New South, Meet the Old South

Whenever you start to think that the world is moving way too fast, just turn your gaze to Alabama. In the 1960's, Alabama was ground zero for the civil rights movement. Fifty years later, we find the state once again waging a battle with the Federal Government on the issue of states' rights. This time the issue centers around gay rights. Politico's article, The GOP's Alabama Problem highlights one of the lasting arguments surrounding our constitution – to what extent are states actually free to do as they wish?

Here's the issue, as presented in the article: Years ago, the state of Alabama defined marriage as a union between a man and a woman, in accordance with Christian principles. Alabama is a state from the region known as the deep south, where long held 'traditional values' have stood in the way of tolerance on many issues, including desegregation in the 1960's, inter-racial marriage in the 70's, the confederate flag issue in the 90's, and same sex marriage today. Last week, a Federal Court issued a ruling that said Alabama's ban on gay marriages was unconstitutional. This is a power of the federal court system that has long been accepted (the principle of 'judicial review' allows for federal courts to determine whether any law, whether at the local, state, or national level, violates the terms of the constitution), beginning with the 1803 case Marbury vs. Madison. This ruling effectively forces the state of Alabama to allow same sex marriage within its borders. Alabama's Attorney General issued an appeal to the U.S. Supreme Court, asking the court to block the lower court ruling, but the Supreme Court denied that appeal, opening the door to gay marriage in the state. However, shortly after that decision, Roy Moore, the Chief Justice of the Alabama Supreme Court, defiantly issued an order to county probate judges, barring them from issuing marriage licenses to same sex couples. While many probate judges have heeded Moore's order, many others (particularly those from the larger cities) have responded instead to the Federal court order and have begun issuing marriage licenses to gay couples.

According to the article, a similar set of actions took place in the civil rights era in the 1960's. After the Supreme Court ruled that segregation was illegal, the Governor of Alabama defiantly blocked the entrance of an Alabama University in protest of the ruling. Once the national guard showed up, on the order of President Kennedy, the governor relented and essentially gave up the fight. As the article points out, however, while the states always eventually give in to Federal demands, the issue never really does go away. As stated in the article, “it is also worth remembering that while compliance with the 1964 Civil Rights Act was widespread and mostly immediate, the racial backlash created by it and the Voting Rights Act of 1965 persists in national life to this day — fueled by some of the same forces that oppose gay marriage.” While blacks in the south have been 'liberated' from legal discrimination, they are still subject to many other forms of social and economic discrimination, and a deep-seeded racism still exists in the entire deep south region. I suspect a similar fate for gay couples in the South.

This summer, the Supreme Court is expected to rule on the matter of gay marriage once and for all. Analysts expect the court to grant gay couples the same rights as those accorded to straight couples, including the right to marry, thus solidifying the rapid acceptance of gay marriage nationwide (to date, 37 states now allow gay couples to wed, most of that happening in the last 10 years).

So how is this a problem for the GOP? Well, for one thing, Republicans thinking about running for
President will find themselves in an awkward position in southern primaries – if they want to win in states like Alabama and Mississippi they will have to take strong positions against gay marriage, risking being labeled intolerant simply to win votes. When it comes time for the general election, they will have to re-state their positions in order to attract a larger audience. On a larger scale, the Republican party recognizes that they cannot sustain their current ultra-conservatism. The article points out that as much as this is a states’ rights battle, this is also a battle for the future of the Republican party. People under 40 are much more likely to be tolerant of gay rights, while people over 40 tend to firmly oppose gay anything. According to Republican Party Chairman Reince Priebus, if the party wishes to remain competitive in future elections, it needs to modernize somewhat and become more welcoming of different races, religions, and sexual preferences. It cannot continue to be the party of old white men in the long run, there aren't enough of them left.

The very notion of Federalism introduces this dilemma from time to time. Generally it turns out peacefully. Over time the legal issues become settled, and life goes on as states adapt to national principles. However, as witnessed in issues of race discrimination and gender discrimination, what is legal sometimes differs from what is practiced, and in the deep south it can be argued that while the current ruling is a legal victory for gay couples in Alabama, it will likely be some time before the gay lifestyle is tolerated in that region. Still, this does offer hope for increased acceptance of gay rights across the land, 'cause if it's legal in Alabama, it'll likely be legal soon in other, more tolerant states.