



## Term 'states' rights' heard anew in election cycle

By Allen G. Breed

January 26<sup>th</sup>, 2012

(Associated Press) - Pop singer Kelly Clarkson wasn't expecting such a harsh response when she tweeted her endorsement in the Republican presidential race.

"I love Ron Paul," she wrote late last month. Later, in a radio interview, she elaborated, "He believes in states having their rights, and I think that that's very important."

Clarkson received hundreds of replies, some lambasting Paul and at least one suggesting that the "American Idol" winner choose her words more carefully.

In particular, two words: "states" and "rights" — which for some stir memories, even when unintended, of an era of racial injustice.

As the Republican presidential campaign has turned south, into the region that seceded from the Union 150 years ago, old debates about state and federal authority echo anew in phrases used by candidates, their supporters and the news media.

Even before the Civil War, "states' rights" had become a byword for the protection of black slavery. And since the late Sen. Strom Thurmond ran for president in 1948 as a States' Rights Democrat, or "Dixiecrat," the phrase has sometimes been labeled a "dog whistle" for racist elements in the electorate.

None of that was on Clarkson's mind. After a barrage of responses to her Dec. 29 tweet, the 29-year-old Texan told fans, "My eyes have been opened to so much hate." And she emphasized, "I do not support racism."

Sociologist and author John Shelton Reed, a professor emeritus at the University of North Carolina at Chapel Hill, was not surprised that someone of Clarkson's youth would fail to recognize the "baggage that 'states' rights' carries."

Still, he says, hearing the term employed by people like Paul — and also by Texas Gov. Rick Perry before he quit the race — "it's clear that we've turned some kind of page."

Paul, Perry and others referred to the Constitution's 10th Amendment, which states, "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 shorthand "states' rights" came later.

"Any time I hear it, I get this sort of little twitch, because I associate it with Ross Barnett or George Wallace," says University of Georgia historian James Cobb, referring to the governors of Mississippi and Alabama who, five decades ago, defied efforts to integrate their states' flagship universities. "But members of the younger generation, it doesn't have that kind of connotation to them at all. And whether this is to some extent the fault of those of us who are supposed to be educating the younger generations about their past, I can't say."

As Republicans prepared for the primary season, writer David Azerrad drafted a list of "New Year's Resolutions for Conservatives." No. 1 was "Speak of Federalism, not 'States' Rights."

"Not only is it incorrect to speak of states' rights, but the expression has more baggage than Samsonite and Louis Vuitton combined," Azerrad, assistant director of The Heritage Foundation's B. Kenneth Simon Center for Principles and Politics, wrote on the organization's "Foundry" blog. "In case you didn't know, 'states' rights' was the rallying cry of segregationists. Since no right-thinking conservative will keep company with such people, let's just drop the term states' rights once and for all."

In a speech before the [National Center for Policy Analysis](#) in Dallas last April, Perry warned that the idea behind the term was in danger: "Over the years and decades, Washington has extended its reach bit by bit, until the sound concepts behind the 10th Amendment were blurred and lost and the idea of states' rights has become increasingly disregarded."

In an October candidates' debate in Las Vegas, Paul, a 12-term congressman from Texas who ran for president as a Libertarian in 1988, used the term to describe his position on the proposed national nuclear waste disposal facility at Nevada's Yucca Mountain.

"I approach it from a states' rights position," he said. "What right does 49 states have to punish one state and say, 'We're going to put our garbage in your state?' I think that's wrong."

Others in the GOP field make a point of supporting the 10th Amendment while avoiding the sensitive language. Former House Speaker Newt Gingrich, who won last week's South Carolina primary, is a case in point.

Back in 2005, when blogger John Hawkins asked him about a constitutional amendment to protect marriage, Gingrich replied, "Well, I think that the question is whether or not the Congress could pass a law which protected marriage or whether, because of states' rights, Congress does not have the ability to then enforce that without a constitutional amendment."

More recently, Gingrich appears to have dumped the loaded term. For example, in announcing the formation of Team 10, his Facebook page described it as an effort to work with Americans "to develop ideas for enforcing the 10th Amendment and returning power back home."

Asked at a recent candidate event whether he thought states had the right to nullify a law under the 10th Amendment if they believed it to be unconstitutional, former Sen. Rick Santorum answered carefully. "We had a war about nullification," he said, adding that states could instead litigate such an issue in federal court.

Paul, appearing last month on "The Tonight Show," parsed the concept, too. "Well, you know, we all use the word 'states' rights,'" he said. "But in a way, states don't have rights. Only individuals have rights. But the authority and the power goes to the states."

In a Jan. 4 column on STLtoday.com, former Missouri state Sen. Jeff Smith, a Democrat, called the "exaltation" of states' rights a "dog whistle to Republican voters conditioned by a generation of Republican politicians and operatives before them who exploited racial fears for personal and partisan advancement."

Candidates denied any such hidden agenda or secret coding.

Whatever reaction it evokes, Cobb, the Georgia historian, said the term has clearly lost much of its sting.

"It's just become part of the lexicon, without any particular meaning," he says. "It's been historically decontextualized to the point that it can be thrown around by a lot of people without a second thought."

Reed, the UNC professor, said that's not necessarily a bad thing.

"I do believe states' rights was a sound doctrine that got hijacked by some unsavory customers for a while — like, 150 years or so," he said. "I'm professionally obliged to believe that knowledge is better than ignorance, but some kinds of forgetting are OK with me."