

Trends That Will Affect Your Future. . .

The Governor and The New States' Rights

| By Stephan A. Schwartz |

The SchwartzReport tracks emerging trends that will affect the world, particularly the United States. For EXPLORE, it focuses on matters of health in the broadest sense of that term, including medical issues, changes in the biosphere, technology, and policy considerations, all of which will shape our culture and our lives.

The argument over the power of the federal government in relation to the power of the individual states is as old as the Republic itself and traces directly back to the Constitutional Convention of 1787. For most of American history, the crux of the argument has been a cover for issues involving race, and there are still a substantial number of people in the South who conceive of the Civil War not as a struggle over slavery but as a struggle over states' rights. This contention falls apart upon closer examination, since the right of the states called into question was slave ownership. But, one might ask, who cares? Isn't it all ancient history with little relevance to the present day? The answer to that is: welcome to the new era of states' rights, and you better become current on this because it is going to shape your life—from healthcare, to energy, to global warming, to tire treads.

Much of the impetus for this dusting off of the states' rights traces to an anomaly in the Constitution: only those who are native born can become either President or Vice President. In the 18th century, the founders were concerned about some foreign demagogue influencing the US electorate, and to make this impossible, Article Two, Section One of the US Constitution says, "No person except a natural born Citizen, or a Citizen of the United States, at the time of the Adoption

of this Constitution, shall be eligible to the Office of President. . ." For the next two centuries, with a few minor huffles, this sentence lay more or less politically unnoticed. Many people today don't know it is there. But now, this little historical twist of law is playing a pivotal role in all manner of policy arenas. Because it exists, Arnold Schwarzenegger cannot become President. And he cannot be Vice President either, because the 12th Amendment to the Constitution says, ". . . no person constitutionally ineligible to the office of President shall be eligible to that of Vice President of the United States."

Under the normal course of events Schwarzenegger would almost certainly be eyeing the Presidency. And with good reason, he might well win. . . if he could run. But even the Governor cannot overcome Article Two, Section One, or the 12th Amendment. So what to do if you are committed to being the alpha dog, enormously wealthy, iconic in ways normal politicians can only dream about, and married to a daughter of one of the 20th century's most powerful political families—the Kennedys? Why you look around and realize that although most eyes and commentary are focused on Washington, in fact "of the world's 100 largest economic entities, 51 are now corporations and 49 are countries,"¹ and that you are the leader of the sixth largest economy in the world (Figure 1). California's gross state product is nearly \$1.5 trillion. The state accounts for over 13% of US output. The next largest state economy—New York—is only about 60% the size of California's.²

Schwarzenegger has clearly realized the power this gives him and, because he cannot be President or Vice President, has also realized that this is the highest executive job he will ever hold. The arc of his life is remarkably consistent about some things,

from his unlikely beginnings in bodybuilding, to movies, to his business investments, to politics. He is a hero who does good. This drive to excel and be seen as heroic has created a strategy for similar outsized success as Governor. On paper he may be a Republican, but he is, as he says again and again, a man motivated "not by partisan considerations of Democrats or Republicans, but as the servant of the people of California," including his children and famous Democratic in-laws.

To achieve his goals, Schwarzenegger has dusted off states' rights. The implications for your life, given California's position in the world, no matter where you live, even if it is outside of the United States, are considerable. The implications for states' rights are equally profound. We may be seeing a fundamental change in the structure of America.

There can also be no doubt that Schwarzenegger is completely aware of what he is doing. Once again, he explains clearly, and quite comfortably, his thinking. A media trained to intense, zero sum, partisanship doesn't seem to hear him. He speaks of California in terms not heard in the United States in a long long time. "We are the modern equivalent of the ancient city-states of Athens and Sparta. We have the economic strength, we have the population and the technological force of a nation-state."³ In his inaugural address, he said, proudly, "We are a good and global commonwealth."³ And nowhere is this conjunction of personality and states' rights strategy more apparent than in California's response to global warming, although much the same story could be traced in stem cell research or universal healthcare.

In 2004, carmakers were told they must cut the amount of carbon dioxide and other tailpipe gases by up to 30% in cars

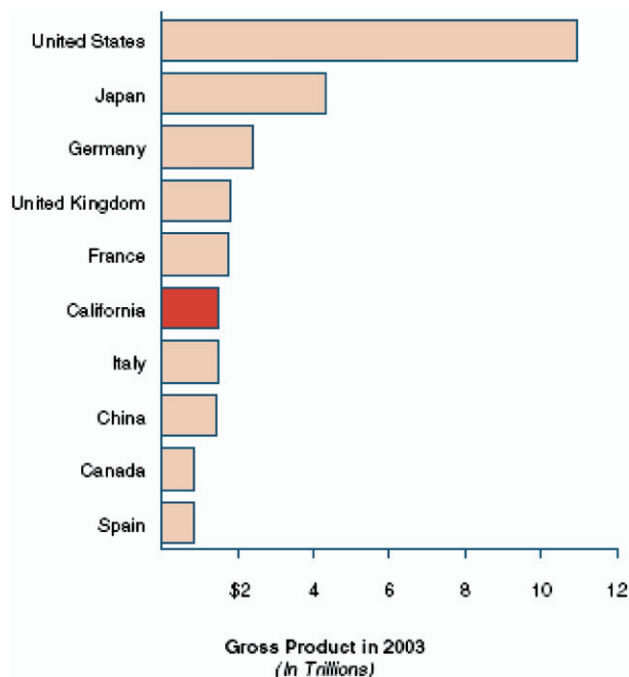


Figure 1. International gross product, 2003.²

sold in the state. Several other states saw this and adopted similar rules.

In 2005, Schwarzenegger proposed an aggressive program to combat global warming that would make California the largest state in the nation to set concrete goals for cutting greenhouse gases. Acting via executive order, he began looking at ways to reduce greenhouse gases by 11% over the next five years, 25% by 2020, and 80% by 2050.⁴ In April of the next year, this plan became the country's toughest greenhouse emissions law.

This put California at the very front of the burgeoning state and local efforts, in the absence of federal support—indeed, in the face of federal opposition—to try to curtail emissions heating the Earth's atmosphere. And it came at a time when President Bush had rejected US participation in international efforts to address the changes promised by global warming.⁵

Schwarzenegger also introduced pioneering, and at the time, highly controversial legislation designed to protect Californians from the toxic effects of a whole range of chemicals used in everything from deodorants to plastic toys.

"California is doing what Europe has been trying to do for the past five years and the U.S. federal government has no willingness to tackle," says Joel Tickner, a professor in the Department of Commu-

nity Health at the University of Massachusetts—Lowell.⁴

Schwarzenegger's vision included beginning his own foreign policy. How he did this is notable and confirms his style. Interested in contacting a British government which seemed to hold Global Climate Change views similar to his own, he did not make inquiries at the administrative or agency levels but instead entered into discussions directly and personally with the Prime Minister, Tony Blair. Their goal: to simply step around the Bush Administration and create a joint market for greenhouse gases. The announcement of this was graciously but pointedly made not from London, but at the Port of Long Beach in Greater Los Angeles, California's greatest power center and Schwarzenegger's home city.

The idea is unassailably capitalist and market driven, and proof against conservative claims of overregulation. The aim of the market is to set an internationally accepted price on carbon pollution, whether from coal, oil, or gasoline. It will set overall caps for carbon and reward good behavior, which will tend to minimize carbon emissions even as it stimulates new, greener technologies and profitable businesses.

In California in 2006, just to make sure the automakers took him seriously, California sued General Motors, Ford, Toyota Motor Corp., DaimlerChrysler AG, Honda

Motor Co., and Nissan Motor Co., the six largest automakers in the United States, in U.S. District Court in Oakland, saying they had created a "public nuisance" by making millions of vehicles that emitted huge quantities of carbon dioxide, the principal greenhouse gas contributing to global warming and costing the state millions of dollars.⁶

"Vehicle emissions are the single most rapidly growing source of the carbon emissions contributing to global warming, yet the federal government and the automakers have refused to act," said California Attorney General Bill Lockyer at the time in a formal statement.⁶

A few months later, Schwarzenegger proposed that the state spend \$95 million on clean energy and two other areas—biotech and nanotechnology—where he is moving California into the kind of leadership normally taken by countries.⁷

To counteract claims put forth by the Bush Administration and elements of the energy industry that such moves would harm the economy, in August 2006, officials from the nonprofit Environment California Research & Policy Center, along with the San Diego Association of Government representatives, announced that after studying the economy, they had determined global warming not only would not harm the economy but should be seen as an extraordinary opportunity for new businesses and new avenues of profit.

In February 2007, another aspect of Schwarzenegger's drive to create the markets the Administration disdained became public. This time, as an extension of the agreement with the British, and as an expression of a kind of intra-US foreign policy, five Western US states—Oregon, California, Washington, New Mexico and Arizona—formed The Western Regional Climate Action Initiative, a pact to cut emissions linked to global warming through market mechanisms.

"With the Western states you've got a huge part of the U.S. economy that is beginning to regulate greenhouse gases," said Jeremiah Baumann, an advocate with the Oregon State Public Interest Research Group.⁸

In April this year, Schwarzenegger played his next card, announcing that California will sue the federal government if the state is not allowed in October to implement its law requiring the vehicle tailpipe emissions associated with global warming to be slashed.

"The clock is ticking on six months. If we don't see quick action from the federal government, we will sue the U.S. EPA," said Schwarzenegger.⁹ "I just had a conversation with Steve Johnson [the administrator of the EPA], and I said we are going to sue him," he said. "I put him on notice that the federal government is moving too slow."⁹

Schwarzenegger is by no means the only state or even city executive to seek ways to exert influence in the absence of federal leadership, and frequently in the face of federal opposition. The Western regional pact, for instance, comes after a similar agreement amongst Eastern states called the Regional Greenhouse Gas Initiative.

But what Schwarzenegger does bring to the table is a quality of iconic charisma that no other official can even approximate. And it is continually self-reinforcing. His movies are still in video rental stores; they still play on cable. He doesn't give up his Hummer, but gets it converted to a hybrid. Schwarzenegger, like Bill Clinton, Nelson Mandela, the Dalai Lama, and a few others, each for his own reasons, lives in another media dimension from other politicians. So although he is not the first, or the only state or local leader to seek ways to deal with global warming, he is the one who can always command the media spotlight. And the result is that the whole question concerning the power of governance below the federal level is receiving more than wonkish attention. Cities. Groups of cities. States. Groups of States. States and foreign governments. All are interacting and finding common ground. For founders like Franklin, Madison, Mason, or Jefferson, states were social laboratories. It is a perspective whose time has come again, and it is forcing political scientists, journalists, and working politicians to confront the unasked question: is it possible the United States has become so big and powerful that its very bigness and powerfulness renders it ungovernable at the national level?

Two such scholars are the economists Alberto Alesina of Harvard and Enrico Spolaore of Tufts. Their studies demonstrate that the larger a nation becomes, the more difficult it is for a national government to address the differing needs of regions, which stimulates these lower levels of governance to take independent action—just as is happening. They point out that the vast sums now required to run a national campaign

tend to favor elites who can command the money and who have the leverage necessary to carry out such expensive efforts, but that these same elites may have quite different priorities than a particular region or state within the nation, and that this inherently creates stresses and instabilities. Paradoxically, this is not a new question. The founders, looking at the original colonies, already anticipated this problem.

James Madison, guiding architect of the Constitution, along with George Mason, the Father of the Bill of Rights, and a man usually seen as favoring the large-scale view, were worried about this in the 18th century, when America had four million people and 13 states. In a letter to his close friend Jefferson, Madison shared his fear that if the new country grew too big, elites at the center would divide and conquer a widely dispersed population, producing "tyranny." More than one state governor has talked about exactly this concern, the tyranny of the federal over the needs of the individual states.

What would happen if the country really did reach a stage where the tensions of local, state, or regional interests were irreconcilably at odds with the federal level? Given our history, a breakup of the states seems unlikely—although it is worth noting that more than half of the nations in the world today were formed from the fragments of an earlier political entity. This leaves the only other apparent option, some form of radical decentralization. All of this, of course, was in the works before Arnold Schwarzenegger became governor and will continue after he is out of that office. But there can be little question that a world-altering problem, an obstructionist federal administration, a personality who sees himself as a figure heroic in ancient terms, and an odd twist in the Constitution have, in a unique conjunction, brought about a change in the structure of America whose consequences we are only beginning to appreciate.¹

REFERENCES

1. Anderson S, Cavanagh J. Report on the top 200 corporations. Institute for Policy Studies. Available at: <http://www.corporations.org/system/top100.html>. Accessed April 23, 2007.
2. Cal Facts 2004. California's economy and budget in perspective. Available at: http://www.lao.ca.gov/2004/cal_facts/2004_calfacts_econ.htm. Accessed April 21, 2007.

3. Alperovitz G. California split. *The New York Times*. February 10, 2007. Available at: http://www.nytimes.com/2007/02/10/opinion/10alperovitz.html?_r=2&th&emc=th&oref=slogin&oref=slogin. Accessed February 10, 2007.
4. Wood DB. California takes aim at chemicals in plastics. *The Christian Science Monitor*. June 3, 2005. Available at: <http://www.christiansciencemonitor.com/2005/0603/p02s01-uspo.html>. Accessed June 3, 2005.
5. Nissenbaum D. Schwarzenegger bucks Bush, sets own climate plan in motion. *Mercury News*. May 29, 2005. Available at: http://www.mercurynews.com/mld/mercurynews/news/local/states/california/northern_california/11767896.htm. Accessed May 29, 2005.
6. Gullo K, Ohnsman A. California sues GM, Ford, Toyota over global warming. *Bloomberg*. September 20, 2006. Available at: <http://www.bloomberg.com/apps/news?pid=20601103&sid=aZ4gr6yG.qto>. Accessed September 20, 2006.
7. Schwarzenegger seeks \$95 million for green research. *Reuters*. December 2, 2006. Available at: http://today.reuters.com/news/articlenews.aspx?type=domesticNews&storyid=2006-12-27T234800Z_01_N27472678_RTRUKOC_0_US-ENVIRONMENT-CALIFORNIA.xml&src=rss&rpc=22. Accessed December 27, 2006.
8. Gardner T. Five Western states to bypass Bush on climate. *Reuters*. February 26, 2007. Available at: http://today.reuters.com/news/articlenews.aspx?type=politicsNews&storyid=2007-02-26T192826Z_01_N26368221_RTRUKOC_0_US-EMISSIONS-WEST.xml&src=rss&rpc=22. Accessed February 26, 2007.
9. Wilson J. Schwarzenegger administration to sue EPA over air standards. *Los Angeles Times*. April 25, 2007. Available at: <http://www.latimes.com/news/local/la-me-epa26apr26,0,1205978.story?coll=la-home-headlines>. Accessed April 25, 2007.

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