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200910 OBITER DICTA: MID-ADVENT 2009

Steven Alan Samson, *Liberty University*

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Sunday, December 6

http://townhall.com/columnists/PaulJacob/2009/12/06/pervasive_legal_plunder?page=full&comments=true

I was initially drawn to this piece because of the title's reference to Bastiat's concept of legal plunder: a circumstance in which the government does takes actions that would be crimes if done by ordinary citizens. Ultimately, the people themselves are liable for what their governments do. Through the political process some citizens may shift the burden to other citizens, but the liability itself is inescapable. Somebody pays. People do not seem to grasp the fact that trillions upon trillions of dollars in deficits mean that a lot of somebodies are raiding the treasure and stealing from future generations. This spoils system is aided by establishing a regime of what Bastiat called "universal plunder." If complicity silences the guilty, then no one is left to mind the store. Power corrupts. Politics then truly becomes what Harold Lasswell said: "Who Gets What, When, How." Wholesale plunder on a national and international scale then becomes something like an impersonal force of nature. And the public becomes cynical and fatalistic.

Even so, not even once in a blue moon does something like this piece on the abuse of civil forfeiture come to my attention. Corruption of this sort needs to be investigated by the press and other watchdogs. Where are they? Americans can go to the highly competitive London newspaper market for much of what the American press spikes? But that is no solution to the real problem, especially for local issues. If such abuses are common, as appears to have been the case in Minnesota, then the system itself needs to be overhauled and the short-circuiting of safeguards stopped. The author adds links to several pieces, including a case that has recently been argued before the Supreme Court.

Jacobs concludes his piece by saying: "Through varying degrees of indifference, inattention, and complicit acceptance. The world needs good men and women to do something." I agree with the last statement, but the word for the problem is not necessarily either "indifference" or "inattention." Do ignorance and outright disinformation make us all complicit in such abuses of power? If so, we need to rethink our headlong rush into nationalizing and centralizing everything, which will only further expand the black box of corrupt dealings.

Even if not, we need to understand the dangers of the breakdown of constitutional safeguards in institutions that may have become ungovernable due to sheer size. The Fall 2009 issue of Claremont Review of Books features an essay by William Voegeli on California: "Failed State." Unfortunately, the problem is more extensive than just one state or just a few others. Can a political unit with an annual budget that places it among the largest nation-states in the world, but that lacks the attributes of national sovereignty, ever be expected to be truly self-governing and thus politically responsible? Do dwindling resources coupled with rising demands for services tend to corrupt our political institutions? The historical background in the case of California is discussed in a book entitled *Democracy in California*.

In his essay, Voegeli uses the term "hyperdemocracy" to describe how this state of affairs came about in California. In its bid to bring government closer to the people, the Progressive movement of a century ago broke down the protective boundaries between "the popular will and the governmental machinery," as the New Republic magazine put it in 1914. What we have here is a failure of boundary maintenance. The Progressive creed of "good government" ("goo-goo" as its deriders called it) substituted "expert administrative independence" for political intermediaries, such as healthy party competition. And what has been the result? Nobody is minding the store. Or rather, the store is minding itself: "The brigades of government administrators who govern in the name of the people have grown more organized and powerful over the past 50 years as unions of government employees have flourished." The Progressives instituted something akin to Rousseau's "general will" in California and thus bequeathed an administrative model not only for the American welfare state but also for the European Union. As Voegeli puts it: "Hyperdemocracy needs disinterested citizens, but produces uninterested ones. 'California has a dozen major media markets,' writes [Peter] Schrag, 'where few newspapers and even fewer TV stations recognize the rest of the state, much less pay attention to it.' For all the scrutiny these media devote to state government, the capital city of Sacramento 'might as well be on the moon.'"

http://pajamasmedia.com/ronradosh/2009/12/05/a-black-pastor-speaks-out-on-president-obamas-past/?print=1

I have a lot of respect for Ronald Radosh as a historian and a political analyst. In this column he cites a Black pastor and Harvard Law alumnus who raises serious questions about the President having "sat under" Jeremiah Wright for twenty years and even suggests that he might have "Muslim sensibilities." But after Radosh offers a different assessment, he then concludes with surprise twist that involves Rashid Khalidi and the Salahis. Judging from the material linked toward the end of the piece, there is a lot more to the story about the state dinner crashers than can be gleaned from the press.

http://www.americanthinker.com/2009/12/you_dont_know_what_you_got_til.html

This is a timely warning from someone who once had her family targeted by terrorists in Cold War Germany.

http://gatewaypundit.firstthings.com/2009/12/breaking-obamas-safe-schools-czar-is-promoting-porn-in-the-classroom-kevin-jennings-and-the-glsen-reading-list/

I am not sure what to do with this but it is a piece on GLSEN and Kevin Jennings, who, according to other sources I have seen, is coming back into favor. This article posted on the *First Things* site concludes with excerpts from several books on a GLSEN reading list that targets schoolchildren. What do you do when the enemy that is waging the psychological warfare is a domestic one?

Monday 7

http://www.americanthinker.com/blog/2009/12/update_on_fort_hood_heroine.html

Heroic and now disabled police officer is considering a teaching career.

http://www.americanthinker.com/blog/2009/12/a_brilliant_idea_from_the_wall.html

The Wall Street Journal is on the right track here. This brilliant idea reminds me of the title of a book I once used when I taught State and Local Government: *What Makes You Think We Read the Bills?* Truth be told, if the book were reissued today the title should be: "What Makes You Think We Write the Bill?" Of course, it is the staffers and lobbyists who write them. But the title I would most love to see is: "What Bills?" A do-nothing Congress would be at least good for something.

http://www.americanthinker.com/blog/2009/12/gaming_iran_scenarios_a_kobyas.html

Rick Moran raises the possibility that we are moving closer toward the Guns of August (although I expect that August could arrive earlier in the Spring). I tell my students repeatedly that my crystal ball is still foggy. But I believe my eye is reasonably clear. I imagine that inside a year (two years tops) American political and military might in the Middle East will be placed in check, as much for domestic reasons as any other cause. The Lilliputians of an emerging new axis of evil will seize the opportunity to lash down an insensible Gulliver with their ropes before he awakens to his plight. Then will Delilah whisper the words: "The Philistines are upon you, Samson!"

http://www.jihadwatch.org/2009/12/happy-anniversary-martin.html

Our first American-by-birth citizen-president and our great debt-buster. WSJ touts a "do-nothing Congress." How about a do-nothing President while we are at it?

http://corner.nationalreview.com/post/?q=NDIyZTc4OWZhZmEyNzJhMGVkNzg4NzFkMWNhYTlmMjk=

The lifetime speech ban in question was imposed by a Canadian *qadi* court (aka the Alberta Human Rights tribunal) a couple of years ago. It has now been revoked by a real Canadian court. But I say *caveat emptor* to all of those who are willing to see a similar Rousseauan "general will" tribunal established in the United States. Those who do not actively oppose it may by default be counted among the coalition of the willing.

http://conservativehome.blogs.com/.a/6a00d83451b31c69e2012876227136970c-pi

A member of the British government wants to ban "sexist" pink toys.

http://townhall.com/columnists/MikeAdams/2009/12/07/wral_white_rapists_and_lombard?page=2

Mike Adams has been following this case since breaking it to the blogging community earlier this Fall. This has much the same aroma as the earlier report on the Gay-Lesbian etc. (GLSEN) reading list for school children that I first noticed this past weekend at Rod Dreher's blog and the First Things blog.

http://www.nrsc.org/Lincoln-Explanation-For-Flip-Flop-On-Medicare-Cuts-Defies-Credulity

Legislation by prevarication. Blanche Lincoln could benefit from reading George Orwell's "Politics and the English Language." Her reasoning deserves a failing grade. I fully expect the citizens of Arkansas will award it to her next November.

http://www.guardian.co.uk/technology/2009/dec/07/darpa-challenge

This piece shows the power of the Internet: tapped by MIT balloon-trackers and reported by a British newspaper.

Tuesday 8

http://news.yahoo.com/s/ap/20091208/ap_on_re_mi_ea/ml_iran

Mousavi's wife was briefly hospitalized after a pepper spray attack.

http://www.americanthinker.com/2009/12/putins_own_worst_enemy.html

Vlad the Defenestrator

http://www.americanthinker.com/blog/2009/12/graph_of_the_day_for_december_7.html

Virginia has a very good business climate, as shown by Arthur Laffer. What is revealing about this chart is that the states with the worst business climate have negative population growth rates because people are voting with their feet. New York is at the bottom. I know from other sources that one million residents of New City have left in recent years. The figure is around 1.8 million for the state in the same period. I love California but it has become ungovernable. I had an opportunity to move to Riverside in 1995 but chose Temple, Texas instead.

http://www.globalpolitician.com/26079-israel-west-bank-settlements

Israel’s claim to the West Bank.

Wednesday 9

http://www.amazon.com/Weapons-Mass-Instruction-Schoolteachers-Compulsory/dp/0865716315/ref=sr_1_12?ie=UTF8&s=books&qid=1260320385&sr=1-12

Request to a Colleague:

What was the book title that had something to do with compulsory happiness? I have looked at the piece on health care. Which one of the links references what was said about Hillary's radical roots?

Thanks.

Reply: This is the one I was referring to by Norman Manea (A Romanian under the Ceausescu regime) http://www.amazon.com/Compulsory-Happiness-Writings-Unbound-Europe/dp/081011190X

I think it was comment number 12 that referenced Hillary.

http://pajamasmedia.com/blog/health-care-vs-the-value-of-human-life/

My reply:

I saw the Manea book. I wasn't sure it was the one you meant.

I didn't check the comments section, but I found no. 12. I'll pass it along to others:

"Excellent article! After 100 years, the Progressives will finally get what they always wanted: the power to control the make-up of the population. They have always been closet eugenicists. (Read the history of the American Progressive Movement–it is shocking.) Remember, during the presidential campaign, when Hillary Clinton was asked how she would describe herself and who her heroes are? She answered that she is a modern Progressive and her hero is Margaret Sanger. Everyone associates Margaret Sanger with abortion, but that is incorrect. Sanger was actually anti-abortion. She was a eugenicist who wanted to control human mating to breed out what she considered to be undesirable characteristics, such as ethnic minorities and hereditary disabilities. Sterilization and euthanasia were her tools. Clinton allowed us a little peek into the Progressive mindset when she made these comments. As a liberal elite, she probably figured that we're all too stupid to make the connection between Margaret Sanger and eugenics. Please consider this: We have 80 members of the House of Representatives who belong to the Congressional Progressive Caucus. That's 80 members who subscribe to the Progressive beliefs of eugenics. And, there are probably more liberals who are not part of this caucus who have similar beliefs. Being Godless, these people believe that they have the right to manipulate us and make us into what they want. This should scare the bejeebers out of everyone. And remember, these elites will be exempt from all the draconian measures they wish to impose on us. This health care legislation must fail. If it passes in any form, we're sunk. You can kiss your freedom good-bye."

http://biggovernment.com/2009/12/08/fistgate-ii-high-school-students-given-fisting-kits-at-kevin-jennings-2001-glsen-conference/

More on Kevin Jennings.

http://www.guardian.co.uk/world/2009/dec/09/fbi-corruption-america

An FBI agent on our number one problem: corruption.

Thursday 10

http://townhall.com/columnists/AnnCoulter/2009/12/09/martha_coakley_too_immoral_for_teddy_kennedys_seat?page=full&comments=true

The Amirault case and Martha Coakley, who would succeed Ted Kennedy to the Massachusetts PC Senate seat.

Wednesday 16

http://www.telegraph.co.uk/news/worldnews/middleeast/israel/6819275/Tzipi-Livni-arrest-warrant-provokes-Britain-Israel-diplomatic-row.html

Britain seems to be slipping toward banana republic status. A loss of self-respect may be the new British disease.

http://townhall.com/columnists/WalterEWilliams/2009/12/16/collusion_against_our_youth

A brief lecture on Economics 101 by Dr. Walter Williams. Today's lesson: Why is the unemployment of black youth nearly five times higher today than it was in the late 1940s?

The real question is why the Democrats persist in creating and maintaining a black underclass. Because that is the effect of their policies. If anyone wants to know the agenda of lawmakers, he should look at the consequences of their programs. The question to ask is always the same: *Cui bono?* Who benefits? Laws are passed in the name of the people, but the people's name is constantly taken in vain. And, unfortunately, by the time the consequences become evident it is difficult if not impossible to undo the damage.

An important feature of a free market system is its resilience. Some expenses by their nature must be backloaded. This requires good stewardship of resources. On the other hand, known expenses should be frontloaded. Instead of relying entirely on resilience, we must practice anticipation: saving for a rainy day. But spending as if every challenge is a national emergency is a sure prescription for national disaster. Congress and the president lack a moral compass. All they know is how to lard on the pork and spend the country into oblivion. We are burying our market system under a mountain of debt and we are aborting the children whose productivity might help keep our ship of state afloat.

National health care, cap-and-trade, global warming: We the taxpayers are being given the bum’s rush. Our politicians are forever operating in crisis mode. As Rahm Emmanuel puts it: Never let a good crisis go to waste. The sky is always falling! It is time that more Americans start looking at these gift horses in the mouth and give our elected waste makers the bums rush.

If we knew our Homer, we would know to beware of Greeks and other Democrats bearing gifts. But public education leaves us illiterate and ignorant to a degree that a great nation cannot afford. It is time to break the cords of appetite that bind us and shake off the dreams of the socialist Lotos Eaters. I wrote about the problem nearly three decades ago in "A Pied Piper's Pipe Dreams." Will anyone heed? Likewise, Walter Williams continues to try to shake the sleepers awake.

My reply to a correspondent: I've been fighting with Trojans for the past week, hence some of my classical allusions. As for this old professor, he is not about

to change his ways or pull his punches. He pursues his calling. The venue does not matter so much as delivering the message does. I believe I still deliver. BTW, I'll pass along the latest weekly report from Open Europe. You can see what Mats is doing in the very first portion. I would say that another generation is carrying on. My children and my students are the best part of my resume.

Later reply: I'm back at the IT Help Desk because of another Trojan outbreak. I believe the Lord is teaching me to keep my guard up and strengthen it. Yes, the Williams piece should be used in GOVT 200. I have just started reading *Money, Greed, and God* by Jay W. Richards this morning. This may be what we will want to use for the free enterprise portion of the course.

Note to a Former Student:

I read the *Open Europe* weekly summary this morning.

Here is something I sent along to a few people [the Walter Williams piece]. Aaron Wildavsky used the distinction between anticipation and resilience as the two poles that must be considered in formulating public policy. The conservative default position is to maintain resilience to meet the unanticipated rather than expect what the Clintonites called a "peace dividend." The liberal/progressives major in anticipation to justify their pork barrel politics and do so to such a degree that the body politic risks losing muscle tone and the ability to respond to genuine emergencies. Perhaps I should write a book on the importance of resilience. Pierre Manent seems to understand the problem when he compares Europe unfavorably with America in terms of its unwillingness to live with the messiness of history. The old heresy of Docetism keeps returning.

http://www.americanthinker.com/printpage/?url=http://www.americanthinker.com/2009/12/federal_employees_at_the_troug_1.html

Here is piece for comparison with the EU bureaucracy.

Thursday 17

http://townhall.com/columnists/BenShapiro/2009/12/16/paying_off_la_raza

“Multiculturalism” is a code word for hard Leftism.

Friday 18

http://www.telegraph.co.uk/news/obituaries/finance-obituaries/6827912/Yegor-Gaidar.html

A piece on Yegor Gaidar that puts his “shock therapy” regimen into perspective.

Reply to a request for information: In the 1980s I sat through a seminar on the Constitution taught by Cleon Skousen. Skousen published the 5,000 Year Leap in the early 1980s. Although I have not seen this book, it has been promoted by Glenn Beck and, as a result, has become a bestseller on Amazon this year. I have Skousen's *Making of America*, *The Naked Communist*, and *The Naked Capitalist*. I

also have several publications from The Freemen Institute, also known as the National Center for Constitutional Studies, which Skousen created. He was a member of the Council on National Policy.

As for his background, Skousen was an FBI agent in the 1940s, taught at Brigham Young in the early 1950s, and served as the police chief of Salt Lake City in the late 1950s.

Skousen has written several explicitly Mormon works with such titles as *The Third Thousand Years* and *The Fourth Thousand Years*. The titles alone are enough to lead me to accept the story I have heard about *The 5,000 Year Leap* -- that Skousen conveys a subtle Mormon message with his constitutional teaching.

It is also worth noting that Mormons have been very prominently involved in constitutional studies -- which seems only natural given the number of Mormon cases decided by the Supreme Court from 1978 until the 1890s and occasionally afterwards. In fact, I wrote at length about the Court's religion decisions in my dissertation. In April 1987, three years after completing my dissertation, I was interviewed for the post of historian with the United States Bicentennial Commission. Although former Chief Justice Warren Burger was at the helm, the two men who ran the commission were both Mormons. I kept in touch with one of them for many years after he retired from Boeing. He once suggested that I should consider teaching at Brigham Young, although he knew that I am not Mormon.

There is certainly a place for the popularizers. Too often, the scholars disregard the presuppositions of the Founders. On the other hand, too many of the popularizers play fast and loose with the facts in order to excite their audiences. I have had some unhappy experience with this. But I also acknowledge that, if the story were left entirely to the scholars, it would languish in the museums and have even less impact than it does on the issues of the day. The question, as always, is how to harness the wisdom of experience with the passionate intensity of youth. The book I am reading, Yoram Hazony's *The Dawn: The Political Teachings of the Book of Esther*, addresses the issue in its discussion of the great "men of spirit" and, by contrast, the "overly spirited fool."