

## **The Quiet Closing of Washington**

**By Robert Reich, Robert Reich's Blog**

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Conservative Republicans in our nation's capital have managed to accomplish something they only dreamed of when Tea Partiers streamed into Congress at the start of 2011: They've basically shut Congress down. Their refusal to compromise is working just as they hoped: No jobs agenda. No budget. No grand bargain on the deficit. No background checks on guns. Nothing on climate change. No tax reform. No hike in the minimum wage. Nothing so far on immigration reform.

It's as if an entire branch of the federal government - the branch that's supposed to deal directly with the nation's problems, not just execute the law or interpret the law but make the law - has gone out of business, leaving behind only a so-called "sequester" that's cutting deeper and deeper into education, infrastructure, programs for the nation's poor, and national defense.

The window of opportunity for the President to get anything done is closing rapidly. Even in less partisan times, new initiatives rarely occur after the first year of a second term, when a president inexorably slides toward lame duck status.

But the nation's work doesn't stop even if Washington does. By default, more and more of it is shifting to the states, which are far less gridlocked than Washington. Last November's elections resulted in one-party control of both the legislatures and governor's offices in all but 13 states - the most single-party dominance in decades.

This means many blue states are moving further left, while red states are heading rightward. In effect, America is splitting apart without going through all the trouble of a civil war.

Minnesota's Democratic-Farmer-Labor Party, for example, now controls both legislative chambers and the governor's office for the first time in more than two decades. The legislative session that ended a few weeks ago resulted in a hike in the top income tax rate to 9.85%, an increased cigarette tax, and the elimination of several corporate tax loopholes. The added revenues will be used to expand early-childhood education, freeze tuitions at state universities, fund jobs and economic development, and reduce the state budget deficit. Along the way, Minnesota also legalized same-sex marriage and expanded the power of trade unions to organize.

California and Maryland passed similar tax hikes on top earners last year. The governor of Colorado has just signed legislation boosting taxes by \$925 million for early-childhood education and K-12 (the tax hike will go into effect only if residents agree, in a vote is likely in November).

On the other hand, the biggest controversy in Kansas is between Governor Sam Brownback, who wants to shift taxes away from the wealthy and onto the middle class and poor by repealing the state's income tax and substituting an increase in the sales tax, and Kansas legislators who want to cut the sales tax as well, thereby reducing the state's already paltry spending for basic services.

Kansas recently cut its budget for higher education by almost 5 percent.

Other rightward-moving states are heading in the same direction. North Carolina millionaires are on the verge of saving \$12,500 a year, on average, from a pending income-tax cut even as sales taxes are raised on the electricity and services that lower-income depend residents depend on. Missouri's transportation budget is half what it was five years ago, but lawmakers refuse to raise taxes to pay for improvements.

The states are splitting as dramatically on social issues. Gay marriages are now recognized in twelve states and the District of Columbia. Colorado and Washington state permit the sale of marijuana, even for non-medical uses. California is expanding a pilot program to allow nurse practitioners to perform abortions.

Meanwhile, other states are enacting laws restricting access to abortions so tightly as to arguably violate the Supreme Court's 1973 decision in *Roe v. Wade*. In Alabama, the mandated waiting period for an abortion is longer than it is for buying a gun.

Speaking of which, gun laws are moving in opposite directions as well. Connecticut, California, and New York are making it harder to buy guns. Yet if you want to use a gun to kill someone who's, say, spray-painting a highway underpass at night, you might want to go to Texas, where it's legal to shoot someone who's committing a "public nuisance" under the cover of dark. Or you might want to live in Kansas, which recently enacted a law allowing anyone to carry a concealed firearm onto a college campus.

The states are diverging sharply on almost every issue you can imagine. If you're an undocumented young person, you're eligible for in-state tuition at public universities in fourteen states (including Texas). But you might want to avoid driving in Arizona, where state police are allowed to investigate the immigration status of anyone they suspect is here illegally.

And if you're poor and lack health insurance you might want to avoid a state like Wisconsin that's refusing to expand Medicaid under the Affordable Care Act, even though the federal government will be picking up almost the entire tab.

Federalism is as old as the Republic, but not since the real Civil War have we witnessed such a clear divide between the states on central issues affecting Americans.

Some might say this is a good thing. It allows more of us to live under governments and laws we approve of. And it permits experimentation: Better to learn that a policy doesn't work at the state level, where it's affected only a fraction of the population, than after it's harmed the entire nation. As the jurist Louis Brandies once said, our states are "laboratories of democracy."

But the trend raises three troubling issues.

First, it leads to a race to bottom. Over time, middle-class citizens of states with more generous

safety nets and higher taxes on the wealthy will become disproportionately burdened as the wealthy move out and the poor move in, forcing such states to reverse course. If the idea of "one nation" means anything, it stands for us widely sharing the burdens and responsibilities of citizenship.

Second, it doesn't take account of spillovers - positive as well as negative. Semi-automatic pistols purchased without background checks in one state can easily find their way easily to another state where gun purchases are restricted. By the same token, a young person who receives an excellent public education courtesy of the citizens of one states is likely to move to another state where job opportunity are better. We are interdependent. No single state can easily contain or limit the benefits or problems it creates for other states.

Finally, it can reduce the power of minorities. For more than a century "states rights" has been a euphemism for the efforts of some whites to repress or deny the votes of black Americans. Now that minorities are gaining substantial political strength nationally, devolution of government to the states could play into the hands of modern-day white supremacists.

A great nation requires a great, or at least functional, national government. The Tea Partiers and other government-haters who have caused Washington to all but close because they refuse to compromise are threatening all that we aspire to be together.