It would enforce family limitation, not by the moral suasion of restraint or by the exercise of the conscience of the Christian or the responsible citizen, but by a sumptuary law which would grievously offend the conscience of millions of Americans, men and women who are by no means insensitive to the nation's welfare or to the best interests of humanity. It would reduce all Americans, of whatever belief or of no belief, to the status of slaves of the Servile State.

Moreover, a growing shadow of suspicion lowers over much of the propaganda cited by the advocates of this sumptuary taxation. Ecology and environmental pollution, from being terms connoting necessary social concern with the decency of man's earthly habitat, have been bastardized into catch words justifying outrageous exaggerations and even plain falsehoods. In the view of some of our more sober demographers, there is more to fear, at this juncture, from a trend towards national suicide than there is from the bugaboo of that horrendous overcrowding, which, as the fear-mongers agonize, would leave us no room for decent burial.

If there is serious danger of world overpopulation, it must be faced up to courageously and realistically, bringing

to bear on the issue the whole moral force of mankind. But in the current instance we are dealing with a casual dismissal of man as a responsible moral agent. Largely, no doubt, because general moral behavior has gravely deteriorated in our time, under the spell of luxurious living, or prompted by sexual permissiveness, or spurred on by a massive abandonment of religious practice, the point of this obvious comment has been blunted. It is more and more commonly assumed today that man is no longer (if he ever was) capable of controlling his own moral behavior. So he must be forced into a moral straightjacket, or, at the very least, taxed until he conforms.

What is appalling and a little frightening in this whole controversial issue, so vociferously debated these days the country over, is the simplistic ease with which so many Americans, men and women of good will, show themselves willing to embrace a kind of moral tyranny which hardly even makes an effort to hide behind its few thin rags of respectability. Less surprising, but nevertheless deeply saddening, is the enthusiasm with which so many of our nation's youth, shouting their emancipation from the fetters of religious belief and from the outworn mores of the forefathers, rush headlong down the path to moral and political serfdom. For moral suicide is the inevitable harbinger of national suicide.