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The Earth Belongs to the Living

By Jason Gerhard

It would seem that for far too long our attention has focused on the wrong object when it comes to reigning in our out-of-control government. Many concerned citizens have been led to believe that term limits for politicians will save this republic. Yet this may be, in fact, a distraction from the true cure. As most people will readily agree, Thomas Jefferson was a man of great accomplishments and probably most famous for being our third president and authoring the Declaration of Independence. He wrote numerous letters to friends that are worthy of study. It is within his letter of September 6, 1789, that a jewel of wisdom is found. Mr. Jefferson writes Mr. Madison, "because a subject comes into my head which I would wish to develop [sic] a little more than is practicable in the hurry of the moment of making up general dispatches. The question Whether [sic] one generation of men has a right to bind another, seems never to have been started on either on this or our side of the water. Yet, it is a question of such consequences as not only to merit decision, but place also, among the fundamental principles of every government." While Mr. Jefferson goes on to question the practice of allowing governments to contract debts greater than can be paid within 19-years, (the length of a generation of men according to his calculations) it is towards the end where he applies his idea towards law that is of greatest interest. "On similar ground it may be proved that no society can make perpetual constitution, or even a perpetual law. The earth always belongs to the living generation. They may manage it then, and what-precedes [sic] from it, as they please, during their usufruct. They are masters too of their own persons, and consequently may govern them as they please. But persons and property make the sum of the objects of government. The constitution and the laws of their predecessors extinguished then in their natural course with those who gave them being. This could preserve that being till it ceased to be itself, and no longer. Every constitution then, and every law, naturally expires at the end of 19 years. If it be enforced longer, it is an act of force, and not of right.--It may be said that the succeeding generation exercising in fact the power of repeal, this leaves them free as if the as if the constitution or law has been expressly limited to 19 years only. In the first place, this objection admits the right, in proposing an equivalent. It might be indeed if every form of government were so perfectly contrived that the will of the majority could always be obtained fairly and without impediment. But this true of no form. The people cannot assemble themselves. Their representation is unequal and vicious. Various checks are opposed to every legislative proposition. Factions get possession of the public councils. Bribery corrupts them. Personal interests lead them astray from the general interests of their constituents: and other impediments arise so as to prove to every practical man

that a law of limited duration is much more manageable than on which needs a repeal." (Emphasis added) The beauty of limiting a law's length is that it makes it doubly difficult for corrupt entities to exercise their will. Besides the requisite bribes (I mean 'campaign contributions') necessary to secure favorable legislation in the first place, there would have to be the subsequent payoffs every time the law came up for reauthorization. Hopefully by that time enough people would be aware of the law's ramifications to pressure their representative to either let it expire, if it is ultimately detrimental to their wellbeing, or pass it for another short period if it proves to be beneficial. There will be concern from some quarters as to Mr. Jefferson's assertion that all laws and constitutions ought to expire. Admittedly, I am not in favor of such a broad application of his idea. While not perfect, the Constitution is not an absolute failure; nor would I be willing to lose the Bill of Rights. However, we can agree that there are simply too many laws that are the love child of special interest groups and corrupt politicians. It is time to clean out our closet. Rather than 19-years, as Mr. Jefferson suggests, I would argue for a sliding scale for a law's lifespan. Given the amount of information technology we possess today, a law's efficacy can be determined in a much shorter period. If a law passes with 90% or more support in the House of Representatives, and is subsequently passed in the Senate and signed by the President, it ought to expire in 15-years. When a law is supported by 75%-89% of the House, it should die in 12-years. Less than 74% support would warrant a lifespan of 10-years. If this sounds extreme, it is worth a similar system over 1,000 years ago. David Friedman wrote an interesting essay titled "Private Law Enforcement, Medieval Iceland and Libertarianism," that appeared in the July 1989 issue of Liberty. He wrote: "Under the legal system set up in 930, the 'government' of Iceland had on part-time employee. He was called the lawspeaker and was elected...for a three year term. His job was to preside over the legislature, memorize the law, give legal advice and, during the course of his three years, recite the entire law code aloud once. The recitation took place at the Althing--an annual assembly, lasting two weeks, of people from all over Iceland...At each Althing the lawspeaker recited a third of the law. If he omitted something and nobody objected, that part of the law was out. Think of it as an early form of sunset legislation." Although instituting such a system as the Icelanders had would be entertaining--imagine how long it would take to recite the IRS code--it wouldn't be as effective as simply putting a time limit on all laws. There needs to be some mechanism to remove excessive laws or we will soon drown in a sea of legalese. Laws are not supposed to be permanent; binding future generations that neither want them nor respect them. The earth belongs to the living.

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