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Constitutional Facts

NATIONALISM AND STATES' RIGHTS SINCE THE CIVIL WAR

By John T. Gance

Although the Civil War, for all intents and purposes, destroyed the last vestige of States' Rights conceived of in terms of nullification and secession, the problem was by no means dead. Indeed, the question arose in a new, and in many ways, a more perplexing form.

Whereas, the expression of ideas

as to the relation of State and Federal governments, prior to the Civil War was fundamentally sectional, the rapid economic and industrial growth of the United States transformed the problem in the post-Civil War era to an entirely different plane. While the elements of controversy were not so apparent, they were more subtle and more intricate and they were none the less real.

The expansion of industry and commerce disregarded state or sectional boundaries. Economic and constitutional history thus became inseparable.

The evolution of transportation, accompanied by the rise of other great industrial and commercial organizations, caused great apprehension upon the part of the American people. The extension of Federal authority in the last half of the nineteenth century was thus demanded.

Strictly speaking, there is in American constitutional law no such thing as "Federal police power" since no such grant was ever given in the delegated powers. But the control of the Post Office, the power to regulate interstate commerce, and the power to tax, were powerful weapons.

Federal power was extended under such powers to deal with obscene literature, immoral women, the adulteration of foodstuffs, and countless other subjects which even the most ardent Federalists of 1800 would never have dreamed to be under anything but state jurisdiction.

It is unnecessary to give a detailed account of that familiar history since the Civil War which has been, from one standpoint at least, merely the story of the enlargement of Federal powers.

The legalistic arguments clutter the pages of history but reveal, in spite of finely woven argument pro and con, one cardinal truth: That centralization and expansion of Federal control is an historic movement, an actuality, rather than a constitutional conception to be accepted or rejected.

Whatever was the intent of the framers, or the beliefs of the pre-Civil War generations, the constitution had changed in the post-war period to meet new conditions and new realities. Federal centralization becomes, thus, a thing to be accounted for, not accepted or rejected.

What, then, have been the factors which have produced this concerted movement toward centralization? Two observations need to be made before those factors are enumerated. First, the factors are so complicated, intricate, and overlapping that no hard and fast enumeration can be made. Second, the movement toward nationalization was a part of general movement in Federal governments in all parts of the world.

Thus conceived, the development in the United States was not an isolated phenomenon but a reflection of the general trend during the past hundred years.

The primary factor producing centralization in the pre-Civil War period was probably the existence of the frontier. The frontier was itself a national problem and in turn accentuated the national issues.

The controversy over the tariff and the peculiar twist given to the slavery issue were both products of the frontier.

The attempts to extend the sphere of the Federal Government to include new means of transportation likewise came out of the frontier, and while during the early years the philosophy of the limited powers of the state prevailed, by the middle of the nineteenth century the nationalistic influence of the frontier was quite clearly seen.

The second factor leading to the extension of Federal control, and the factor producing the trend since the Civil War, was the development of industry and commerce. Both industry and commerce transcended state boundaries; neither could be considered as limited to state lines. If any control was to be had, Federal power must of necessity have been extended.

But if the problems of commerce and industry could not be limited by state boundaries was there and is there any limit to the sphere of

action of the Federal Government? The continuous trend has been in the direction of the extension of Federal power and while here and there has come the temporary curtailment by the courts the movement has nevertheless gone on.

The economic interests have changed positions with regards to the degree of centralization. Large industrial interests now protest the undue extension of Federal authority while the underprivileged besiege its extension, but the process still continues.

Political parties have reversed their respective positions with regards to the problem; Republicans, originally clamoring for additional powers for the Federal Government, now decry its expansion; Democrats, with the heritage of States' Rights, plead for its extension; but regardless of party and irrespective of economic interests, the steady progress of centralization is apparent.

Is our constitutional system outgrown or what are the relative spheres of action of state and Federal Governments? These problems, older than the Constitution itself, are the problems which still confront us anew.

APPRECIATION

We wish to thank all who have been so kind and helpful to us during our illness since or accident.

Mr. and Mrs. Lon Root and family

Church News

NYSSA METHODIST CHURCH

Sunday School 10 o'clock. Chester Sager, Superintendent.
Morning Worship 11:15. Sermon subject: "Faith and Christianity."
Epworth League 7:30.
Evening Worship 8:30.
Prayer Service Wednesday evening 8 o'clock.
Meeting of the nominating committee Monday evening in the church basement.

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