

WTN U. Class Notes

Lesson 7 10/30/11

The Role of Family in American Government

What is the foundation of the social order: state, individual, or family?

Answer depends on your worldview.

These different answer help explain the difference between liberals and the two camps of conservative — social conservatives and fiscal conservatives.

Liberals today tend to look to the state as the fundamental organism of society so they are always running to the government to solve everything — government is the solution.

Economic conservatives tend to see the individual as the fundamental unit in society which is why they want smaller government, less taxes — they want to be left alone.

This bleeds over into social issues — don't want government telling them who they can have sex with, who to marry, whether I can have an abortion, etc.

Social conservatives see the family is the fundamental unit in society.

Unlike every other religion or theology, Christianity provides a basis for a unifying balance between the state, the individual, and the family. Bible says woman came from man, so it's saying we are social creatures — thus a basis for society. So

there's a basis for the concept of the state and respecting the value and importance of the state.

BUT, individually, we are each made in the image of God, so there is a basis for respecting the individual.

But the individual, alone, we're told was not a good thing! It was the only thing God said during the creative process was not good. Individuals are important but in God's eyes, individualism is not a good thing.

Note: God didn't make another man to balance out this individualism but another individual who was different from the man, but complimentary to the man, meaning, a person that "fits" with the way the man was made and is complimentary to and completes the whole of the human picture. That's why sex is a union of a man and a woman and homosexual sex is contrary to our design, it's a union of sameness. The parts weren't designed to "fit" to "compliment" one another.

And God puts them together in the state of marriage, of union, forming the foundation for the family through their procreative capabilities. And it was to the man and woman, the foundation of the family unit, to whom God gave the command or the task of continuing to fill and form his initial creation — the work of building society and civilization.

So, the Christian has a philosophic base for respecting the individual and the state, but the Christian rests the foundation of the social order on the family, not the individual or the state.

What is a "family?"

Liberal would tend to say that the family is what the state says it is, just like they say marriage is what the state says it is. To them, marriage, is a social construct that, like other values and institutions in society, evolves over time.

A social conservative sees the family as a man and woman, joined in marriage, and their offspring - historically called the nuclear family because the husband, wife and kids formed the nucleus or "core" of the family unit.

And social conservative would consider the extended family which would include grandparents, aunts, uncles, cousins, etc.

BUT, that concept of the family being a unity and the concept of marriage being a union has been broken down by the law into either the

- statist concept of liberals or,
- with respect to fiscal conservatives only, a more laize faire, individualistic concept.

Just like last week when we looked at what the courts had done with the Bill of Rights, we're going to see what the courts have done to the family.

Remember: There are only two theoretic foundations for law - God or man.

After “kicking out” God, man became the center of the universe. Not surprising that the focus became either

- the state or
- the individual.

When family was considered foundational unit of society there were lots of laws on books protecting family and discouraging conduct that undermined God's design for the family. Consider: laws against sodomy, adultery, and fornication.

Those laws were all designed to encourage

- sex within marriage,
- marital fidelity, and
- provide stability for the children produced by sexual relations.

Those were all deemed public goods in which the state had an interest because the family was the foundation of and the future of the state.

BUT NO MORE!

Seminal Case. *Griswold v. Connecticut* in 1965. Court struck down law prohibited dispensing of any medicines or devices that would prohibit contraception. First case in which court articulated concept of a right of privacy lurking somewhere in the constitution.

Apart from merits of case, decision should also be seen as a blow to freedom if we had the understanding of

- the limited nature of the judiciary like our founding fathers,
- of a limited federal government and bill of rights and
- the sovereignty of the several states.

Justice Potter Stewart, in his dissent, got it right:

At the oral argument in this case, we were told that the Connecticut law does not "conform to current community standards." But it is not the function of this Court to decide cases on the basis of community standards. We are here to decide cases "agreeably to the Constitution and laws of the United States." It is the essence of judicial duty to subordinate our own personal views, our own ideas of what legislation is wise and what is not. If, as I should surely hope, the law before us does not reflect the standards of the people of Connecticut, the people of Connecticut can freely exercise their true Ninth and Tenth Amendment rights to persuade their elected representatives to repeal it. That is the constitutional way to take this law off the books.

Griswold was the foundation for later striking down a law that prohibited contraceptives from being provided to unmarried persons. Notice "individualistic" concept of marriage:

If under Griswold the distribution of contraceptives to married persons cannot be prohibited, a ban on distribution to unmarried persons would be equally impermissible. It is true that in Griswold the right of privacy in question inhered

in the marital relationship. Yet the marital couple is not an independent entity with a mind and heart of its own but an association of two individuals each with a separate intellectual and emotional makeup. If the right of privacy means anything, it is the right of the individual married or single, to be free from unwarranted governmental intrusion into matters so fundamentally affecting a person as the decision whether to bear or beget a child.

So there is the root of the individualistic view of culture — marriage is just two individuals and sex is not a marital activity but an individual activity between two consenting adults!

Became precedent in *Carey v. Population Services* (1977) for Court striking down a New York law forbidding distribution of contraceptives to those under 16, and in 2003, in *Lawrence v. Texas* the Court struck down TX's sodomy statute, saying that consenting adults had a right to engage in private, non-commercial sexual intercourse.

BUT, there is a statist stream running through the various cases and it showed up in *Planned Parenthood v. Danforth* striking down a law requiring spousal consent to an abortion and, if a minor, consent of a parent. Court said:

“We cannot hold that the State has the constitutional authority to give the spouse unilaterally the ability to prohibit the wife from terminating her pregnancy, when the State itself lacks that right.”

Note: Court says rights of spouses come from government, not the natural law or the common law!

As to parental consent:

Just as with the requirement of consent from the spouse, so here, the State does not have the constitutional authority to give a third party [parents, you are nothing more than a “third party!”] an absolute, and possibly arbitrary, veto over the decision of the physician and his patient to terminate the patient's pregnancy.

Note: parents rights come from state too! Parents reduced to nothing more than individuals — a third party!

What is affect of destroying understanding of marriage and family (read report from Institute for American Values at FACTn.org)

Divorce is one of the leading indicators of poverty. And TN has the 14th highest divorce rates in the Country and not surprisingly, TN has the 11th highest % of its population living in poverty.

2008 study by the Institute for American Values on the cost to Tennessee taxpayers in state and local tax dollars of family fragmentation (children growing up with divorced parents and out of wedlock childbearing): \$757 million annually. 15th highest gross cost though only 35th in population.

A new study shows a causal link between the onset of sexual intercourse and divorce. Teenagers are 50% more likely to be divorced at the end of 5 years after marriage than those who waited until they were adults. And at 10 years, they were 55% more likely to be divorced. Sex ed classes matter because those divorces lead to poverty, which leads to higher costs to the taxpayers.

Edmund Burke:

"Men are qualified for civil liberty in exact proportion to their disposition to put moral chains upon their appetites; . . . Society cannot exist unless a controlling power upon will and appetite be placed somewhere, and the less of it there is within, the more there must be without. It is ordained in the eternal constitution of things, that men of intemperate minds cannot be free. Their passions forge their fetters."

Benjamin Franklin;

Only a virtuous people are capable of freedom. As nations become more corrupt and vicious, they have more need of masters."

Patrick Henry:

"Bad men cannot make good citizens. It is when a people forget God that tyrants forge their chains. A vitiated state of morals, a corrupted public conscience, is incompatible with freedom. No free government, or the blessings of liberty, can be preserved to any people but by a firm adherence to justice, moderation, temperance, frugality, and virtue; and by a frequent recurrence to

fundamental principles."