Statement on the Packwood Family Limitation Proposal

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order morality, an enlightenment and motivation of all peoples.

There is projected for us a millennium. To attain this, in our dealings with humanity, it might be a good beginning if we could begin by being humane.

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The power to tax is the power to destroy. If 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 subdued 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 be subjected to any objections, based on whatever belief of or belief to, the status of slaves of the federal 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 connoted necessary social concern with the decency of man’s earthly habitation, have been bastardized into catchwords 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 histrionical overcrowding, which, as the fear-mongers agonize, would leave is no room for decent burial.

It may also be remembered, in this experience, that an attempt to regulate 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 presumably 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 federal State.

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, shortening 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 servitude. For moral suicide is the inevitable harbinger of national suicide.