

# **“Gender” rules and despotic power**

An outcry has arisen from numbers of Americans in opposition to the recent spate of “guidelines” emanating from the District of Columbia to the effect that it has now become impermissible to discriminate against men who believe (or at least profess) that they are women, or women who believe (or at least profess) that they are men, in the use of various facilities heretofore segregated according to individuals’ biologically determined sexes. Some Americans denounce these “guidelines” as serious affronts to basic rights of personal privacy, while others hoot them down as mere bureaucratic pandering to the LGBT lobby. Unfortunately, none of these criticisms, valid as they may be, come to grips with the fundamental problem. Bad enough is that the actual enforcement of these “guidelines” will turn society upside-down simply to advance trendy notions about the supposed plasticity of “gender” which bureaucrats deem to be “politically correct” (that is, “correct” in the sense of advancing the corrosive agenda of cultural Marxism). Beyond that particular perverse end, though, these “guidelines” embody a generality far worse in its capability to inflict harm upon society: namely, a claim to omnipotent governmental power which transcends anything ever before witnessed throughout American history. To see why this is so, some of that history must be consulted.

In July of 1775, the Continental Congress issued “[a] declaration by the Representatives of the United Colonies of North America, \* \* \* setting forth the causes and necessity of their taking up arms.” Therein, Congress observed that

government was instituted to promote the welfare of mankind, and ought to be administered for the attainment of that end. The legislature of Great Britain, however, stimulated by an inordinate passion for a power, not only unjustifiable, but

which they know to be peculiarly reprobated by the very constitution of that kingdom, and desperate of success in any mode of contest, where regard should be had to truth, law, or right, have at length, deserting these, attempted to effect their cruel and impolitic purpose of enslaving these Colonies by violence, and have thereby rendered it necessary for us to close with their last appeal from Reason to Arms.—Yet, however blinded that assembly may be, by their intemperate rage for unlimited domination, so to slight justice and the opinion of mankind, we esteem ourselves bound, by obligations of respect to the rest of the world, to make known the justice of our cause. \* \* \* \* \*

But why should we enumerate our injuries in detail? By one statute it is declared, that parliament can “of right make laws to bind us IN ALL CASES WHATSOEVER.” What is to defend us against so enormous, so unlimited a power? [Journals of the Continental Congress, Volume 2, at 140-141, 146.]

Taken literally, this was something of an exaggeration. For Parliament had never claimed a “right [to] make laws to bind [Americans] IN ALL CASES WHATSOEVER”—with emphasis on the word “all”. To be sure, assertions by Parliament to almost limitless power were really nothing new at that time. As Sir William Blackstone explained,

[T]HE power and jurisdiction of parliament \* \* \* is so transcendent and absolute, that it cannot be confined, either for causes or persons, within any bounds. \* \* \* It hath sovereign and uncontrollable authority in making, confirming, enlarging, restraining, abrogating, repealing, revising, and expounding of laws, concerning matters of all possible denominations, ecclesiastical, or temporal, civil, military, maritime, or criminal: this being the place where that absolute despotic power, which must in all governments reside somewhere, is entrusted by the constitution of these kingdoms . All mischiefs and grievances, operations and remedies, that transcend the ordinary course of the laws, are within the

reach of this extraordinary tribunal. It can regulate or new model the succession to the crown \* \* \* . It can alter the established religion of the land \* \* \* . It can change and create afresh even the constitution of the kingdom and of parliaments themselves \* \* \* . It can, in short, do every thing that is not naturally impossible; and therefore some have not scrupled to call it's power, by a figure rather too bold, the omnipotence of parliament. True it is, that what the parliament doth, no authority upon earth can undo. [Commentaries on the Laws of England (Philadelphia, Pennsylvania: Robert Bell, American Edition, 1771), Volume 1, at 160-161.]

Yet even in this panegyric passage, Blackstone recognized that Parliament could not do everything without exception, but only "every thing that is not naturally impossible". So it was that the Swiss political theorist of that era, Jean-Louis de Lolme, could write in his analysis of England's government (perhaps somewhat tongue in cheek, but to the point nonetheless) that "parliament can do everything but make a woman a man and a man a woman". "Everything but ...". That is to say, even the vaunted "omnipotence" of Parliament was constrained absolutely by the natural order of things.

The Declaration of Independence enumerated an host of grievances against King George III and his Ministers in Parliament. But amongst these were not to be found the charges that those villains had attempted to "make a woman a man and a man a woman", or to impose upon Americans some other equally "naturally impossible" decree.

But how times change! Today, bureaucrats in the District of Columbia assert an "absolute despotic power" far beyond even what the King and his Parliament claimed in the Founding Era—namely, a power to do precisely what is "naturally impossible", by purporting in effect to "make a woman a man and a man a woman" simply by saying that a woman must sometimes be treated as a man and a man sometimes treated as a

woman. Now Americans are told that they must behave as if they lived, not even in a parallel universe, in which the natural, scientifically irrefutable, reality of the two biologically determined sexes were faithfully reflected in its equivalent reality, but instead in an orthogonal universe, the utter unreality of which is displaced a full ninety degrees from the natural reality in which Americans (and everyone else on planet Earth) have lived heretofore. Worse yet, these aberrant directives have been promulgated, not by a legislature with some law-making authority in principle, but instead by bureaucrats possessed of no claim to law-making power whatsoever.

If the political class in contemporary America is capable of this, of what is it incapable, now and in the future? Apparently nothing. For reality resides within definite boundaries; but unreality knows no limits, extending as far as imagination or insanity will carry it. And that, of course, is the point of the exercise of purporting to "make a woman a man and a man a woman" by bureaucratic dictate, is it not? To impress upon Americans that, if the political class gets away with this enormity—if WE THE PEOPLE swallow this idiocy, and roll over and play dead for this outrage—then literally anything in the realm even of "naturally impossible" usurpation and tyranny is not only possible, but even probable, if not certain. As the old expression has it, "If they do this in the green wood, what will they do in the dry?"

A cynic might find it comforting to disparage this development simply as a relatively minor, albeit exasperating, example of the proverbial lunatics' gaining temporary control over their asylum. And perhaps one should not be overly concerned if a few lunatics do run amok from time to time, provided that they remain confined within their own asylum's walls. Until help from the outside arrives, the asylum's staff may be at some risk, but not the rest of society.

In stark contrast, though, the threat which confronts America

today is that veritable mobs of certifiable lunatics have seized control over the most important economic, social, and especially governmental institutions outside of the asylums to which they should be committed—and plainly intend to exercise that control to the detriment, degradation, and even destruction of the rest of society.

So what is to be done? The first step in the right direction is to recognize what is at stake. Political lunacy does not wax and wain with the cycle of the moon. Once entrenched in governmental institutions, it tends to expand and intensify its influence at every opportunity—unless and until it is finally confronted and rooted out by political sanity. Whether political sanity sufficient to perform that task still exists in this country, though, remains the question.

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