Section 11

The Case of the Fifty Disappearing States
Don Bell Reports
(8/15/1975)

Don Bell Reports
A WEEKLY COMMENTARY
Year Twenty-Two - - - - - - - - - - - - Number Thirty-Three - - - - - - - - - - - - August 15, 1975

THE CASE OF THE FIFTY DISAPPEARING STATES

USURPATION: A TWO-WAY STREET

State Governors are little more than elected administrators for an all-powerful National Government. Their power has been usurped by the Federal Executive. The power of the State Legislatures has been taken over by (or handed over to) the National Congress. State Courts are little more than inferior adjuncts of the Federal Judiciary. And State and local law enforcement departments must abide by the advice handed down by the Federal Law Enforcement Assistance Administration.

In short, promoters of the ***New Federalism*** (another name for Regionalism) look upon the States as "horse-and-buggy anachronisms" that have seen their day and should be done away with completely just as soon as it can be done without causing a violent counter-revolution. The managerial system that is to replace the States has already been installed and, slowly but surely, the service functions formerly performed by State agencies, are being taken over by the Ten Federal Regional Councils and their myriad sub-councils and agencies.

→ Usurpation is the word for it. But, as T. David Horton, eminent Constitutional lawyer and legal counsel for the Committee to Restore the Constitution, Inc. pointed out:

"Usurpation is a bi-lateral act. It does not consist alone of an attempt to exercise power by someone having no authority to exercise that power. It consists of that in the first instance (someone trying to exercise the power who has no authority to do so.) But to complete that act, usurpation consists of the person or the entity having lawful authority to exercise that power, surrendering it or acquiescing in the exercise of the power by the usurper."

In easier words: The Federal Government could never have usurped all that power if the States (and the people) had not allowed it to happen. And, in allowing it to happen, the States (and the people) were just as guilty as the Federal Government, ***because all were violating the Constitution, which is the Supreme Law of the Land*** regardless of what its detractors may say or think.

Hence, it was heartening to hear the Hon. Meldrim Thomson, Governor of the State of New Hampshire, protest the usurpation of power when he appeared recently as a guest speaker on the Manion Forum Radio Broadcast. Here is what he said at that time:

* * * * * * * * * * * * * *

In recent years we have seen the Federal Constitution hauled from its first conceptual moorings by the tugs of judicial interpretation and legislative usurpation. A long succession of guarantees of personal freedoms, to be freely determined, have been tortured into permanent deformity. The most important of all of these for the future of our nation and the liberties of our people is a concept of sovereign duality. Here in the north we call this "state sovereignty."

The Articles of Confederation, under which the Continental Congress acted on behalf of the original 13 colonies, demonstrated the weakness of a loose league of states and a need for a national entity with power to act for the collective whole in national affairs. Massachusetts, in 1790, and New Hampshire, in 1784, pioneered the concept of a dual sovereignty in their respective constitutions, several years before the adoption of the Federal Constitution. In each of these two earliest state constitutions in continuous operation, it was provided "the people of this state have the sole and exclusive right of governing themselves as a free, sovereign and independent state and do, and forever hereafter shall, exercise and enjoy every power, jurisdiction and right pertaining thereto, which is not or may not hereafter be by them expressly delegated to the United States of America in Congress assembled."

Seven of the 13 states that had wrested their independence from Great Britain provided in their resolutions of ratification that the Congress should be encouraged to institute amendments to the new Constitution that

would guarantee to each state the reservation of those sovereign powers not expressly delegated to the national government. One of the strongest of these imperatives was made by New Hampshire. Our state urged that in order to remove the fears and quiet the apprehensions of many of the good people of this state and more effectually guard against an undue administration of the Federal Government, that certain amendments to the Constitution be promptly made.

Clearly Defined

At the first session of the First Congress of the United States, held in New York City, beginning March 4, 1789, the first ten amendments to the Federal Constitution were proposed to the several states. They were ratified and become effective December 15, 1791. The Tenth Amendment provided that "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." Thus, a year and a half after our First Congress had convened, a clear expression of the division of powers between the Federal and State governments was incorporated into the Federal Constitution.

James Madison, one of the three co-authors of the Federalist Papers, described in January, 1788, in Paper No. 45, the difference in the nature of the sovereign powers possessed by the national and the state governments. This was several months before the seven states had conditioned their ratification on the adoption of an explicit reservation to the states of their undelegated powers.

Precisely what was the division of sovereigh powers? Which of these were State and which Federal? In answer to such questions Madison wrote in the 45th Paper:

"The powers delegated by the proposed constitution to the Federal Government are few and defined. Those which are to remain in the State Governments are numerous and indefinite. The former will be exercised principally on external objects, as war, peace, negotiation, and foreign commerce, with which the power of taxation will for the most part be connected. The powers reserved to the several States will extend to all the objects which in the ordinary course of affairs concern the lives, liberties, and properties of the people, and the internal order, improvement and prosperity of the State."

Early in our history, in the case of McCullough vs. Maryland, the United States Supreme Court fashioned its ***doctrine of implied powers.*** This doctrine held that when an ***express*** power was delegated to the national government by the Constitution, it carried with it such ***implied*** power as might be required to fully implement the related ***express*** powers. This became in time a judicial shoehorn by which the Federal government began an intrusion on the residual sovereignty of the States that now overspreads State boundaries and leaves States which at the ratification of the Constitution were fully sovereign Nations, simple administrative districts in an all-powerful national government.

Like the lean fleshed kine in Pharaoh's dream that came up out of the river and ate up the seven fat kine, the national government has devoured the residual sovereign powers of the State. Who today can read the words of our Founding Fathers and believe that they ever intended that an omnipotent Federal government should exercise control over abortions, capital punishment, busing, schools, wages and hours of State and local government employees, and levy penalties in factories and shops without due process?

Fears Realized

Thus, the drastic diminution, perhaps even the elimination of the residual sovereign powers of the states guaranteed in the Tenth Amendment, is exactly what patriots like Richard Henry Lee, George Mason and Patrick Henry feared would come to pass. Lee, who was the author of the resolution in 1776 calling for the independence of America from Great Britain, said some 12 years later that the proposed Federal Constitution was not Federal in its principles and was calculated ultimately to make the States one consolidated government.

Any Governor today could enumerate a long list of usurped powers which Madison wrote were to be reserved to the States: those matters which concern the lives, liberties and properties of the people, and the internal order, improvement and prosperity of the States. Nothing has done more to vitiate the powers of State governments than the system of general and categorical grants, including revenue sharing. The re-cycled flood of Federal dollars, your taxes and mine back to the States, accounts for 45 per cent of the average budget of our States.

Strings Attached

Not a dollar of the billions doled to the States by the national government arrives without some form of persuader attached to it. If it is money for the public schools, we are told how to teach, what to teach, and when to teach. If it is for school lunches, we are advised we cannot allow students to work for their meals, presumably because working for a reward is a nasty, capitalistic activity.

The Federal-grant dollars being used to reshape our social structure must be matched with various sums of State dollars, 50-50 for the Bureau of Reclamation money, 75-25 for certain welfare and health programs, and 90-10 for some highway funds. Almost no Federally imposed programs can be approved without agreements by the State, set forth in ponderous planning volumes, to follow federal regulations and directives from the bureaucrats who weave the strings that pull the programs....

Our Republic...will remain so only if we preserve the balance of sovereign power between the State and National Governments. ...If the founding concept of Federalism is to survive and continue to sustain our freedom, it is imperative that we resolve this vital matter while there yet may be time.

(End of radio address by Governor Meldrim Thomson)

* * * * * * * * * * * * * *

An interesting sidelight: Governor Thomson lays particular stress on the importance of the Supreme Court decision in the case of ***McCullough vs. Maryland,*** because this was the first in a long string of abuses of and violations to the Constitution involving the concept of implied powers, this decision having been rendered as early as 1819 by Chief Justice John Marshall. However, this case was important in yet another respect: It gave Congress the right to establish a Bank of the United States. In spite of the very learned arguments of the counsel for the State of Maryland, Marshall ruled in favor of U.S. Treasury Secretary McCullough saying, in effect, that since Congress had the power "to coin money and regulate the value thereof," then it was ***implied*** that the Congress also had the power to create a national bank. This was a vital question, and the decision was discussed pro and con for years thereafter. When, in President Jackson's Administration, it became necessary for the bank to obtain an extension to its charter, President Jackson refused to recharter the bank. However, a precedent had been established and, in 1913, it was deemed to be constitutional when Congress passed the Federal Reserve Act, creating a privately owned Corporation which would control the Nation's money supply. Also, on June 22, 1932, when Congress created Reconstruction Finance Corporation, this was considered to be an ***implied power*** of the Congress. Now we have a whole string of public corporations that are so many and so powerful that this Nation is on the verge of becoming a Corporate State—which is a polite way of saying Fascist State!

And the Labor Unions

"The Corporate State" is defined by the New University Encyclopedia (1967) as an "economic-political system developed in Italy under Fascism. In it the individual was related to the state through the intermediacy of corporations, or syndicates (labor unions), to which he belonged in connection with his employment. Distinct from Russian Communism in recognizing corporations of employers as well as of employees ...(empowering) these, acting through the national council of corporations, to coordinate areas of the national economy and administer economic policy."

More simply: The Corporate State is an economic-political system administered by the heads of corporations and labor unions, with the real power in the hands of an elite.

In the Corporate State ***labor unions become a part of the Administration.*** Now note this: Last year, Congress passed a law, as an amendment to the Federal Fair Labor Standards Act, which would give the National Congress the right to make minimum wages and over-time rules for the more than eleven million employees of the fifty States and the eighteen thousand local governments in the nation. This, as Governor Thomson asserts, is a palpable usurpation of states' rights, and the law is being contested before the United States Supreme Court. But, if it is declared to be constitutional, we are told that the AFL-CIO hierarchy is ready with a series of bills which will set up collective bargaining standards for application to every unit of government in the country. These bills, we are told, would force States, Counties and Cities to recognize their employees' union shops, which would require union membership by all government employees, would collect union dues from all government employees, guarantee all employees the right to strike under Federal supervision.

In short, the syndicates (unions) will have become an integral part of the administrative apparatus of the government, along with the corporations, both public and private (if the latter is sufficiently monopolistic and cartelist, and subscribes to the right organizations, such as CFR, CED, OECD, Bilderbergers, Trilateral Commission, etc.)

Now, turn back the page and re-read the definition of a Corporate (or Fascist) State, and you'll get a glimpse of our real enemy within!

Land Control Essential

Regardless of the type of collectivism that is envisioned, private property in land is anathema. Control of the use of land is an essential ingredient of collectivism in any form. And in this connection the fifty States have their uses as administrative agencies for the Federal apparatus. The States will not totally disappear until land use control is in the hands of a Centralist Authority. This is understood by one United States Congressman, Steven D. Symms of Idaho. Just before Congress voted itself another hefty raise and keyed salaries to the cost of living so future raises will be automatic, Rep. Symms (who voted against the raise) had the following inserted in the ***Congressional Record*** (August 1, page E 4355):

"...Unfortunately, dogs are dogs, cats are cats, and planning is planning. You can call it anything you want, but Federal regulation by any other name smells just as foul.... By definition Federal legislation equals Federal intervention. If the land use planners are not advocating Federal intervention then there would be no need for them to propose Federal legislation. They would concentrate on the State and local levels, and keep Washington out of the picture....

"In June of 1973 a task force on land use and urban growth, sponsored by the Rockefeller Brothers Fund and reporting to the President's Citizens Advisory Committee on Environmental Quality, chaired by Laurance Rockefeller, issued a report calling for the usual pervasive governmental land controls. ...Also in that same year, the Council on Environmental Quality—CEQ—issued a report ***The Taking Issue: An Analysis of the Constitutional Limits of Land Use Control,*** which is essentially a brief in support of... the earlier Rockefeller study. All of this appears to be an orchestrated move by those who advocate central planning and a controlled society to overcome the major obstacle to the realization of their goals—the inconvenience of having to pay private landowners for the expropriation of their property. These two reports, coming as they do from so close to the Federal Government, should alert us that critics of land use planning legislation are well founded in their fears that the logical course of these measures will lead to a massive and uncompensated transfer of private land to government control....

"Unfortunately, a new land use planning bill has been introduced since the defeat of H.R. 3510 on July 15. The new bill is H.R. 8932 introduced on July 25, 1975....

"Is it any business of Congress to decide what the States should and should not do in this area? Is it proper for Congress to use our tax dollars as bribe money to make the States do its bidding?

"Already there are 22 Federal departments and agencies administering some 122 programs which deal with land use. If the Udall bill ever becomes law, Federal regulation of our property rights will increase many fold over that. Although the legislation has been defeated for the moment, now is not the time to drop our guard. The idea of Federal land control is still quite alive in the minds of those who wish to plan our lives. Like numerous other coercive measures, Federal land use planning will remain a constant threat to our freedom until the liberal-authoritarian makeup of Congress is substantially altered. Meanwhile, citizens should let their public officials know exactly how they feel about Federal land control legislation—in no uncertain terms!

"One final point...every time a new piece of liberal or collectivist legislation is defeated, its authoritarian proponents refuse to admit the real reason for the defeat—that the people simply do not want it. Invariably, they use the familiar scapegoat 'rightwing pressure groups' and blame the defeat on everything except the fact that it is just bad legislation....Maybe the truth of the matter is that leftwing pressure groups are forcing laws on the American people which they clearly do not want. Let us rejoice but not quit, because the same rancid intellectual soil from which this idea grew is still with us—so we must continue our efforts for liberty."

DON BELL REPORTS Weekly. $24 per year.
Extra copies: 10¢ each. Address all orders:
DON BELL REPORTS, P. O. Box 2223
Palm Beach, Florida 33480