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THEY SAID IT

The powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people.

The Tenth Amendment to the United States Constitution.

In this Issue

An "Irrepressible Conflict," Redux.

AN "IRREPRESSIBLE CONFLICT," REDUX.

Last week, Zach Wamp, an erstwhile obscure Congressman from Tennessee, made national headlines by suggesting that the states might have to "consider separation from this government" if said government does not change its approach and attitude toward governing. Wamp also had kind words for Texas Governor Rick Perry and for Perry's earlier, similar praise for the idea of secession, which was made at the height of the health care "debate."

Not surprisingly, Wamp, who is a candidate for governor of his state, received a stern rebuke from the editorial board of the *Wall Street Journal* and quickly backed off from his position saying "Of course we will not secede from the union. But we will also not have a governor who will cave in to Barack Obama."

Now, for the record, we agree with the *Journal* that "politicians of all stripes are smart to keep away from analogies to the Old Confederacy." Moreover, we would think that a Republican from Tennessee would know better. Honestly, Mr. Congressman, you are from Tennessee, and you are a Republican. Shouldn't you know better than to invoke the Old Confederacy, whether wittingly or otherwise? Can you really be so ignorant of the inferences that will be drawn from such an invocation and the damage that could be done to the broader conservative movement, particularly at a time when the left and its media collaborators are already hyperventilating about an imaginary effort to "repeal" the 14th Amendment?

All of that said, and the imprudent talk of secession notwithstanding, Wamp has actually done us all a favor here, identifying, or at least articulating, a serious and growing concern among many people in the middle of the country that the current relationships among the states, and between the states and the federal government, are rapidly become impossible to repair.

The Tea Party movement; the immigration battle playing out in Arizona and beyond; the battle over ongoing “stimulus” and aid to state and local governments; the general disposition of the population at large and its anger with Washington: all of these things are signs of serious and potentially unstable dissatisfaction with the current state of government and the relationship between that government at the federal level and its citizens strewn across the nation.

All of these things – and a great many others – are, in short, indications that a civil war is brewing. This civil war, we assume, will be mostly bloodless. But it will, nonetheless, be disruptive and bitter and costly.

Regular readers will note that this is not the first time that we have spoken about a looming, bloodless, war in this country. Since the beginning of May, we have touched several times on the battle over financial resources that will be a characteristic of political debate at all levels of government over the next several years.

This war continues unabated. The recent battle over Milwaukee teachers and their health care benefits; the laying-off of 500 of those teachers; the related battle at the federal level over funding for the war in Afghanistan and the add-ons to that funding, which were payoffs to the teachers’ unions designed to allow Milwaukee to hire back its fired teachers; the police officer layoffs in East St. Louis, Illinois, and the related jump in that city’s already sky-high crime rate: again, all of these and more are part and parcel of the war over financial resources, which, we have no doubt, will continue to grow more passionate as these resources continue to be scarce, particularly at the state and local levels.

Distressingly, the civil war that we now foresee is *in addition* to the previously discussed battle for financial resources. This new one is bigger, more comprehensive, more fundamental, and contains elements of state-against-state and states-against-the-federal-government that are more pronounced than the one involving financial resources.

For nearly a century and a half now, the federal government has been expanding its power at an astonishing clip. And in some instances, at least, a case can be made this was just and necessary. The elimination of slavery, for example, and the Civil Rights movement are examples of policy prescriptions that necessitated a strong federal government.

Contra libertario-Republican Ron Paul, Lincoln did not overstep constitutional bounds in preserving the union and abolishing slavery. And contra Rand Paul, Ron’s son and Kentucky Senate candidate, civil rights could not have been achieved in the American South if the federal government had not intervened.

But more recently, the role of the federal government has, all but certainly, expanded beyond any reasonable sense of suitability or effectiveness. Despite the leveling and homogenizing effects of globalization, the nation itself remains incredibly diverse with regard to interests, values, and economic structure. The continued attempt by the federal government to expand its power has not only clarified this diversity but has also amplified its import, driving a great deal of the unrest and anger visible today in the various Tea Party movements.

Please note, for the record, that we use the term “movementS” when discussing the tea party phenomenon intentionally. While it is true that tea partiers throughout the country are generally unified in their objection to the federal government’s strong-arm tactics, it is not at all clear that all tea partiers share the same expectation of outcomes.

Tea partiers in Seattle may not seek the same ends as Tea Partiers in Nashville. In fact, it’s all but certain that they don’t. But that, you see, is the point of the “movements.” What tea partiers seek, broadly, is the liberty to determine their own ends without the repression and homogenization of federal government over-involvement; and this, in turn, may lead to different outcomes for different people, cities, and states. So be it. The Tea partiers seek a rebalancing of the power relationship between the federal government and the states, and the state, broadly defined, and the individual.

Now, we have to admit that we are not the only ones to have taken stock of the current dissatisfaction with the federal government and come to the conclusion that a “war” of some sort appears to be the likely eventual outcome of this dissatisfaction. Over the weekend, for example, *Investor’s Business Daily* published an essay by two former Treasury officials, Gary Robbins, who worked in Treasury under Reagan, and Ernest Christian, who was deputy assistant secretary of Treasury under Ford.

Robbins and Christian, good partisans they, blame Obama and Clinton before him for much of the anger and distress that they predict will lead to a second “American revolution.” Certainly we can see their point, and we agree that the Obama administration has far greater ambitions with regard to the centralization of power than did any of its predecessors. But still, we think that this analysis is shallow, to say the very least. The overreach on the part of the government and, more broadly, the “ruling class” is a bipartisan phenomenon, one that both supersedes and precedes the Obama administration. And the reaction to that overreach will be far more substantial and bipartisan than this analysis suggests.

The journalist, author, and “urban futures” scholar Joel Kotkin also wrote recently about a coming civil war or, as he terms it, “the new war between the states,” which he sees growing out of the economic diversity extant in the nation but largely ignored by the federal government and its power centralizers. To wit:

Nearly a century and half since the United States last divided, a new “irrepressible conflict” is brewing between the states. It revolves around the expansion of federal power at the expense of state and local prerogatives. It also reflects a growing economic divide, arguably more important than the much discussed ideological one, between very different regional economies.

This conflict could grow in the coming years, particularly as the Obama administration seeks to impose a singular

federal will against a generally more conservative set of state governments. The likely election of a more center-right Congress will exacerbate the problem. We may enter a golden age of critical court decisions over the true extent of federal or executive power.

Some states are already challenging the constitutionality of the Obama health care program. Indiana, North Dakota, Mississippi, Nevada and Arizona joined a suit on March 23 by Florida Attorney General Bill McCollum to overturn the law. And Arizona’s right to make its own pre-immigration regulations has gained support from nine other states: Texas, Alabama, Florida, Nebraska, Pennsylvania, South Carolina, South Dakota, Michigan and Virginia.

These may be just the opening salvos. If the Republicans and conservative Democrats gain effective control of Congress, the White House may choose to push its agenda through the ever expanding federal apparatus. This would transform a policy dispute into something resembling a constitutional crisis . . .

Generally speaking, states in relatively good economic shape are concentrated in an economic “zone of sanity” across the vast Great Plains. They are also in the least “fiscal peril,” according to a recent Pew study. Not surprisingly, these states see little reason to extend federal power and increase taxation in order to bail out their more profligate counterparts.

To a large extent these states, according to Pew, are also the ones willing to reform their pension and other spending to keep down costs. Significantly, strong pension reforms have been enacted

in some hard-hit sunbelt states – such as Nevada, Georgia, New Mexico and Arizona – which appear to be following the fiscal model of the zone-of-sanity states.

In contrast those states most favorable to a more powerful Washington are often the ones suffering the worst fiscal situations. They also seem least willing to solve their structural budget issues. Free-spending, poorly managed states like New York, California, Michigan, Oregon and Illinois--all of which are controlled by the president's political allies, need massive federal largesse to pay their bills without ruinous tax increases or painful cuts. Some localities in these states could become the Greeks of late 2010 as they head inexorably toward defaults.

The differences between the states, however, extend beyond budget items. Many of the worst-managed also benefit from more federal spending on academic and medical research, and from subsidies for their often expensive green energy policies.

There has been a great deal of talk of late about how the comparatively frugal and level-headed taxpayers of Germany are unhappy about having to bail out the profligate and idle taxpayers of Greece, with Spain, Portugal, and maybe even Italy close behind. This same resentment is all but certainly festering among the taxpayers of the “zone-of-sanity” who saw the federal “stimulus” dollars – nearly a trillion of them – go principally to spendthrift blue states and go toward “saving” the jobs of blue-state government employees with nice, defined-benefit pensions and gold-plated health care plans.

And how do you suppose the residents of Red-state, middle-America – the states that provide the overwhelming percentage of this nation's soldiers

– felt about the House-passed war funding bill that contained an additional \$10 billion to bailout teachers' unions in cash-strapped blue states? Even President Obama hated the House's recklessness on this matter and threatened a veto of the bill. It's hard to imagine that this won't increase resentment between the so-called reds and blues or between those who fight the nation's wars and those who fight over the nation's wars.

And it's not, we should note, merely economic issues that have the potential to drive a wedge between the states and to increase resentment dramatically. Last week, the Massachusetts legislature passed the National Popular Vote Interstate Compact, a bill designed to supplant the Electoral College. As *The Politico* reports:

The Massachusetts legislature on Tuesday approved a bill that would give the state's Electoral College votes for president to the winner of the national popular vote.

The law would only take effect in the unlikely event that enough other states approved similar legislation to account for the 270 electoral votes needed to win.

So far, New Jersey, Illinois, Maryland, Washington and Hawaii have passed such legislation. If Massachusetts's Democratic governor, Deval Patrick, were to sign the bill, it would bring the total of electoral votes potentially determined by this method to 73.

You will note several things about this legislation. First, it was created specifically to supersede the will of the Founders -- who created the Electoral College -- but to do so without amending the Constitution. Amending the Constitution is, reasonably, very hard to do. So why do it? This “compact” makes it unnecessary.

You will also notice that the states who have already adopted the compact are left-leaning blue states. Or, as *The Wall Street Journal's* James Taranto notes:

The common thread tying these states together is political party. In all of them, as well as in Massachusetts, the bill passed at a time when Democrats had complete control of the legislative process. (New Jersey had a Democratic governor at the time it joined the compact; and Democrats in the Hawaii Legislature hold a veto-proof majority, which they had to use to override the objections of Gov. Linda Lingle, a Republican.)

The National Popular Vote website reports that in three other states –California, Rhode Island and Vermont – the legislation was approved by lawmakers in both houses only to be vetoed by the governor. All three states have Republican governors and Democratic majorities in both houses.

What is more, all of the nine states where the legislation has reached the governor's desk have voted Democratic in all of the past five presidential elections (the past six elections in the cases of Hawaii, Massachusetts, Rhode Island and Washington), and usually by double-digit margins.

Taranto argues that this is principally due to residual resentment over the election of George W. Bush in 2000, despite his having lost the popular vote to Al Gore. This is undoubtedly true. But it is also worth noting that many of the blue states involved in this process – New Jersey, Illinois, California – are among the most populous states in the country, which is to say that such a plan would increase their influence disproportionately. Add in New York, and these four states alone could, at least in theory, provide almost all of the votes that a candidate would need to “win” the popular vote.

Not only is this absurd and in direct violation of the spirit of the Constitutional establishment of the Electoral College, it is also guaranteed to increase

resentment among voters in the now-even-more-unimportant middle-of-the-country Red States. And how could it not? The blue states undertake a plan to circumvent the Constitution and thereby to decide Presidential elections on their own, rendering Kotkin's zone-of-sanity irrelevant. Can you even imagine a plan better devised to cause a constitutional crisis and an overt questioning of the federal government's legitimacy?

Obviously, we have no idea how this civil war will play out. We don't know whether it's already begun, whether it will be sparked by an outrageous incident of some sort, whether it will rage or simmer, or even the mechanisms by which the states will clarify and instigate their respective rebellions against the feds. We do know, though, that this is part of the “Great Atomization” process we began describing last month.

We know as well that the immigration debate is going to play a significant role in the advance of the war. Pinal County (Ariz.) Sheriff Paul Babeu declared this weekend that “Our own government has become our enemy” in the immigration debate. And while this is certainly inflammatory if not over-the-top rhetoric, it expresses a sentiment that many others throughout the country are likely to share.

More significantly, also this weekend, Virginia Attorney General Ken Cuccinelli inserted himself and his state in the middle of the immigration debate, as the *Richmond Times-Dispatch* reports:

Virginia Attorney General Ken Cuccinelli has issued an opinion that Virginia law enforcement officers, including conservation officers, may inquire into the immigration status of people who are either stopped or arrested.

The opinion, sought by Del. Robert G. Marshall, R-Prince William, comes amid a new push by the chairman of the Prince William Board of County supervisors for an immigration

crackdown in Virginia, on the heels of Arizona enacting some of the toughest immigration laws in the nation.

“It is my opinion that Virginia law enforcement officers, including conservation officers, may, like Arizona police officers, inquire into the immigration status of persons stopped or arrested,” Cuccinelli wrote . . .

Cuccinelli went on to say that Virginia law enforcement officers have the authority to make the same inquiries as those contemplated by the new Arizona law.

Even though we know that the legal arguments backing the federal government’s challenge of the Arizona law are narrow and deal specifically with the intersection of immigration and foreign policies, we’ve always found it more than a bit bizarre that the federal government would expend so much energy insisting that a state NOT enforce federal law. The precedent – if only the perceived precedent, as opposed to the true, legal precedent – strikes us as dangerous for a federal government that wishes to maintain discipline over potentially obstreperous states. If the feds won’t let the states enforce immigration laws, why should the states enforce federal gun laws? Or drug laws? Or anything else for that matter?

Obviously, we’re speculating. But we’re doing so based on the sense that something in this country has changed and is not likely to change back anytime soon. There is real and palpable energy among those who are tired of being “ruled” rather than merely governed.

On the one hand, you have people like Democratic Congressman Pete Stark declaring that, in this country, the federal government “can do almost anything.” And on the other hand, you have people like *National Review’s* Jonah Goldberg who sense that “the rules have changed” and that “it’s just becoming harder and harder to shake the feeling that something bigger than politics as usual is at work.”

There is a tension here that is irresolvable by the means of traditional politics. As we’ve written before (and as our friend Angelo Codevilla wrote even before we did), this tension isn’t so much about left vs. right, but about the ruling class vs. the country class. A new paradigm has emerged, and it appears, for all the world, to be one that transcends traditional politics, both in terms of choosing sides and in the means by which it will be resolved.

Congressman Zach Wamp was being foolish. Talk of secession is both irresponsible and, sort of by definition, seditious.

That said, the possibility of some sort of civil war is hardly ridiculous. In fact, we find it hard to see how the increasing tension that characterizes the new political paradigm can possibly be resolved without some reversion to a war – hopefully nonviolent – between the states.

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