

Perspective of the World

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BOOK REVIEW

THE PERSPECTIVE OF THE WORLD. *Fernand Braudel*. New York: Harper & Rowe, Publishers (English Translation by Sian Reynolds). 1984. Pp. 699 (paper).

THOUGHTS ON READING BRAUDEL

Nobody ever saw a dog make a fair and deliberate exchange of one bone for another with another dog.

Adam Smith, *The Wealth of Nations*¹

A dog will fight for his bone.

Oliver Wendell Holmes, *Natural Law*²

Time is the most important perquisite bestowed upon academics, free time during which to read books and reflect. If reflection is to keep rooted in the real world, then some of this time must be spent reading the newspapers and serious magazines, to say nothing of simply watching the world go by. The world being largely a calculus of chance events,³ storm and fury signifying nothing as it were, it may well be that serious reflection is not without its occupational hazards.⁴ This may suggest that the academic obsession to cram the week with committee work has a therapeutic basis. Schol-

¹ A. SMITH, *THE WEALTH OF NATIONS* 13 (Modern Library ed. 1937) (1st ed. n.p. 1776).

² *COLLECTED LEGAL PAPERS* 310, 314 (1920).

³ Worth pondering is a tale told about Hilaire Belloc by G.K. Chesterton, recently recounted in A. WILSON, *HILAIRE BELLOC* 227 (1984):

He must have rather puzzled many of his readers . . . by an elaborate historical reconstruction of the outlook on the future, in the mind of a Greek official in Byzantium, at the beginning of the sixth century, calculating and combining all the forces of the Roman Empire and the Catholic Church. He noted how such a man might think he had accounted for all the possibilities, the danger of a religious split between East and West, the danger of the barbarian raids on Gaul or Britain, the situation in Africa and Spain, and so on; and then say he had in his hand all the materials of change. "At that moment, far away in a little village of Arabia, a Mahomet was eighteen years old."

⁴ But then again, one has to wonder whether what they read has any impact whatsoever upon the readers. The late Lord Clark, for example, inquired about Shakespeare whether anyone "else has felt so strongly the absolute meaninglessness of human life?" K. CLARK, *CIVILISATION* 165 (1969). His source may have been Santayana, witness the essay *The Absence of Religion in Shakespeare*, 1 *SELECTED CRITICAL WRITINGS OF GEORGE SANTAYANA* 60, 64 (N. Henfry ed. 1968). Very popular on the novel front recently was U. ECO, *THE NAME OF THE ROSE* (1983). Its clerical protagonist preaches that, "It's hard to accept the idea that there cannot be an order in the universe because it would offend the free will of God and His omnipotence." He leaves unanswered the *quaere*, "What difference is there, then, between God and primigenial chaos?" *Id.* at 492-93.

arship itself, like the work ethic, does divert attention from the possibility that civilization itself is hooped together by manifold illusion.

None of this has stood in the way of Fernand Braudel completing his appointed rounds, witness the recent publication in English of *The Perspective of the World*,⁵ the third volume of his *Civilization and Capitalism*, a study encompassing the fifteenth through the eighteenth centuries.⁶ His thesis is that capitalism is more than the industrial capitalism associated with the huge corporate structures that emerged out of the Industrial Revolution. In his mind capitalism is implicated whenever someone gets his hands on a bit of extra money and then makes money lending this sum at interest, or setting up a mill to make some product for sale at a profit, or buying a lot of raw material and selling it to someone else at a mark-up. In short, capitalism is putting money to work to make money. Critical, however, is the notion that the capitalist will move between lending, manufacturing, and trading, always putting his or her money to work where it will make the best return. Critical, too, is the fact that the capitalist does not recognize national boundaries but will move his or her money anywhere on the globe whereat the conditions are ripe for making money by using money. Capitalism is not so much a political system as a social one, a way of life that prospers at those times and in those places where capitalists are free to choose how to put their money to work.

Venice, Amsterdam, London, New York: the center of capitalist activity has moved from city to city, country to country, and continent to continent. At each stage of this evolution some city was central to a local economy, then a national one, a continental one, and finally a world-wide one. True it is that huge manufacturing and financial organizations tend to meld with the state in the West, whilst they are outright state organizations in the East. Whether by mercantilism in the past or some variety of private monopoly or state capitalism today, the state has always been implicated in the equation if only to provide the law and order necessary to let commerce proceed. Capitalist activity goes on apace regardless of the official nexus between the state and the large scale enterprises. Indeed, the center of the American economy has begun to shift westward and the future may lie with a new world economy built around the rim of the Pacific Ocean.

Awesome stuff is this, and maybe it contains some truth. It is interesting to see Braudel insist that, along with technological

⁵ F. BRAUDEL, *THE PERSPECTIVE OF THE WORLD* (1984).

⁶ *THE PERSPECTIVE OF THE WORLD* follows Braudel's *THE STRUCTURES OF EVERYDAY LIFE* (1981) and *THE WHEELS OF COMMERCE* (1982).

breakthroughs, population explosion, and financial ingenuity, the now not-so-recent British commercial hegemony as well was founded upon power. Wars helped eliminate rivals and open up colonial markets. Central to the exercise of imperium were the means to finance it. At this juncture, Braudel calmly informs his readers, "The national debt was the major reason for the British victory."⁷ At a time when the size of the American national debt has become a matter of considerable notoriety, this particular suggestion merits at least a moment's reflection.

I

GENESIS OF THE NATIONAL DEBT

Hence . . . the modern doctrine that a nation becomes the richer the more deeply it is in debt. Public credit becomes the *credo* of capital. And with the rise of national debt-making, lack of faith in the national debt takes the place of the sin against the Holy Ghost, for which there is no forgiveness.

Karl Marx, *Capital*⁸

Empire was important to England throughout the eighteenth century. But why? In a word, mercantilism: the idea that colonies advance trade, particularly trade that can be "arranged" to serve the home country's advantage. Trade across The Empire should be carried on in English vessels, and all the traffic should move through England so that its middlemen profit from the sale and resale of all commodities. Colonial manufacture ought to be discouraged and whatever capital is needed in the colonies ought to be hired in London.⁹ This was a system already in decline in the eighteenth century and one against which, we forget, Adam Smith's 1776 masterpiece inveighed.¹⁰ Free trade, not colonies, was the secret to wealth according to him. England, he protested, was *more* than a "nation of shopkeepers," and government therefore had no business spending the "blood and treasure" of its other citizens to found an "empire for the sole purpose of raising up a people of customers."¹¹

Smith does sound remarkably modern when he castigates a system that, by protecting English manufacturers, chilled competition and kept prices in England artificially high:

Consumption is the sole end and purpose of all production; and

⁷ F. BRAUDEL, *supra* note 5, at 378.

⁸ K. MARX, CAPITAL 919 (Pelican Marx Library ed. 1976).

⁹ Mercantilism was never quite the "coherent system that Adam Smith described, the better to demolish it." F. BRAUDEL, THE WHEELS OF COMMERCE 544 (1979).

¹⁰ See A. SMITH, *supra* note 1, at 398-626.

¹¹ *Id.* at 579.

the interest of the producer ought to be attended to, only so far as it may be necessary for promoting that of the consumer. The maxim is so perfectly self-evident, that it would be absurd to attempt to prove it. But in the mercantile system, the interest of the consumer is almost constantly sacrificed to that of the producer; and it seems to consider production, and not consumption, as the ultimate end and object of all industry and commerce.¹²

Odd it is, too, that this outburst anticipates Nikolai Bukharin's opinion: "Our economy exists for the consumer, not the consumer for the economy."¹³

Braudel would have it that Adam Smith inadvertently diagnosed the cause of the American Revolution:

Adam Smith (who understood the American colonies he had never seen in his life better than the industrial revolution taking place under his nose at home) perhaps came nearest to the essential causes of the American rebellion, the events and repercussions of which he followed closely: *The Wealth of Nations* was published in 1776, two years after the Boston Tea Party. Adam Smith's interpretation is contained in one little sentence. Duly praising the British government as being so much more generous toward its colonies than the other European powers, he points out that "the liberty of the English colonists to manage their own affairs their own way is complete" — but he is obliged to add a qualification: "in everything except their foreign trade." Quite an exception — and one which caused both direct and indirect damage to the whole economy of the colonies, forcing them to go through London for everything, to depend on London credit and above all to stay inside the trading straitjacket of the British "Empire". But New England . . . which had quickly sensed the possibilities offered by trade, could only consent to such restriction grudgingly, or by cheating and evading the controls.¹⁴

An accurate appraisal of the scene this may well be, but how much of it is Adam Smith's and how much Fernand Braudel's view might be food for thought. It is clear that Smith believed that free trade and individual initiative, not tariffs and colonies, were the key to national wealth.

That security which the laws in Great Britain give to every man

¹² *Id.* at 625.

It cannot be very difficult to determine who have been the contrivers of this whole mercantile system; not the consumers, we may believe, whose interest has been so entirely neglected; but the producers, whose interest has been so carefully attended to; and among this latter class our merchants and manufacturers have been by far the principal architects.

Id. at 626.

¹³ 3 S. COHEN, *BUKHARIN AND THE BOLSHEVIK REVOLUTION* 173 (Oxford Paperback ed. 1980). Suffice to report, Comrade Bukharin was shot.

¹⁴ F. BRAUDEL, *supra* note 5, at 409.

that he shall enjoy the fruits of his own labour, is alone sufficient to make any country flourish, notwithstanding . . . absurd regulations of commerce The natural effort of every individual to better his own condition, when suffered to exert itself with freedom and security, is so powerful a principle, that it is alone, and without any assistance, not only capable of carrying on the society to wealth and prosperity, but of surmounting a hundred impertinent obstructions with which the folly of human laws too often incumbers its operations¹⁵

Not only was mercantilism a false god, the practice of financing imperial wars by contracting debt was bound in the long run to bankrupt the kingdom.¹⁶

England had financed its wars against France and Spain just before the American Revolution by contracting enormous debts. It has been suggested that England's national debt rose "from £70 million in 1754 to £130 million by 1763," at which time the "rate of American defence expenditure . . . seemed likely to exceed £300,000 per annum."¹⁷ The government of the day decided that the size of the debt had to be brought under control and, to this end, set about to make the colonies pay for a fair share of the cost of their own defense. The government in London was trying, as it were, to rationalize the administration of an empire world-wide in scope and to make each part thereof pay its own way. A long view of the history suggested the need to be ready for an ultimate renewal of the conflict with England's European rivals and the need to maintain strong forces in the American colonies. What made sense in terms of sound principles of public administration in London, however, was a cause of consternation in the colonies, particularly among merchants and traders who saw themselves disadvantaged by the imperial preference for English middlemen. The situation was further exacerbated because the colonists meanwhile had acquired considerable latitude to govern their own affairs; now that they were not immediately threatened by foreign powers, they could not see the need any longer to provision the expensive defense apparatus.¹⁸

Taxation was high in eighteenth century England, but much of it fell on the poor of society in the form of beer and tobacco excises.¹⁹ The franchise had not yet been extended to the masses, so

¹⁵ A. SMITH, *supra* note 1, at 508.

¹⁶ *Id.* at 882.

¹⁷ H. ROSEVEARE, *THE TREASURY* 97-98 (1969).

¹⁸ I. CHRISTIE, *CRISIS OF EMPIRE, GREAT BRITAIN AND THE AMERICAN COLONIES, 1754-1783*, at 112-13 (1966).

¹⁹ P. MATHIAS, *The finances of freedom: British and American public finance during the War of Independence*, in *THE TRANSFORMATION OF ENGLAND* 286, 287-88 (1979). "Malt and sea-coal, pipe-clay and leather, bachelors, widows, houses and hawkers all fell under contri-

many of these taxes did not raise a political storm in the parliament; conversely, further taxation of the more affluent segments was politically impracticable. There was a limit to any government's resources for waging wars.²⁰ The solution was to borrow money, if the government could find a lender. True enough, kings in the past had borrowed (or more likely extorted) money from the rich landed magnates of the realm, but just as often they had defaulted on these loans. After the Glorious Revolution of 1688, however, merchants and traders had come into their own; during the reign of William III, Parliament had taken a new approach to government finance. It had begun to enact several new taxes, but these revenues were now specifically assigned to meet the interest payments on various treasury borrowings. The new men of property trusted their parliament and these commitments of specific revenues. All that was needed was a mechanism to bring together a multitude of the new moneyed class so that small loans could be packaged into large loans to the treasury. This, in 1694, was the origin of the Bank of England.²¹

After a group of monied persons subscribed the £ 1.2 million capital, the condition precedent, Parliament incorporated them as a bank. "It," says Adam Smith, "at that time advanced to government the sum of one million two hundred thousand pounds, for an annuity of one hundred thousand pounds: or for 96,000*l.* a year interest, at the rate of eight per cent., and 4,000*l.* a year for the expence of management."²² But, adds Karl Marx, "it was empowered by Parliament to coin money out of the same capital, by lending it a second time to the public in the form of bank-notes."²³ That is to say, the bank loaned the government coin while it loaned private persons notes. These last borrowers had to repay the loan, with interest, and likely in coin because, meanwhile, they used the notes as money to purchase goods and services. The notes were accepted as money because the bank promised to redeem them in coin, a promise it never had to fulfill as long as the public remained confident of the bank's ability to perform its promise on demand. Thus it came to be, as Braudel explains, that "after 1797, the Bank of England

bution A Stamp Tax, a Salt Tax, and a tax on hackney coaches were to have a long life ahead of them." H. ROSEVEARE, *supra* note 17, at 70.

²⁰ "In Britain three-quarters of the total tax revenue came from levies on the commodities and outlays; less than a fifth from direct taxes on income and wealth. Direct taxes on wealth sustained half the revenues of the central government in France of the *ancien regime*." P. MATHIAS, *supra* note 19, at 288.

²¹ "The parliamentary revolution had relieved the City of the anxieties it had traditionally felt about making large loans to the government, and the moneyed community, headed by the King and Queen, had no hesitation in subscribing . . ." H. ROSEVEARE, *supra* note 17, at 69.

²² A. SMITH, *supra* note 1, at 302.

²³ K. MARX, *supra* note 8, at 920.

bank note became a surrogate form of gold coinage throughout the entire country."²⁴

Obviously, there were further issues of capital and then deposit of coin which catalyzed more loans to the treasury and more bank notes to private borrowers. Confidence in these notes depended upon the credit of the government and its ability to continue to pay the interest on its borrowings from the bank. But important to notice here is that everyone understood that the loans themselves would be rolled over; the government would never actually repay the loans during anyone's current lifetime! In short, "posterity, the taxpayers of the future, were saddled with the obligations which would otherwise have devolved upon the living generation."²⁵

Thus a cumulative burden of interest charges faced succeeding generations as a financial heritage of wartime borrowing on the basis of a cumulative National Debt. Before the American War of Independence no less than 45 per cent of total net government expenditure was mortgaged to paying interest on the National Debt.²⁶

Needless to say, there were naysayers who saw nothing but doom portended by this enormous overhead of debt. But here Braudel almost enthusiastically reports that "all these rational observers were wrong."²⁷ And, as is obvious, but for the American setback, England persevered to dominate the nineteenth century world.

II

THE AMERICANIZATION OF NATIONAL DEBT

Is it not time to enquire whether the constitution was designed to beget a government or only a *British* system of finance?

A 1794 Critic from Carolina²⁸

The national debt in England was having its consequences. "The improving landlord in search of a loan, the spendthrift in need of a mortgage, the merchant anxious to discount his bills of exchange, were the first to feel the diversion of funds into government loans."²⁹ Adam Smith believed that the debt ought to be retired as soon as possible; prompt retirement would require "either some very considerable augmentation of the public revenue, or some

²⁴ F. BRAUDEL, *supra* note 5, at 607. A good read can be had about all this with the chapter entitled "The Bank" in J. GALBRAITH, *MONEY* 35-54 (Bantam ed. 1976).

²⁵ W. BISSCHOP, *THE RISE OF THE LONDON MONEY MARKET, 1640-1826*, at 59 (1968). The refrain may sound familiar, but this book was first published in Dutch at the Hague in 1896.

²⁶ P. MATHIAS, *supra* note 19, at 287.

²⁷ F. BRAUDEL, *supra* note 5, at 378.

²⁸ Quoted in P. MATHIAS, *supra* note 19, at 293.

²⁹ H. ROSEVEARE, *supra* note 17, at 113.

equally considerable reduction of the public expence."³⁰ He went on to suggest that additional revenue might be raised by

extending the British system of taxation to all the different provinces of the empire inhabited by people of either British or European extraction. . . . This, however, could scarce, perhaps, be done, consistently with the principles of the British constitution, without admitting into the British parliament, or if you will into the states-general of the British empire, a fair and equal representation of all those different provinces, that of each province bearing the same proportion to the produce of its taxes, as the representation of Great Britain might bear to the produce of the taxes levied upon Great Britain.³¹

We are met with the concept of federalism! At this point Adam Smith suggests that this "speculation can at worst be regarded but as a new Utopia, less amusing certainly, but not more useless and chimerical than the old one."³²

My colleague Theodore Ursus, looking at this as he does from Cambridge, suggests that the split with the colonies was brought about when the government in London set about hamhandedly to raise new revenues in America without creating the vehicle of an imperial parliament. He views the whole affair as the first war between the states, this one leading to a successful secession. Be that as it may, he is not alone in putting a great deal of the blame on the government of the day in London. "To a significant degree," says Christie, "the story of the loss of the American colonies is a story of the misjudgments and the inadequacy of British politicians."³³ And it may well be that the bottom line of the whole affair is that it was a constitutional crisis.³⁴ Perhaps we can excuse the Framers in Philadelphia for spending so much time trying to arrange how the several former colonies would be represented in the estates-general or, as it proved to be, the Congress of these United States.

Given an answer to the problem of creating a federal system, one can only surmise the recent colonists knew their Blackstone.

And herein, indeed, consists the true excellence of the English government, that all the parts of it form a mutual check upon each other. In the legislature, the people are a check upon the nobility, and the nobility a check upon the people; by the mutual privilege

³⁰ A. SMITH, *supra* note 1, at 886.

³¹ *Id.*

³² *Id.* at 886-87.

³³ I. CHRISTIE, *supra* note 18, at 111.

³⁴ *Id.* See also E. BURKE, EDMUND BURKE'S SPEECH ON CONCILIATION WITH AMERICA, 1775, at 73 (Denney ed. 1898) ("My idea therefore, without considering whether we yield as matter of right, or grant as a matter of favour, is to admit the people of our colonies into an interest in the constitution . . .") (emphasis in original).

of rejecting what the other has resolved: while the king is a check upon both, which preserves the executive power from encroachments. And this very executive power is again checked and kept within due bounds by the two houses. . . .³⁵

They also knew, however, that the Crown and a few leading ministers between them could, through emoluments, control Parliament by inundating its chambers with placemen. A “real” separation of executive and legislative powers must have been much on the minds of the delegates in Philadelphia. And, of course, a broader franchise was very much a part of the American scene.

You have a King, House of Lords and House of Commons. We have a President, Senate and House of Representatives. Their powers in some general points are similar; but when we attentively compare the total of the two Governments, we shall find, I think, a material difference. In One, the People at large have little to say, and less to do; the other is much more of a popular Government — the whole is Elective.³⁶

Or so Pierce Butler, a South Carolina delegate, explained by a letter to a relative overseas.

King-Lords-Commons and President-Senate-House were one set of troikas, germane when it came to limiting an untrammelled executive. But the separation of powers in America implicated another troika, this time the executive-legislative-judicial one. But again, one has to suspect that the Framers were drawing upon the English model.

Briefly stated, the ideal of the constitution which had shaped the aftermath of the Revolution of 1688 was that of “balance” — a balance in government between the pure and independent entities of the Law, in care of the Judiciary, of the Legislature, in the hands of the Parliament, and of the Executive, at the command of the Crown.³⁷

In England, however, the constitutional issue which was at the root of the conflict with the colonies would never have been decided by a court. Burke addressed his argument as to the true nature of the English constitution to Parliament.³⁸ *Marbury v. Madison*³⁹ has no English *imprimatur*, although *Martin v. Hunter's Lessee*⁴⁰ does. The Privy Council, after all, had regularly annulled enactments of colonial legislatures on the ground that they contravened the English

³⁵ 1 W. BLACKSTONE, COMMENTARIES * 154-55.

³⁶ Letter from Pierce Butler to Weeden Butler (May 5, 1788), in 3 THE RECORDS OF THE FEDERAL CONVENTION OF 1787, at 301-02 (M. Farrand ed. 1911).

³⁷ H. ROSEVEARE, *supra* note 17, at 86-87.

³⁸ E. BURKE, *supra* note 34, at 89.

³⁹ 5 U.S. (1 Cranch) 137 (1803).

⁴⁰ 14 U.S. (1 Wheat). 304 (1816).

constitution, which in its way was the then extant federal one.⁴¹

It does appear that a classic history of the United States was not overstating the situation when the authors declaimed, "Practically every feature of the Federal Constitution was ultimately of English origin"⁴² Their use of the word *Thermidor* to describe the adoption of the Constitution itself ought to give pause.⁴³ They assume that the American genesis entailed a revolution and not a civil war. After a civil war a new regime can only be expected to structure a government along the lines of the "true" principles of what is regarded as the original model. So far, so good: we have been toying with the idea that the Framers were reconstructing the "true" federal British imperial system upon the new continent. Pause now and reflect upon what power the Framers next concerned themselves with after settling upon the weight the several states should carry in the new legislature. This was the power to tax.

"[T]he delegates were determined," believed Warren, "that it should be made clear in the new Constitution that no one should question the integrity of the new Government."⁴⁴ But a reading of Article I, section 8[1] informs one straightaway that these taxes were calculated first of all to go "to pay the Debts . . . of the United States." There follows immediately section 8[2]: "To borrow Money on the credit of the United States." Then, and only then, in section 8[3] was the Congress given the power to regulate commerce. "After the power of taxation," wrote Warren, this was "the next most essential authority vested in Congress."⁴⁵ But what did the right to regulate commerce entail? *Vide* section 9[6]: "No Preference shall be given by any Regulation of Commerce or Revenue to

⁴¹ F. MAITLAND, *THE CONSTITUTIONAL HISTORY OF ENGLAND* 462-63 (1908):

The act which abolished the Court of Star Chamber did not deprive the Privy Council of all jurisdiction. In particular it remained the supreme Court of Appeal for all the king's lands beyond the seas. This was then a small matter; the king's lands beyond the seas were the Isle of Man, the Channel Islands, a few struggling colonies. Now it has become a very great affair, as the king by cessions, conquest, and colonization, has acquired new lands in every quarter of the globe.

Technically, to an American, "review of colonial legislation by the Privy Council was not judicial review." B. WRIGHT, *THE GROWTH OF AMERICAN CONSTITUTIONAL LAW* 13 (1942). *But see* F. MAITLAND, *supra* at 463: "Practically this committee is a court of law, but administrative forms are in some respects maintained. Its 'judgment' is not technically a judgment, but advice to the queen"

⁴² 1 S. MORISON & H. COMMAGER, *THE GROWTH OF THE AMERICAN REPUBLIC* 289 (3d ed. 1942).

⁴³ *Id.* at 277: "[here] comes a time in every revolutionary movement when the people become tired of agitation and long for peace and security *Thermidor* this time is called in leftist language, from the counter-revolution in France that overthrew Robespierre and ended the reign of terror."

⁴⁴ C. WARREN, *THE MAKING OF THE CONSTITUTION* 468 (1937 ed).

⁴⁵ *Id.* at 567.

the Ports of one State over those of another; nor shall Vessels bound to, or from, one State, be obliged to enter, clear or pay Duties in another.” And in this set of restrictions, Charles Pinckney saw the proof of “what the power to regulate commerce among the several States means.”⁴⁶

It is easy to see how the new government, by way of the power to tax and incur debts, could emulate the English model in that regard. One next might attempt to discern what the Framers had in mind by “commerce” by thinking in contemporary English terms. My colleague Ursus at once suggests that Pinckney’s open sesame, section 9[6], must be read *in pari materia* with section 10[2]: “No State shall . . . lay any Imposts or Duties on Imports or Exports” Think then, he suggests, mercantilism! The several states were not to practice mercantilism one against the other, but the states united were to practice it against the rest of the world.

One can hear a note of mercantilism ringing in a letter of Edmund Randolph:

No sooner is the merchant prepared for foreign ports . . . than it is announced [sic] to him, that they are shut against American shipping, or opened under oppressive regulations. . . . He is immediately struck with the conviction, that until exclusion shall be opposed to exclusion, and restriction to restriction, the American flag will be disgraced. For who can conceive, that thirteen legislatures, viewing commerce under different regulations, and fancying themselves discharged from every obligation to concede the smallest of their commercial advantages for the benefit of the whole, will be wrought into a concert of action and defiance of every prejudice?⁴⁷

And John Jay spoke to the same point:

Although our increasing agriculture and industry extend and multiply our productions, yet they constantly diminish in value; and although we permit all nations to fill our country with their merchandises, yet their best markets are shut against us Can our little towns or larger cities consume the immense productions of our fertile country? or will they without trade be able to pay a good price for the proportion they do consume?⁴⁸

Rousing advocacy all of this may be, but it does mirror English mercantilism rather more than Adam Smith. An English academic may

⁴⁶ *Address of Charles Pinckney in the House of Representatives* (Feb. 14, 1820), in 3 THE RECORDS OF THE FEDERAL CONVENTION, *supra* note 36, at 444.

⁴⁷ *Letter on the Federal Constitution from Edmund Randolph to the Virginia Legislature* (Oct. 16, 1787), in PAMPHLETS ON THE CONSTITUTION OF THE UNITED STATES: 1787-1788, at 264-65 (P. Ford ed. 1888).

⁴⁸ *An address by John Jay to the People of the State of New York* (Sept. 17, 1787), in PAMPHLETS ON THE CONSTITUTION OF THE UNITED STATES: 1787-1788, *supra* note 47, at 73.

be excused, perhaps, for his observation, "as the war drew to a close it seemed that from the ashes of political revolution, a rejection of all that the connection with Westminster had stood for politically, [there] was rising a financial system closer to the English model than any known elsewhere."⁴⁹

Braudel can always be counted on to add a flourish to these droll events. He has come up with the thoughts of the French plenipotentiary in Georgetown, put into a letter on 27 Brumaire, Year X, our time October 18, 1801:

I think that England now finds herself in relation to the United States in a position altogether similar to the situation which brought the great power [i.e. England] face to face with Holland at the end of the seventeenth century, when the latter, worn out with expenses and debts, saw her commercial influence pass into the hands of a rival which was taking its first steps so to speak in commerce.⁵⁰

The plenipotentiary was a bit ahead with his timing, but he does add fodder to Braudel's thesis that "the first signs were [already] beginning to appear of the United States' subsequent domination of the European world-economy."⁵¹

III

ET IN ARCADIA EGO⁵²

I see another youthful lieutenant as I saw him in the Seven Days, when I looked down the line at Glendale. The officers were at the head of their companies. The advance was beginning. We caught each other's eye and saluted. When next I looked, he was gone.

Oliver Wendell Holmes, *Memorial Day*⁵³

Debt and taxation have always been with us in these United States. What apparently has changed dramatically is the authority of Congress to regulate almost any local activity imaginable because it somehow affects interstate commerce. It would be interesting to see whether, should Braudel attempt a fourth volume, he would make as much of this as Americans are wont to do. If one accepts that the commerce power was bottomed on the need to practice mercantilism in order to make the national economy prosperous, then it likely follows that the power licenses any legislation seen necessary and proper to undergird the same national economy. If, instead of talk-

⁴⁹ P. MATHIAS, *supra* note 19, at 293.

⁵⁰ Quoted in F. BRAUDEL, *supra* note 5, at 412.

⁵¹ *Id.*

⁵² The English translate this, properly, "Even in Arcadia I, Death, hold sway."

⁵³ THE OCCASIONAL SPEECHES OF JUSTICE OLIVER WENDELL HOLMES 4, 9 (Howe ed. 1962).

ing about the commerce power, one were to read the commerce clause, together with the tax and debt clauses, as describing one national economic power, NEP if you will, the pieces fall into place. It is the notion of federalism that stands in the way of appreciating the essential unity of this one economy. "The tradition of all the dead generations weighs like a nightmare on the brain of the living."⁵⁴ It was a sad day in England when any number of the old county names disappeared, as that country's governmental infrastructure was reconstituted along regional lines making more economic sense. One can only suspect that the same fate, ultimately, awaits the several states.⁵⁵

The poet advises us, "Time present and past/Are both perhaps present in time future."⁵⁶ Maybe. "In my beginning is my end."⁵⁷ More likely. We began with a warning that academic musings promise no ease and comfort. Just as England followed Holland, and these United States superceded England, in maintaining for a while a hegemony of sorts over the world economy, so there is no promise that the American Ascendency is any less transient than its predecessors. In this regard Braudel ought to be read and *pondered* by lawyers. If this nation's genesis was England's constitutional crisis, what crisis is portended if its inhabitants must meet the task of writing themselves down from a power of the first rank to one of the second, or even third rank? What goes up comes down is an idea appreciated by anyone but an occasional village idiot. Why is the same notion, transposed into the history of nation-states, so much to be resisted? Let lawyers attend to Braudel. Let them, in their private hours, conjure up the outlines of a volume four, encapsulating not only our own times, but the next few decades.

Meanwhile, one might spend his or her time pondering Lucretius:

sic rerum summa novatur
semper, et inter se mortales mutua vivunt.
augescunt aliae gentes, aliae minuuntur,

⁵⁴ K. MARX, *The Eighteenth Brumaire of Louis Bonaparte*, in KARL MARX AND FREDERICK ENGELS: SELECTED WORKS 97, 97 (Moscow ed. 1968).

⁵⁵ *Garcia v. San Antonio Metropolitan Transit Auth.*, 105 S. Ct. 1005 (1985) (overruling *National League of Cities v. Usery*, 426 U.S. 833 (1976) as inconsistent with federalism); see also Roberts & Shultz, *The Reapportionment Cases: Cognitive Lag, the Malady and its Cure*, 27 U. PITT. L. REV. 633, 650-51 (1966) (prospective view of politics, economics, and sociology should guide reapportionment, not historical notions of federalism). See also *Supreme Court of New Hampshire v. Piper*, 105 S. Ct. 1272 (1985) (state residency requirement for lawyer inconsistent with national economy).

⁵⁶ T.S. ELIOT, *Burnt Norton*, in THE COMPLETE POEMS AND PLAYS, 1909-1950, at 117, 117 (1952).

⁵⁷ *Id.*, *East Coker*, at 123.

inque breve spatio mutantur saecula animantum
et quasi cursores vitae lampada tradunt.⁵⁸

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⁵⁸ T. LUCRETIUS, II DE RERUM NATURA, at lines 75-79 (C. Giussun ed. 1923), on translation reads:

Thus the sum
Forever is replenished, and we live
As mortals by external give and take.
The nations wax, the nations wane away;
In a brief space the generations pass,
And Like to runners hand the Lamp of Life
One unto other.

T. LUCRETIUS, OF THE NATURE OF THINGS 94 (W. Leonard trans. 1957).

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