

Feudal and Canon Law vs. Liberal Law

Lord Acton once said, “Power tends to corrupt, and absolute power corrupts absolutely,” though a more precise assessment would add that it is the corruptible that are attracted by the lure of power in the first place; he continued, “Great men are almost always bad men.”¹ Over a century earlier, John Adams had a similar insight: “I mean the love of power, which has been so often the cause of slavery...this principle that has always prompted the princes and nobles of the earth, by every species of fraud and violence to shake off the limitations of their power[.]”² It is curious, then, that he also says of the love of power that it is an “aspiring, noble principle founded in benevolence, and cherished by knowledge...it is the same that has always stimulated the common people to aspire at independency, and to endeavor at confining the power of the great within the limits of equity and reason.”³ How are we to reconcile these two seemingly contradictory statements made in his essay “A Dissertation on the Canon and Feudal Law”? By way of answering this question, I shall embark on an examination of the essay.

We can begin by looking at the opening line of the essay, a quotation from Dr. Tillotson: “Ignorance and inconsideration are the two great causes of the ruin of mankind.”⁴ Adams laments the ignorance of the poor and subjugated peoples of earlier ages, nearly equating them with beasts of burden. He notes a general improvement in the

¹ Lord Acton, letter, 3 April 1887, to Bishop Mandell Creighton (published in *The Life and Letters of Mandell Creighton*. Louise von Glehn Creighton, ed. New York: Longmans, Green, and Co., 1913).

² John Adams, *The Revolutionary Writings of John Adams*, edited by C. Bradley Thompson (Indianapolis: Liberty Fund, 2000), p. 21.

³ Ibid.

⁴ Ibid.

education of the people up to his present time, however, as well as a correlation between the education of the people and their liberty.⁵ “Wherever a general knowledge and sensibility have prevailed among the people, arbitrary government and every kind of oppression have lessened and disappeared in proportion.”⁶

The poor people, it is true, have been much less successful than the great. They have seldom found either leisure or opportunity to form a union and exert their strength; ignorant as they were of arts and letters, they have seldom been able to frame and support a regular opposition. This, however, has been known by the great to be the temper of mankind; and they have accordingly labored, in all ages, to wrest from the populace, as they are contemptuously called, the knowledge of their rights and wrongs, and the power to assert the former or redress the latter.⁷

Is Adams here subscribing to the maxim “knowledge is power”? In a certain sense knowledge *is* power in that if the people were educated and had knowledge of their rights they would be far less tolerant of violations of those rights.

But surely the love of power and the love of knowledge are not one and the same thing. Certainly, it is not knowledge that Lord Acton means when he says that power corrupts. It would be absurd to claim that knowledge of the good corrupts. Moreover, few other than tyrants would think the love of knowledge a bad thing. Nor is the love of knowledge what Adams speaks of when he says that the love of power prompts princes and nobles “to shake off all the limitations of their power.”⁸ The power that tyrants and would-be tyrants have and seek more of is the control over other human beings.

Perhaps matters will become clearer once we take a look at what Adams claims are the “two greatest systems of tyranny...the canon and the feudal law.”⁹ Both the canon

⁵ Adams clearly does not use intelligence the way we use it but to mean education and knowledge, though perhaps the two uses are equated in his eyes.

⁶ Ibid.

⁷ Ibid., pp. 21-22.

⁸ Ibid., p. 21.

⁹ Ibid., p. 22.

and the feudal law derive from Christianity. In both cases, Christianity has been used and twisted in order to gratify the passions of the great. They are lies promulgated by the great to keep the poor willingly in subjection. With the canon law, the Catholic clergy

persuaded mankind to believe, faithfully and undoubtingly, that God Almighty had entrusted them [the clergy] with the keys of heaven, whose gates they might open and close at pleasure; with a power of dispensation over all the rules and obligations of morality; with authority to license all sorts of sins and crimes; with a power of deposing princes and absolving subjects from allegiance; with a power of procuring or withholding the rain of heaven and the beams of the sun; with the management of earthquakes, pestilence, and famine; nay, with the mysterious, awful, incomprehensible power of creating out of bread and wine the flesh and blood of God himself.¹⁰

Such beliefs were instilled and maintained in the people by keeping them ignorant and by instilling in them a religious aversion to letters and knowledge, and thereby keeping them in awe of the clergy.

The feudal law is similar to canon law, though not as refined and subtle. It too serves to keep the people in ignorance and poverty, relegated to the bottom of a rigid hierarchy. The general or chief or king claimed all the land of a given territory as his property.

Of him, as his servants and vassals, the first rank of his great officers held of them; and in the same manner the other subordinate officers held of them; and all ranks and degrees held their lands by a variety of duties and services, all tending to bind the chains the faster on every order of mankind. In this manner the common people were held together in herds and clans in a state of servile dependence on their lords, bound, even by the tenure of their lands, to follow them, whenever they commanded, to their wars, and in a state of total ignorance of every thing divine and human, excepting the use of arms and the culture of their lands.¹¹

While the use and threat of force by the elites was no doubt more prevalent in the enforcement of feudal law than in canon law, both relied upon the general popular

¹⁰ Ibid., p. 22.

acceptance of the system for their continuation. As Étienne de La Boétie and, over two centuries later David Hume, pointed out, all governments rest upon the consent of the governed, even the worst tyrannies, and the Catholic Church as well.¹²

The unholy alliance of canon and feudal law, with each giving legitimacy to and reinforcing the other, held the people “in ignorance, [without] liberty, and with her, knowledge and virtue too.”¹³ The Reformation broke the monopoly of the Catholic Church on Christ’s teachings and, in so doing, disrupted the ties between King and Church. With the spread of religious knowledge came a desire for religious liberty. The decentralization of the Christian religion was soon followed by a desire for political liberty and political decentralization. The spread of religious knowledge and a consequent spread among the people of knowledge of their political rights made the people realize that they held the power, not their rulers. Adams clearly sees the Puritans who settled America as the culmination and exemplars of this process. Moreover, the Puritans of America realized that the only thing protecting them and their posterity from the encroachments of the two systems of tyranny was a general diffusion of knowledge among the people. “Their civil and religious principles, therefore, conspired to prompt them to use every measure and take every precaution in their power to propagate and perpetuate knowledge. For this purpose they laid very early the foundations of colleges, and invested them with ample privileges and emoluments.”¹⁴

¹¹ Ibid., p. 23.

¹² Étienne de La Boétie, *The Politics of Obedience: The Discourse of Voluntary Servitude*, translated by Harry Kurz with an introduction by Murray Rothbard, (New York: Black Rose Books, 1997); cf. David Hume, “Of the First Principles of Government,” in *Essays, Literary, Moral and Political* (London: Oxford University Press [1966, c1963]).

¹³ Ibid.

¹⁴ Ibid., p. 27.

It would seem, then, that Adams does subscribe to the maxim “knowledge is power.” He says further that “whenever freedom has existed” the love of power has “been the cause of freedom.”¹⁵ We have seen that knowledge is the precondition for liberty. Logically, however, knowledge has to precede the love of power that prompts the people to insist on their liberty and restrain the power of their rulers. “The desire for dominion, that great principle by which we have attempted to account for so much good and so much evil, is, when properly restrained, a very useful and noble movement in the human mind. But when such restraints are taken off, it becomes an encroaching, grasping, restless, and ungovernable power.”¹⁶ Adams seems to have in mind here a sort of Aristotelian mean between a lack of power and unrestrained power, in which one desires dominion over oneself but not over others. Knowledge gives the people, in their greater numbers, power over themselves, the desire for the power to resist violations of their rights, and the means to restrain the power of their rulers.

We have reconciled the two conceptions of the love of power in Adams’s thought but how does his conception of power match up with Lord Acton’s? It would seem that Lord Acton’s conception of power corresponds with the negative half of Adams’s conception of the love of power. The power that corrupts, for Lord Acton, is political power (be it formal or informal). As soon as one crosses the line between desiring dominion over oneself and desiring dominion over others, even if one’s intentions are good, one has opened the door to corruption.

Liberal law holds that all men are born with equal authority and that they come together to form a government, by their own voluntary consent, in order to better secure

¹⁵ Ibid., p. 21.

¹⁶ Ibid., p. 22.

their rights. A liberal government is supposed to protect people's dominion over themselves, in the process preventing individuals from acquiring dominion over others. Insofar as the political power of government officials is restricted to protecting individual rights, it does so. In place of the vertical social structure of canon and feudal law, liberalism envisions a society of horizontal relations.

As we can see in Adams's other writings, and in the writings of the other Founders, republican government was supposed to restrain political power through a separation of powers, the system of checks and balances, federalism, and elective democracy. Education of the people is also important. Unfortunately, it has by now become clear that competition within a republican system of government merely simulates market competition within a fundamentally monopolistic context and therefore does not provide an adequate check on ambition. "There has been a sufficient convergence of interests among the three branches of republican government that, despite occasional squabbles over details, each branch has been complicit with the others in expanding the power of the central government."^{17, 18} It is tragically ironic that the public education system has been a major factor in the diffusion of progressive, anti-liberal ideas among the people, in large part by assaulting religion and traditional values.

¹⁷ Roderick T. Long, "The Nature of Law: Parts II," *Formulations* 1, No. 4 (Summer 1994). www.libertariannation.org/a/index.html.

¹⁸ For details, see Robert Higgs, *Crisis and Leviathan: Critical Episodes in the Growth of American Government* (New York: Oxford University Press, 1987).