



P E R S P E C T I V E S

by Rinaldo S. Brutoco



Rinaldo S. Brutoco is the Founding President and CEO of the Santa Barbara-based World Business Academy and co-founder of JUST Capital. He's a serial entrepreneur, executive, author, radio host, and futurist who's published on the role of business in relation to pressing moral, environmental, and social concerns for over 35 years.

A New Federalism, Part 2 of 4

In part one of this four-part series we traced the history of Federalism from the Founding 13 Colonies and the Articles of Confederation through to the Constitution replacing the Articles in 1789. We then saw Federalism evolving through the Civil War up to the present day. This installment looks at Federalism at its best (i.e. when it really worked for the nation), and the current status handling the Coronavirus pandemic (i.e. when it didn't work).

From FDR's "New Deal" in the 1930s up through World War II until the 1970s, the evolving Federalism worked exceptionally well. FDR drove the beginning of that era by pushing the Federal government into a massive effort to stop the Great Depression, and then continued that buildup of national power through the mobilization of World War II. In that period the respective states were more than happy to let the central government deal with society's greatest challenges leading us out of the Great Depression and then leading us to victory in World War II. By common consent, all agreed that only the Federal government could command the resources of the nation to bring us through those twin emergencies. That is not to say that all states were happy to cede such power, but in the face of enormous destabilization they were willing to go along. Until...

Arkansas Governor Orval Faubus in 1957 attempted to stop the integration of Little Rock's central high school with the overt justification of "States Rights." This was the beginning of the end of the vast expansion of federal powers at the hands of individual states, particularly southern states (an important distinction we'll return to in an upcoming installment of this series), who argued should have the power to re-imagine what federalism looked like in the post-World War II world. And to highlight it, Governor George Wallace of Alabama declared "segregation now, segregation tomorrow, segregation forever" in his 1963 inaugural address. The identical claim made by Alabama in the Civil War. That was too much for President Lyndon Johnson who believed the US was one nation, a single Union as Lincoln put it, and that all citizens of that nation had the same political and human rights no matter where they lived.

In response to all the anti-black States Rights agitation, President Johnson in 1964 passed the historic Civil Rights Act followed immediately by the incredibly powerful Voting Rights Act in 1965. Together those two Federal laws set individual southern states off on a period of prolonged machinations to obstruct national policy by a series of "states' rights" interventions. The South basically was unwilling to let go of Jim Crow laws and permit universal suffrage for black Americans.

Unfortunately, Ronald Reagan's election in 1981 set off the current anti-federalist political environment which has actively sought to

weaken the federal government by reducing its control of many federal projects and bringing many others under local state control. The purpose was to create a more plutocratic form of government that would govern best by governing less (note Reagan's famous quote "The government is the problem."). It unleashed marketplace forces, with greatly reduced oversight (so-called "trickle down" economics made infamous by the completely debunked Laffer Curve) to overtake the government. This process, which continues to the present day, has resulted in the massive, and growing gap between the top 1-2% of economic society to wield more influence than the bottom 90%. What to do about it?

The healthy balance of strong federal management of national issues has gone badly out of whack! The Coronavirus, or COVID-19, is the ultimate indictment of what can go wrong when the federal government was allowed to be "hollowed out" and is now so hobbled by incompetence that it can't hold its rightful place in a healthy federalist relationship with the states. One can argue about the incompetence and venality of the Trump Administration's handling of the Coronavirus epidemic, but to understand what really has gone wrong we have to look at the system that elected Trump's even though he lost the popular vote by over 3,000,000 people.

The Electoral College, a vestigial artifact of Constitutional compromise made to bring the southern states into the Union by giving them the disproportionate power to affect national elections, clearly needs to be abandoned 157 years after the issuance of the Emancipation Proclamation in 1863.

One other vestigial artifact of the Constitution was the decision to give two Senators to each state regardless of population. Hence Wyoming with just over 50,000 residents has the same Senate voting power as California with 40,000,000 residents. The original purpose of this approach was also to ensure that slave owning states could exercise abnormally large power at the national level. No one envisioned the intense partisanship that has frozen national policy in the US Senate.

Taken together, the Electoral College and Senate apportionment, created the amazing situation where two of the last three presidents were elected without a majority victory in the popular vote, and the abdication of oversight in the Senate. Both are a result of the decision to preserve States Rights. Both have badly distorted the balance required for a successful federalism to work.

We know the result of the breakdown of federalism has resulted in the Coronavirus pandemic. In our next installment we'll look at where we are and where we are heading as a nation. Stay tuned...

Published in the Montecito Journal – April 23, 2020 Edition