

Judge Moore stated that "Judges should not make decisions based on the latest psychological or sociological study or statistical poll," indicating his belief that prior law should govern). He does not deserve the scorn and the contempt that his critics and their sympathizers in the national media love to lavish upon him. He is a man of honor committed to the rule of law. God bless him.

Stephen B. Presser is the legal-affairs editor for *Chronicles*.

THE NEW REPUBLIC

A "Containment Policy" for the New Cold War

by Donald W. Livingston

Americans regularly accept expropriations—legal, moral, and economic—from the central government that would have driven our 18th- and 19th-century ancestors to arms. The Constitution reserves to the states and local communities all powers necessary to provide legal protection for valuable ways of life. These rights have been usurped by the central government, especially by the Supreme Court, which has—absurdly—become the most important social policy-making body in the Union. As a result, the states are no longer genuine *political societies* but mere administrative units of the center. This concentration of power has been seized by a ruling class that is deeply hostile to traditional American society. Well into the 1960's, it was publicly acknowledged that America was a Christian society—that Christianity is the source of its fundamental law and its dominant culture. Religion was not expelled from the public square because states and local communities changed their constitutions and statutes to drive Christianity to the margin of society (as they had a constitutional right to do if they chose), but because the Supreme Court prohibited prayer in public schools. The Court did not ban prayers from the Oval Office, or from Congress, or from its own chambers—only from public schools financed by local tax dollars. The great majority of statutes declared unconstitu-

tional by the Court are acts of states and municipalities. The Court rarely takes on the other branches of the central government, because the Court is a creature of that government.

Immigration and other policies of the central government, urged by our cultural elites, are making a minority of the European stock that built the fundamental institutions of America. Susan Sontag, a respected pundit among our ruling class, declares that the "white race is the cancer of human history." Crude racist declamations of this sort are heard regularly in the academy, and no one objects. President Clinton triumphantly predicted in a commencement speech at Portland State University that, by 2050, white Europeans would be a minority. Elsewhere, he admonished Americans on the need for a "great revolution . . . to prove that we literally can live without having a dominant European culture." Americans accept these insults and contemplate the disintegration of their culture with the resignation appropriate to acts of God. But this disintegration is the work of men in the central government, not of nature. In the 1960's, Congress radically altered our immigration laws to favor non-Europeans. In 1960, Americans of European ancestry accounted for 87 percent of the population. By 2050, they will be a minority. We were told in the 1960's that this change would not affect the character of our culture. Now we are told that a "revolution" in our consciousness is needed to reconcile us to our emerging status as a minority culture.

The universalist Enlightenment ideologies that created the modern unitary state, whether in their liberal or Marxist form, place no value on cultural inheritance. Usually, it is seen as an impediment to being a citizen of the world, or to advancing class struggle or human rights. Why have Americans offered no resistance to these assaults on their cultural inheritance? Part of the answer is simply that they no longer possess the *civic virtue* that resistance requires. Aristotle taught that virtue of any kind comes into being and is sustained only by practice and habit in a society of a certain kind. For a citizen to possess civic virtue, he must inhabit a society of human scale in which real issues concerning the human good can be decided through eloquent speech and persuasion. Such small societies, or federations of small societies, must have genuine sovereignty over their affairs. Enjoying such sovereignty and the habit-

ual practice of it, people in communities of this kind are jealous of their corporate liberty and are no more likely to accept encroachments on it than they would on their families. Hobbes understood this and warned that a modern centralized state must eliminate or strictly control all independent social authorities, for they are a potent source of corporate resistance to central authority. He aptly called them "worms in the commonwealth."

The American colonies were made up of such "worms." They were composed of small Protestant communities, each retaining a high degree of sovereignty. When the British government embarked on a project of increased centralization, which required more resources from the colonies, they resisted. Such resistance was possible only because these were societies of human scale in which civic virtue could be exercised. The Constitution they formed provided legal protection for state and local sovereignty and, consequently, for continuance of the civic virtue that had secured their secession from Britain.

The Antifederalists warned that these protections were not sufficient and that the center would eventually consolidate the states and local communities into a unitary regime. The authors of the *Federalist* replied that this could never happen because the people had ample means to resist, by force if necessary. This held true for the first 70 years. Indeed, the central government was so contained that, from 1830 to 1860, it was virtually out of debt and imposed no inland taxes. It lived simply from a tariff on imports and land sales. State and local sovereignty flourished. Nobody ever saw a federal agent, except at the post office or customs house. When Southerners confronted the Northern industrial program of centralization—which demanded subsidies for Northern industry (paid by the South, which accounted for three fourths of federal revenue), a centralized currency (driving out state banks and subverting regional economies), and a high tariff that would destroy Southern exports—they voted in conventions of the people of their respective sovereign states, as their fathers a generation before had done, to secede and form a Union of their own. Article VII of the Constitution declares that the concurrence of nine states is sufficient to dissolve the Union under the Articles of Confederation and to form a Union of the nine states. If so,

concurrence of 11 states in 1861 should have been sufficient to dissolve the Union of 1789 that, up to that time, had regularly been described as an "experiment."

The Lincoln administration, however, thought otherwise. The massive degree of centralization needed to destroy the Southern economy and force the states back into the Union was such that the federative polity of the Framers never recovered. Still, it would take a century before the states and local communities would be absorbed into the administration of the center. Today, it is no exaggeration to say that the United States is a totalitarian regime in the sense that the central government has usurped all sovereignty. There is, in principle, no area of life it cannot enter. That it chooses not to enter certain areas at present is merely a matter of prudence or inattention. The Supreme Court has set itself up as the final arbiter of the powers of the central government.

America is now governed by the self-defined limits of the central authority. In a mass society of 290 million, the civic virtue of resistance is impossible because the highly decentralized structure necessary for its exercise no longer exists. If a virtue cannot be exercised, it dies. Questions about the human good and the meaning of life—the morality of abortion, education, law enforcement, the place of religion in society, etc.—that are reserved by the Constitution to the sever-

al states have been taken out of their hands; and, by an act of judicial alchemy, they have been transmuted from questions about the human good (properly answered only by legislatures) into questions about constitutional rights (answered by federal judges). Genuine political life and civic virtue cannot survive in a country governed by legalism.

As civic virtue has been lost by radical centralization, so it can be recovered only by an equally radical decentralization. We must seriously consider the project of restructuring the Union itself. This is the view of George F. Kennan, one of the grand old men of the 20th century and the framer of the "containment policy," which guided America's struggle in the Cold War against the Soviet Union. In his autobiography, *Around the Cragged Hill* (W.W. Norton & Co.), in a chapter entitled "Dimensions," Kennan raises the question of the proper size of a political entity. He concludes that centralization has gone too far and that it is time to think seriously about dividing the Union into more manageable parts. He does not claim to know how to do this, but he is certain that it should be done. He points to 12 rather natural economic and cultural divisions that suggest themselves for smaller unions in what could become a commonwealth of American Unions.

In his hard-hitting book *Downsizing the U.S.A.* (Wm. B. Eerdmans Publish-

ing Co.), Thomas Naylor, a retired economist from Duke University, also argues for dissolving the Union by referendum in the direction of a more human scale. A citizen of Vermont, Naylor believes that the northern tier of New England states and the maritime provinces of Canada have more in common in respect to climate, economy, and culture than either do with Los Angeles, Houston, New York, Ottawa, Vancouver, or Montreal. He has proposed that these states and provinces secede from Canada and the United States and form a Federation of Atlantic States. Carolyn Chute, a prize-winning novelist who is running for governor of Maine as a write-in candidate, is sympathetic to Naylor's view that Maine would be better off out of the Union than in it.

The stock objection to any sort of secession is that small states are not economically viable. But viability should not be confused with self-sufficiency. Japan is viable but not self-sufficient, importing 97 percent of her oil and much of her food. The viability of a state depends simply on trade with the rest of the world. Some of the richest states in the world are small: Iceland, Singapore, Luxembourg, Switzerland, Norway, Denmark, Austria. Many states occupy less territory than New York City. Monaco and the Vatican are smaller than Central Park.

Some of the greatest cultural achievements have been the work of small states: Classical Athens had a population of around 50,000; Renaissance Florence, around 40,000. Lucca created a flourishing culture, and for centuries, was one of the richest states in Italy with a population of only 10,000. Moreover, separation from the bureaucratic stranglehold of an overcentralized union can be economically invigorating for both parties. Secession accomplished this in America and Britain in 1783; in Belgium and Holland in 1830; in Norway and Sweden in 1905; and in Singapore and the Malaysian federation in 1965.

The cells of a healthy organ do not continue to grow but split and duplicate to maintain the proper scale of the organ. Endless growth is cancer. Progress occurs in evolution not by endless aggregation of a species but by division, duplication, and diversification. Not only is the American Union an oversized, overfunded, overregulating, and unmanageable bureaucracy, some American states have also grown beyond human scale. Switzerland—about two thirds the size of

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South Carolina—is divided into 27 small states, each of which has more sovereignty than any American state. As population grew, American states should have been divided either internally into smaller states, as Switzerland was, or by secession. The latter strategy was followed at first: Kentucky split from Virginia, Vermont from New York, and Maine from Massachusetts.

Critics argue that more states would make the U.S. Senate unwieldy. The same argument is given to retain the law that fixes the number of members of the House of Representatives at 435. That number was fixed in 1910, when there were 90 million Americans. Today, however, there are some 290 million, yielding a ratio of about one representative to every 660,000. This ratio makes a mockery of the idea of the consent of the governed. And what will we say when the population rises to 435 million, yielding one representative for every one million souls? Will we still talk—without breaking into laughter—about our “republican” form of government and of the people giving “consent” through their “representatives” to laws and regulations that bind them and drain the lifeblood out of their cultural inheritance? Or will we, in an attempt to be more “democratic,” increase the number of “representatives,” thereby pushing the House beyond the human scale needed for deliberation? Or will we finally conclude that the Union itself has become too unwieldy?

George Kennan is right: The Union is already too large and, in time, must be dissolved. The containment policy he authored for managing the Cold War required patience and long-term commitment. For the last 40 years or so, America has been engaged in a cultural Cold War with itself. By sucking political life—and civic virtue—out of the states and local communities, the central government has created a mass society. But the Union is incapable of managing the social destruction it has largely caused, and it may well have to fall back on war as the only means of maintaining its utility and legitimacy. Even now, the global gamsterism of the Union threatens to suck its citizens and their resources into protracted wars. The only way to contain the runaway centralization of the Union is to divide and duplicate it. A centralized plan to decentralize would mean, at best, a mere respite in centralization and, at worst, more centralization in the name of downsizing. This was Jefferson’s poli-

cy: to contain the central government by binding it with “the chains of the Constitution.” But experience has shown that the chains cannot hold.

As with the containment policy for the Soviet Union, this new containment policy for the American Union requires a long-term commitment as well as much education, discussion, and patience. As Kennan has insisted, any division of the Union, if it is to be other than a tragic failure, must reflect the desire of Americans, expressed through conventions of the people of the states. Kennan’s containment policy took over 40 years. The new containment policy in this cultural Cold War could take longer. Some Hispanic academics and political leaders predict the emergence of an independent Hispanic state—called “Atzlan”—in the Southwest in about 50 years. They may be right. U.S. immigration policy, the inability of the federal government to enforce its immigration laws, and birthrates are all on their side. Only 30 years ago, California was over 80 percent European. Today, it is only 47 percent. By 2030, California is expected to be less than 20 percent European. So Atzlan might well come to pass, and I, for one, will wish it well. In the meantime, a few of Ambassador Kennan’s unions will probably have made their appearance—one of which might even be Dr. Naylor’s Atlantic Republic.

Donald W. Livingston is a professor of philosophy at Emory University, author of Philosophical Melancholy and Delirium (University of Chicago Press), and president of the Abbeville Institute.

What’s Good for General Motors . . .

by David Hartman

How did big corporations become the prevailing form of enterprise in the United States? The standard answer is that bigger is better. Concentrated industry, we are told, allows managerial efficiency, huge economies of scale, and the ability to undertake bold research and development and apply it to better products and increasingly efficient process technology. But the reality is that the big corporate world primarily evolved from mergers and conglomerations, not excel-

lence in the market.

General Motors is, perhaps, the best example. By 1955, General Motors controlled over half of the automotive market in the United States. Was this the result of superior technology and managerial ability? No: It was the result of the conglomeration of Chevrolet, Pontiac, Buick, Oldsmobile, and Cadillac—all formerly independent corporations. Unsatisfied with this hegemony, General Motors “back integrated” some of its most vital suppliers. General Motors also excluded other automaker’s vehicles from the dealerships where its automobiles were sold, eliminating competition. The result was the demise of Packard, then Hudson, then Studebaker. One by one, the grand old names of the automotive industry closed their doors.

That same year, 1955, General Motors was hauled before the U.S. Senate to explain how it had become the largest corporation in both the United States and the world and how its investors were able to enjoy twice the average manufacturing return on investment. The Senate wanted to know: “Wouldn’t America be better off if General Motors reduced the price of a Chevrolet substantially to make it more affordable for the workingman?” G.M.’s executives responded that, if they reduced the price of a Chevy as much as they could, they would run their competitors out of business. This clearly indicated that G.M. had amassed enough power over the automotive market that it would have been appropriate for the federal government to order the breakup of General Motors into three corporations, require it to dispose of its acquired part suppliers, and force it to allow normal retailing of its products alongside those of its competitors. Had this occurred, there is little doubt in my mind that more than 90 percent of the cars we drive today would be American-made.

Half a century ago, the American people were told that they could not do without the economies of scale at General Motors. How was it, then, that Toyota and Honda—companies a fraction of the size of General Motors at the time—were able to cross the Pacific and secure a sizeable market share by selling better cars at lower prices? Remember “planned obsolescence,” three-year styling cycles, and five years to rusted-out hulks? Superior disk brakes that were not adopted by G.M. until decades after they were commonplace in Europe? Or Detroit’s refusal to make quality compacts until for-