



THE GIFT OF GRIDLOCK

By Ben Schnittger



Few things are as frightening as a unified government; unbridled ambition, bolstered by the “whoops” of populism, untampered by the pleas of the vanquished. The Founding Fathers of the Constitution wrote “gridlock” into the legislative process. One of the main fears the framers of the Constitution had was unchecked demagoguery. They knew enough history to understand the dangers of strong personalities on democracy. The real fear, above all else, was a singular purpose, a unified government.

THE FOUNDERS’ PERSPECTIVE

The concept of “separation of powers” is built into the Constitution.

This was a radical concept in the late 1700’s when Monarchianism was dominant in the west. The European concept that “King is Law” was turned on its head with the Constitution’s dictum, “The Law is King.” The Constitution was created to prevent the head of state from dominating the government or the governed. The separation of powers into an executive, legislative and judicial branch was designed to create a slow, ponderous, deliberative form of government. In short, it was designed to promote *gridlock*.

Listen to the Founders themselves:

“It is not enough that your legislature should be numerous; it should also be divided.” Ben Franklin

“Divided we ever have been, and ever must be.” John Adams

“Divided we stand, United we fall.” Thomas Jefferson

James Madison, the primary author of the Constitution, made it clear in Federalist #51 that a separation of powers is necessary to prevent tyranny:

“To what expedient, then, shall we finally resort, for maintaining in practice the necessary partition of power among the several departments, as laid down in the Constitution? The only answer that can be given is, that as all these exterior provisions are found to be inadequate, the defect must be supplied, by so contriving the interior structure of the government as that its several constituent parts may, by their mutual relations, be the means of **keep each other in their proper places.**”

THE EXAMPLE OF SPAIN

Spain has seen the economic benefits of a captain- less ship for nearly a year. With no clear winner in their parliamentary elections, a three way tie has ensured that legislation will not be presented or passed. The economy, in turn, has done what most Austrian economists such as Mises or Hayek predict in such an area where the gift of gridlock keeps the government from intervening in the economy. Spain has become the fastest growing economy in the E.U.

Alanna Petroff deals with this phenomena in her September 6, 2016 article entitled, “This country has no government and 3% growth.”

“New data shows Spain’s economy has been growing at an annual rate of more than 3% for the last 15 months. This marks a sustained comeback for a country that was brought to its knees four years ago when Spanish banks had to be bailed out following a big housing market collapse. And the country is motoring despite not having a functioning government since late 2015. So how come Spain is doing so well while countries like Italy and France are floundering? Here’s an overview: **No government? No problem!**

“Gridlock in parliament means Spain has only a caretaker government. Voters face a third general election in quick succession late this year, but in the meantime the economy is moving along quite nicely.”

With no one to cool the boiler or stoke the flame, Spain’s economy becomes more predictable to investors and thus more attractive than other European markets. Even civil servants are shocked by the growth stimulated by a government that gets out of the way.

Joseph Salerno wrote an intriguing article in this regard entitled, “Spain is without a National Government—And Spaniards are digging it” (*Mises Institute*, October 3, 2016):

“With neither party able to secure a majority of seats in the national legislature and the two parties unable to agree on a coalition government, for the last 10 months Spain has had a do-nothing caretaker government for the first time in its history. While basic government services continue, no new legislation is being proposed, foreign policy is stuck in place, and many infrastructure and other government projects are frozen. In contrast to dire prediction of chaos, everything is proceeding smoothly and some Spaniards are learning a valuable lesson about the resilience of society when left to its own (voluntary) devices. The lesson has been pithily summed up by Felix Pastor, a language teacher, who states: ‘No government, no thieves.’”

“Mr. Pastor believes that, without politicians around to inflict more hardship, Spain could last without a government ‘until hell freezes over.’ . . . And Ana Cancela, a civil servant, recognizes the corruption and incompetence endemic to political institutions, ‘We already knew that politicians were corrupt, but now we also see that they can’t even make politics work.’”

IMPLICATIONS FOR THE U.S.

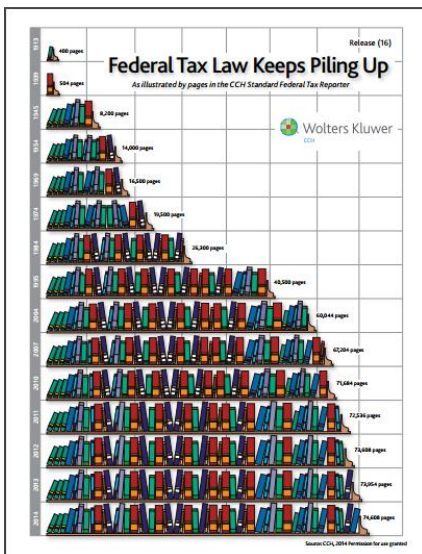
To some this revelation may be shocking and infuriating to see specifically how the government of Spain was actively getting in the way of the prosperity of the country, but Spain certainly isn’t alone. For example, in the U.S. alone there are close to 75,000 pages of Tax Law.

INCREASING COMPLEXITY

Mike Shedlock’s article, “2014: How Many Pages in the U.S. Tax Code?” (*Finance Townhall*, April 13, 2014) states:

“We find that for those filing their personal income taxes on 15 April, 2014, they must comply with the terms of a tax code that takes 73,954 pages to explain . . . Just for fun, we thought it would be interesting to find out how fast the U.S. tax code has been growing during President Obama’s tenure in office . . . through 2008, the year before President Obama was sworn into office, the U.S. tax code was just 67,507 pages long. In President Obama’s first two years in office, when his political party also controlled both the U.S. House of Representatives and the U.S. Senate and used it control to impose massive new taxes on the American people like the Patient Protection and Affordable Care Act . . . the U.S. tax code grew to be 71,684 pages long, which works out to be an average exponential rate of 3.0% per year.”

It is impossible for any one entity to keep track of the additions and changes to income tax law every year - most companies hire firms to interpret and translate the legalese for the company. This steals thousands of man hours annually from what



would be going towards savings, expansion, or productivity in the real economy, and reroutes it instead to “rent seeking bureaucracy” and unnecessary expenses. The mounting pressures to reform the tax code are not even a guarantee that what is produced will be better than what is in place currently. No wonder government action only creates unnecessary volatility in the market, in light of past performance which demonstrate that they can’t even fix the problems they created in the first place.

One wonders why the gift of gridlock isn’t more obvious to those whose job it is to know money. The market volatility alone should be an indicator that investments are being distorted by state interventionism into the market. Some of the most prominent economists believe the exact opposite is true. They believe economics is a perfectible “science” as they look at and manipulate statistics to suit the agendas of their political goals.

Getting back to basics to them is the equivalent of setting explosives under the goose that lays the golden eggs, then having the government blow up that poor bird with malinvestment bubbles and unnecessary regulatory nightmares. It’s as if the most well respected economic minds are only recognized as such for their ability to bend the knee to state intervention into systems that neither need, nor want, government to survive and grow. When the level of genius of an economist is measured in how well they repeat the mantras of state intervention into the market, it becomes obvious why the declines in the productive economy directly accompany the growth of the state.

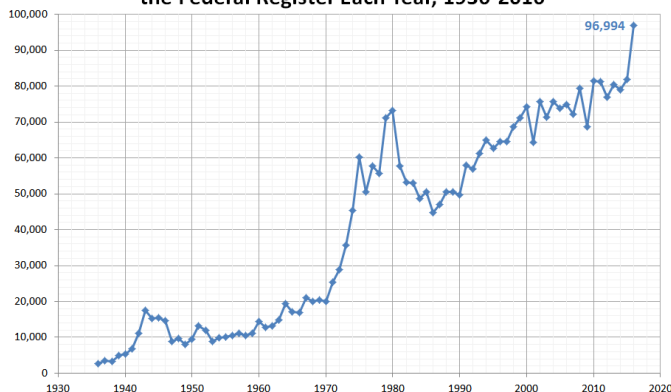
Since the inception of the nation state, political philosophers have been concerned with the organs of the state no longer responding to the legitimate civilian political leadership. This idea has been termed “State within a state” or “Deep State”

Wikipedia defines the deep state as: “State within a state is a political situation in a country when an internal organ (“deep state”), such as the armed forces and civilian authorities (intelligence agencies, police, administrative agencies and branches of governmental bureaucracy), does not respond to the civilian political leadership. Although the state within the state can be conspiratorial in nature, the Deep State can also take the form of entrenched unelected career civil servants acting in a non-conspiratorial manner, to further their own interest (e.g. job security, entrenched power and authority, pursuit of ideological goals and objectives, and the general growth of their agency) and in opposition to the policies of elected officials, by obstructing, resisting and subverting the policies and directives of elected officials.”

Those who would have unfettered government have always seen their side as right and justified, even when losing elections or legislative sessions. Unfortunately today, those who would command the organs of the deep state are not specific to one side of the political aisle or the other. It seems the Americanized conception of a deep state is *any state* above none at all. When Congress cannot pass job destroying regulations for the EPA, the EPA itself will create regulations without the permission or passage of laws by any other civilian legislative authority.

CREEPING BUREAUCRACY

Number of Pages of Regulations Added to the Federal Register Each Year, 1936-2016



Source: Ten Thousand Commandments

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A good example of this is found in an article entitled, “The EPA Doesn’t Have The Legal Authority To Adopt Its New Power Plant Climate Rules” (by Brian Potts, *Forbes*, March 25, 2014).

“Last month, a young Federal law clerk in Washington, D.C. named William J. Haun wrote a paper for the conservative leaning Federalist Society. In it he argued that the U.S. Environmental Protection Agency can’t adopt its planned climate rule for existing power plants. A few month later (and without seeing Mr. Haun’s analysis), I made the same assertion in an article I wrote for the *Yale Journal on Regulation*. Our papers ruffled some serious feathers: numerous environmental groups immediately bashed our

conclusion as ‘unfounded,’ and twelve state attorneys general filed comments with EPA arguing that Mr. Haun and I are wrong. . .

"I think EPA is on very shaky legal ground. Because Congress hasn't passed any climate legislation, the agency is stuck using the decade old Clean Air Act as its authority for its power plant rule. Specifically, EPA wants to use an obscure and rarely used part of the Act, section 111(d). The problem is that Congress screwed up when this section was last amended. They accidentally signed two different versions of the provision into law: the first version allows the EPA to regulate greenhouse gases from existing power plants -- and the second version does not, but it's this second version that controls."

As you would expect, the EPA continues to insist that they have Congressional authority to regulate greenhouse gases in power plants, even though the article above makes it clear that they have no such authority.

The only thing worse than the organs of the state acting unopposed on their own is the reaction by the civilian authority trying to recheck the rampant power of the deep state. As unified government advances under one party or the other, the swing back when power is finally relinquished to the other party or the civilian authority is all the more violent and destructive.

COMPETING MODELS

In the fight for a divided, gridlocked government, there are many interested parties. You have the statist, the anarchist, and the minarchist. A statist is one who believes that society needs government intervention on either an economic or cultural level or some degree of both. An anarchist is one who believes that no one should have the legal option to use preemptive, aggressive coercion against anyone else. Minarchists want a state so small that its only purpose is acting in extreme emergency.

Statists expect the government to intervene when the state ruins the growth environment that allowed businesses to grow and prosper in the first place. The ultimate goal of the statist is to unite government in the most efficient manner possible to immediately respond to "the will of the people." In pursuit of this end, the statist will argue that everyone must pay their "fair share", because the "social contract" stipulates that anything the government declares legal or illegal is *just*, simply because the state exists and you happened to be born under its rule and authority.

Essentially, the statist believes everyone and everything must support the state, because without the state, nothing but chaos would exist. History proves the opposite to be true over and over again. The problem with a unified state hasn't changed, but the amount of people ignorant enough to believe such a thing to be desirable has. Both sides of the aisle are filled with people who think the most productive solution for society is a unified government that can grant their every whim. The other two groups of people, the anarchists and the minarchists, must mobilize to cripple the system, making it unable to become the destructive machine a unified government always becomes.

SOME CLOSING THOUGHTS

America's problem is not that there is gridlock in its political system. The problem is that there has not been enough gridlock! Federal debt of 20 trillion dollars testifies to the dangers of unified government! For too long Congress has been made up of two parties that are nothing more than two wings on the same bird of prey. The only thing more destructive to society and the market than unified government is the belief that unified government *must exist*. As long as the general public continues thinking that all the political problems created by the previous administration can be best dealt with by unifying government at smashing the problems of the previous regime, there will only be more problems created in the process of undoing the past. The easiest way to right the wrongs is to stop continuing the wrongs in an attempt to make things right.

For example, there are currently thousands of state laws in existence that go completely ignored. If the American people do the same with disgusting new and old federal laws, it will necessarily reduce the state's influence in the lives of the citizens. The only thing that creates unfettered government is the fear of the other side creating an unfettered unified government. Until political solutions start to form *outside* of the political spectrums, capitol buildings and legislative sessions, the gift of gridlock will never fully be realized.

Editor's Note: *Ben Schnittger is a veteran of the U.S. Army, having served two tours in the Middle East. He and his family reside in Maryland. He is also the favorite son of the editor.*

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