

Prospects for Conservatives

Part III

The Behemoth State: Centralization

By Russell Kirk

All present in this room today are aware that the word “federal” does not mean “central.” But the Congress of the United States, in recent decades, and frequently the Executive force, too, have been behaving as if unable to discern any distinction between the two terms. That way lies the collapse of the Constitution.

A simple instance of this occurred on Capitol Hill only nine days ago. We now have a new statute that prohibits servants of the federal government — and they are legion — from lodging in hotels (lodging at public expense, anyway) that do not have sprinklers in the ceilings of bedrooms. A few exemptions are granted, chiefly to hotels that stand less than four stories high. The act’s premise is that by excluding non-complying hotels from federal patronage, virtually all innkeepers will find it necessary to install sprinklers (cost about \$1,500 per room). The justification for this thoughtful legislation is that over the past six years, more than 400 persons have died in hotel fires in the United States. (Even I can master short division: this statistic, in effect, tells us that the hotel-fire death rate per annum per state has been 1.34 persons. I do not have to add statistics as to age and gender; at any rate, about one and one-third people, averaging the country over, have died in the average state in the average year, 1983-1989.) It is well, of course, to save lives; but a great many more lives might be saved by prohibiting the sale of skis through an act of Congress, or by a federal statute requiring all holders of real property to sprinkle salt on their sidewalks, whether part of the public way or private, after every snowfall.

My present point, however, is not the prudence or the expense of the act now on the statute books, but rather the political consequences of decreeing that the federal government shall prescribe and regulate all sorts of concerns previously left to the police powers of the several states and local agencies of government, or left to the sensible management of individuals, households, and firms. The Sprinkler Act is a sufficient instance of the continuing conversion of this country from a federal union for specified purposes to a centralized plebiscitary democracy, in which little discretion of choice is left to states and local communities, let alone private citizens.

“Democratic Despotism.” Behold, Behemoth! While Americans are congratulating themselves and Europeans upon the collapse of socialist states beyond the demolished Iron Curtain, there continues to expand here in North America the empire of what Alexis de Tocqueville called “democratic despotism.” This is a grim tendency toward total centralization of which conservatives have long complained, in somewhat vague terms, but to which they

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have offered, so far, little effective resistance. Permit me to quote to you a very perceptive passage in de Tocqueville's *Democracy in America*:

I think, then, that the species of oppression by which democratic nations are menaced is unlike anything that ever before existed in the world; our contemporaries will find no prototype of it in their memories. I seek in vain for an expression that will accurately convey the whole of the idea I have formed of it; the old words *despotism* and *tyranny* are inappropriate; the thing itself is new, and since I cannot name it, I must attempt to define it.

I seek to trace the novel features under which despotism may appear in the world. The first thing that strikes the observation is an innumerable multitude of men, all equal, and all alike incessantly endeavoring to procure the petty and paltry pleasures with which they glut their lives. Each of them, living apart, is as a stranger to the fate of all the rest; his children and his private friends constitute to him the whole of mankind. As for the rest of his fellow citizens, he is close to them, but he does not see them; he touches them, but he does not feel them; he exists only in himself and for himself alone; and if his kindred still remain to him, he may be said at any rate to have lost his country.

Above this race of men stands an immense and tutelary power, which takes upon itself alone to secure their gratification and watch over their fate. That power is absolute, minute, regular, provident, and mild. It would be like the authority of a parent if, like that authority, its object was to prepare men for manhood; but it seeks, on the contrary, to keep them in perpetual childhood; it is well content that the people should rejoice, provided that they think of nothing but rejoicing. For their happiness such a government willingly labors, but it chooses to be the sole agent and only arbiter of their necessities, facilitates their pleasures, manages their principal concerns, directs their industry, regulates the descent of property, and subdivides their inheritances; what remains, but to spare them all the care of thinking and all the trouble of living?

Thus it every day renders the exercise of the free agency of man less useful and less frequent; it circumscribes the will within a narrower range and gradually robs the man of all the uses of himself. The principle of equality has prepared men for these things; it has predisposed them to endure them and often to look on them as benefits.

De Tocqueville has in mind here, obviously, a central government the intentions of which are beneficent. But suppose that some intentions are not beneficent? Or that legislation might be intended to harass or to punish a class, a faction, or some minority? Where, under centralized democratic despotism, would the dissidents hide? At the moment, however, let us confine ourselves to acts and decisions of centralized power which, on their face, seem in-

tended — if perhaps in error — to confer benefits upon the public. Many such examples might be cited; I confine myself to two, both of which occurred during the presidential administration of Lyndon Johnson.

Accusing Arizona. The first of these had to do with governmental inspection of meat. Some inspectors from the federal Department of Agriculture happened to visit Arizona, and there came into conflict with Arizona's state meat inspectors. The two sets of officials parted in wrath; the gentlemen from Washington menacing the Arizonans that they would be taught their place. Back in the seats of the mighty, these bureaucrats sent word to their departmental superiors, and thence to the President of the United States, that ill-inspected and potentially poisonous meat was being approved for public sale by Arizona's negligent meat inspectors. On learning this dread secret, President Johnson saw opportunity for making the American nation aware of his solicitude for their well being: the Great White Father. On television, he revealed the iniquities of Arizona to a frightened people, crying out emphatically, "Get rid of rotten meat! Get rid of rotten meat!"

A complaisant Congress very, very promptly passed a new act regarding the inspection of all meat, much extending the jurisdiction and the activities of that branch of the Department of Agriculture, and subjecting all state meat-inspecting bureaus to federal jurisdiction. How thoughtful for the welfare of the American people, from sea to shining sea!

But others, not federal employees, looked into this affair, and the *Wall Street Journal* published in some detail an account of what had occurred. It was discovered, tardily, that in truth standards of meat inspection had been high, not low; that in fact Arizona did not approve rotten meat of any sort; and that all this fuss had arisen out of minor disputations between federal and state officials. This revelation embarrassed and angered President Johnson, who had assumed that the Washington inspectors were honest and not spiteful; but he could scarcely go back on television, this time to cry, "Bring back rotten meat! Bring back rotten meat!" Nor did Congress trouble itself to repeal the statute, so recently enacted, that made state meat inspection standards wholly subordinate to federal regulations. Since then, federal courts have ruled that if a state has higher standards than the federal ones, nevertheless the state must admit within its jurisdiction meats that meet merely the lower federal standard. A mad world, my masters!

Efficient Lobbyists. Indulge me, ladies and gentlemen, in one more instance of this arrogating of power not merely over state jurisdictions, but over the American bedroom — nay, the very bed and bedding. A federal agency abruptly ruled that all mattresses manufactured must be of the inner spring type — whether or not customers might prefer a plain cotton mattress or separate springs and mattress. This ukase, promptly enforced, put out of business many small makers of mattresses; it profited, however, big standard manufacturers who charged high prices; it appeared that lobbyists for the big mattress-making corporations had been at work efficiently in Washington. As for the American citizen who might prefer a simpler mattress and a cheaper, or for persons like your servant this lecturer, who possesses several ancestral antique beds that no inner spring mattress will fit — why, says Uncle Sam to such reactionaries, "Be comfortable, damn you, and expect to pay for it!"

I have not been able to ascertain under what fantastic interpretation of existing statutes the federal agency in question was able to prescribe the sort of mattress Americans must sleep upon. How could this possibly lie within the prescriptive jurisdiction of the general

government — or, for that matter, within the police powers of the several states? Yet done the thing was. A related arbitrary regulation employed the pretext of securing the health of children — though of course that protection, too, ordinarily has been exercised by state and local authorities, or by voluntary organizations.

This latter instance of federal *pleonexia* had to do with children's nightwear. From on high in Washington it was decreed that all pajamas, nightgowns, and the like must be manufactured of fire-retardant fabrics, if children were to wear them and shops were so to display them. This measure was supposed to prevent infants from being burned alive in bed; much mention was made of the number of persons annually slain or scarred as a result of smoking in bed, though I, at least, had been unaware that small children were given to smoking in bed. Enforced for a time, this paternal legislation caused severe loss to makers and retailers of children's standard nightwear who had large stocks in hand; also it conferred large commercial advantages upon those progressive manufacturers who already, doubtless through foresight and humane concern, were producing large quantities of fire-retardant nightwear for tots.

But alas and lackaday! Scientific studies, within a few months, coincidentally revealed that fire-retardant nightwear indubitably has caused skin cancer, respiratory troubles, and other physical afflictions. The federal regulations in question were quietly rescinded, I believe; and I fancy that it is now permitted for us to clothe our infants with mere unadulterated cotton or wool.

Grave Ills. I have chosen these relatively harmless and mildly amusing instances of the excessive zeal of the Washington bureaucracy to centralize practically everything, ladies and gentlemen, lest I be taken for a dreadful scaremonger. Now and again some well-intentioned elderly lady assures me, benignly, "Uncle Sam knows what's best for us." I decidedly am not of that opinion. Thorough political and economical centralization works ill much graver than the quality of meats, the distribution of bedsprings, and the fabric of nighties. For my part, I am of the opinion that de Tocqueville, rather than Uncle Sam, knows what's best for us. Let me add that both John Adams, Federalist, and Thomas Jefferson, Democratic Republican, would have been astounded and indignant at the degree of centralization already well established among us, two centuries after the Constitution of the United States commenced to function. I fancy that neither one would have insisted upon a sprinkler being installed in his bedchamber, at the expense of a perversion of the Constitution.

The pretexts for giving a veneer of seeming constitutionality to the concentration of power at Washington have been various. Our recent act to install sprinklers in hotel bedrooms is one of the less extravagant apologies — that is, it amounts merely to a refusal to pay the bills of federal employees who lodge at inns that have no sprinklers in bedrooms. (Of course every hotel in this country must be thoroughly inspected to ascertain the number of sprinklers.) Another and somewhat more severe form of compulsion is the refusal to pay any monies from the federal treasury to non-complying persons and institutions, as in the case of colleges and universities coerced into Affirmative Action programs and the like. Yet another method is the withdrawal of tax exemptions from institutions otherwise entitled to such exemptions, as in the case of Bob Jones University. The oldest method is the appeal of some federal department or federal agency to the commerce clause of the Constitution as the ground for justifying some surprising enlargement of the federal government's power;

and of course that is the road taken by the Congress ever since the 1820s. The most common method employed to induce states and cities, and various voluntary associations, to submit to federal regulation is the matching grant-in-aid, often on a very large scale. And in a number of instances the Congress and Executive Branch have not troubled themselves to look for excuses in the Constitution: they simply have pushed through a piece of legislation, of national scope, without bothering to enquire whether by any stretch of the imagination such an act could be regarded as authorized by some provision of the Constitution.

Consolidation By Degrees. In consequence of all of this, the federal character of the United States, this country's chief contribution to the art of governance, has been fading to a shadow of a shade. And where Congress hesitated, the Supreme Court rushed in to nationalize the whole political structure. More mischief of this sort was accomplished during the reign of King Lyndon than during any other period of American history – considerably more, incidentally, than was accomplished during the reign of King Franklin – but in general the leaders of either major political party have made no strong effort to resist consolidation of power; and, after all, it has come about by degrees, not as a result of any announced design. No doubt a well-publicized plan for systematic centralization would have been hotly rejected by the American electorate; and among those opponents of deliberate centralization would have been a good many liberals.

A decay of historical consciousness among Americans has had its part in reducing resistance to the concentration of decision-making powers in the general government. Here I offer you two paragraphs written by C. Northcote Parkinson, the deviser of Parkinson's Law. Professor Parkinson declares that political centralization is the initial cause of the nation's decadence. "The first stage on the downward path is one of over-centralization," Parkinson wrote in 1978.

Everything is done to eliminate or neutralize all but the main and central seat of administration. The lesser centers of power are either provincial governments or organizations which can be classified as religious, financial, military, or economic: an arch-bishopric, a national bank, a military command or a major industrial or trading group. The attempt to centralize all power in the one capital city and, indeed, in its administrative quarter, means the assimilation of all possible rival institutions from monasteries to television stations, from harbour authorities to charitable foundations. All these can be eliminated in the name of democracy or efficiency, and the result is the creation of the one government machine into which all problems are fed and from which all wisdom is to emerge. All that is initially lost is the likelihood of the government's having to listen to informed criticism from outside its inner circle of officials. Thereafter the problems centre upon the growing size and complexity of the central administration. As the civil servants multiply there is an ever-increasing distance between the citizen and the nameless people who will ultimately decide upon his application, protest, or appeal. Proceedings are cumbrous and attitudes are hierarchical, all decisions being referred from the periphery to the centre and then from the bottom to the top.

“If death come from Madrid,” said sixteenth-century Spaniards, “we should all live to a very great age.”

Much the same comment must have been made about Babylon, Peking, Persepolis, Delhi, and London. Less frequently noticed are two other results of over-centralisation. The first is that the normal processes of retirement and promotion will bring to the centre the people who have been robbed of all initiative while posted at the circumference. The second is that the capital city is now appallingly vulnerable to internal sedition or external assault. When all roads lead to Rome, all cables to London, the usual channels to Paris, the whole administrative machinery can be knocked out by a single rocket attack. there are no centres of authority outside the target area, no alternative capital city to which a government might move. With the capital city gone, there is nothing left.

Parkinson goes on to describe the second stage in the decline and fall of great states: the growth of taxation. But that is just another vast subject on which, conceivably, I may address you another time, ladies and gentlemen. Let me proceed, just now to my peroration. The worst thing about excessive concentration of power, I believe, is that in the long run such Behemoth centralization fails; and then the whole social structure falls apart, as is occurring in the Soviet empire at this moment.

Reasons exist why a supplanting of the old constitutional order, if completed, would present most serious dangers to American order and justice and freedom. I will mention only four of these perils.

Too Much Work. The first is the problem of efficiency. The general government is designed to carry out certain responsibilities, fairly well defined: most notably, the conduct of foreign relations, the defense of the country, and the management of undertakings too widespread for any one state in the Union to manage. But already the government here in Washington is dismayingly oppressed by too much work and too many servants. By endeavoring to do everything, the Washington government might end in doing nothing successfully.

The second problem is of scale. Measures which the provincial governors at Graz or Innsbruck would refuse to entrust to Vienna are proposed in America as if the governing of two hundred and fifty million people were little more difficult than the conduct of a town meeting – and quite as democratic – as long as President and Congress are still elected. I have heard American advocates of social-welfare measures, for instance, seriously advance the example of social-democratic legislation in Denmark as a precedent for American policy – though some American counties, not to mention states, are larger than Denmark, and other counties have more people than there are Danes.

Appeals against imprudent or unjust administration become immensely difficult when they are only the faint voices of individuals or local groups opposed to the prestige and influence of administrators at the capital; indeed, the chief administrators themselves cannot possibly look deeply into such complaints. Detailed administration on such a scale would require from civil servants a wisdom and a goodness never experienced in human history. “Well, appeal to your Congressman,” centralizers say, perhaps ingenuously. But Con-

gressmen already do not have time enough to answer the mail from their more important constituents, let alone act as so many Don Quixotes of the mass state.

Habit of Command. The third difficulty I raise here is the problem of leadership. Centralized political power functions smoothly only in nations accustomed to defer to the measures and opinions of a governing class — that is, in aristocratic or autocratic lands. Soviet centralization would have failed altogether, and almost at once, had it not been for the long-established powers of the Old Regime at Moscow and St. Petersburg. And such a body of decision makers, of governors, of aristocrats, must possess a high degree of self-confidence and the habit of command. They must be accustomed to dealing with deferential populations.

But these United States, accustomed to territorial democracy, have no class of leaders and administrators competent to undertake the consolidated direction which the centralizers propose. I do not discern a class of men here competent to rule wisely this immense nation, once territorial democracy and the federal framework — both principal schools of national leadership — should be undone.

Fourth, even had we a class of Winchester old-school-tie administrators, I do not know how we could expect the most expert of statisticians to direct paternally and justly the concerns of this nation, once local volition and private self-reliance had been seriously weakened. A man has but twenty-four hours in his day, and can read only a limited number of papers. Such centralization defeats its own object, in persons as in departments. The man-killing job of the presidency — to which centralizers will add numerous fresh responsibilities — may be sufficient illustration of my meaning.

Unmanageable People. To destroy, or let atrophy, territorial democracy and the federal system in America is quite possible; but it is less easy to provide some alternative satisfactory scheme of politics. Once the principle of volition, with the sense of participation and local decision, vanishes from American life, Americans are liable to become an unmanageable people. On a grander and more catastrophic scale, we might see again the resistance to authority and resort to violence which were provoked by the Eighteenth Amendment and the Volstead Act. Both the Eighteenth Amendment and the Volstead Act were “democratically” adopted; but somehow national positive democracy is not the same thing as territorial prescriptive democracy. Indeed, already we see great American cities in anarchy from time to time — the anarchists those people, black or white, who feel they have been excluded from full participation in society. What would occur when the majority should feel excluded from decision making?

Within a few years, if not immediately, any “guided democracy” or “plebiscitary democracy” would meet with evasion and hostility everywhere, and among the results of this could come a diminishing of the really effectual and popular authority of the general government. The energies and loyalties of volition would have been supplanted by the compulsions of a latter-day Jacobism, or of the Directory. And a great big Federal Bureau of Investigation would not be able to enforce the decrees of such a regime; for though a new broom sweeps clean, and an elite federal detective force aiding the local police is one thing, a permanent national secret police would be quite another — and possibly disagreeable to some of the “liberal” advocates of centralization. For that matter, a garrison of federal troops in every city might not suffice to keep order.

Yet life still rises in the tree of American federalism, and territorial democracy's powers of resistance and reaction ought not to be disregarded. It is true, as de Tocqueville remarked, that men in power generally feel impelled to augment central power, while the opponents of centralization are either stupid or powerless. Notwithstanding this, attachment to the doctrines of division of authority and of state and local powers remains so popular in the United States that an intelligent plan for preserving the old system would obtain a hearing, and stand some chance of enactment.

Buttressing the Structure. An enormous, unitary omniscient nation-state cannot abide the American political tradition of cake and custom. If the federal system is obsolete, then we ought to prepare to train the leaders of a new order, and to define the character of that domination, novel to us. If territorial democracy deserves to live, if the federal system has virtue still, then the constitutional structure ought to be buttressed and helped to function. At present, most of the Americans qualified to think about such matters decline to take either of these courses. They are willing to let the norms of politics shift for themselves — which is not according to nature.

Such is another huge prospect for conservatives. Let us hope that the rising generation of conservatives may have the courage and the imagination required to avert the triumph of the centralizers; for that triumph would be followed swiftly enough by the decay of the American Republic.

