

“They write politics, we write government”

A TALE OF TWO ALABAMA GOVERNORS

Don Siegelman was the last of his breed: a true progressive Democrat winning statewide office in the Deep South. He wasn't bashful about his politics. He forcefully promoted public education, voting rights and what we would now call criminal justice reform. He was also “business friendly,” instrumental to signing major deals bringing Hyundai, Mercedes-Benz and Honda to Alabama. He spent on the infrastructure of his state, rebuilding over 1,000 of Alabama's schools, along with other large projects.

Don Siegelman was a fixture in Alabama politics. He first took statewide office at the precocious age of 33, winning the first of two terms as Secretary of State in 1979. He earned three promotions: to Attorney General in 1987, Lieutenant Governor in 1995 and, finally, as Alabama's 51st Governor in 1999. He is the only person to serve in Alabama's top four statewide offices.

He is anachronistic in other ways too. He paid his way through Georgetown Law by working for the Capital Police. He is the only Catholic to become Governor of Alabama. He raised his children in a Jewish household, based on his wife's heritage. He fought abuses by corporations in his state, especially Big Tobacco. Whatever the formula, he was strong on the campaign trail, winning 57% of the vote in his Gubernatorial race.

One of his positions in that campaign was in favor of starting a state lottery to help fill in Alabama's budget deficit. Recognizing his position was controversial, he pledged to put the issue to the voters via a referendum. He in fact did so in 1999; this is where his problems started.

Like many referendums, Siegelman's attempt to start a lottery faced significant outside opposition. Foremost among them were tribal gambling interests in nearby Mississippi. These interests were represented by the notorious lobbying firm of Jack Abramoff. Abramoff, you may recall, later went to prison for conspiracy to bribe public officials. His game was working with “mainstream” GOP players like Ralph Reed, Grover Norquist and Michael Scanlon, trading campaign contributions for promises to protect his tribal clients' gambling interests.

HealthSouth was – and still is – one of the largest corporations based in Alabama. As you would expect, HealthSouth's CEO, Richard Scrushy, was a major player in Alabama politics. He had been nominated to sit on the State Hospital Board by the previous three Governors, all Republicans. This was an unpaid, advisory position. Like it or not, it is pretty standard practice for CEO's of major corporations to get positions like these.

Scrushy was a lottery supporter– and a Siegelman supporter. So he made a legal donation of \$500,000 **to the campaign** supporting Siegelman's lottery referendum. Under no possible scenario did a penny of this money go to Siegelman – it was only to support one of his publicly stated policy goals. When Scrushy's term on the Board came to an end, Siegelman routinely re-appointed him to a fourth term. Now, we would later find out that under his leadership, HealthSouth had major governance issues. But it's not clear how much was Scrushy's fault, and little of this was known at the time.

In 2002, Siegelman was up for re-election. Given his personal charisma and electoral success, this was a guy who could head to higher office. He was starting to be called “the next Bill Clinton.” This was not acceptable national GOP leaders, and the Abramoff crew mobilized to defeat him. In his post-prison tell-all memoir, Abramoff admitted to funneling \$20 million into defeating Siegelman – much of this money clearly illegal. The beneficiary was Bob Riley, Siegelman’s Republican opponent.

The election was close. On Election Night, it appeared that Siegelman had won a tight victory; he gave a victory speech and went to bed. However, after the departure of Democratic observers, 6000 votes in a single county were moved away from Siegelman. Alabama Attorney General William Pryor rejected requests to recount these votes with both parties present and Bob Riley became the 52nd Governor of Alabama.

Bill Pryor wasn’t done. He launched an investigation into the Scrusby “bribe” of Siegelman. The claim was that the \$500,000 donation was made with the quid pro quo of re-appointment to the Hospital Board. Never mind that Siegelman didn’t personally receive any direct gain from the alleged transaction. Nor that Scrusby, according to all accounts, was tired of the Board after serving 12 years; Siegelman had to implore him to stay on. On top of questionable facts, Pryor had to find a jurisdiction that was willing to ignore the statute of limitations, which had passed. He was in luck! The newly-appointed US Attorney for the Middle District of Alabama, Leura Canary, was married to Bill Canary. Much of the Abramoff money used to defeat Siegel in the first place was funneled through Bill Canary’s organizations. The Judge was Mark Fuller, a Bush appointee whose “qualification” for the lifetime judicial appointment was six years spent running the Executive Committee of the Alabama Republican Party. I don’t think I need to explain at length how the trial went.

Siegelman spent more than five years in prison before being released on probation in February

2017. This created quite a contrast with former Alabama Governor H. Guy Hunt, who faced only probation after pocketing \$200,000 personally. Scrusby – who had the aforementioned unrelated issues – also spent five years in jail.

Bill Pryor greatly impressed President Bush with his successful prosecution of Governor Siegelman. He was quickly promoted to his own federal judgeship and is on the shortlist for future Republican Supreme Court nominations. Mark Fuller resigned his seat on the bench in 2015 due to substantial evidence that he had repeatedly committed spousal abuse. At the time of his resignation, Siegelman’s release from prison was still eighteen months away.

Robert Bentley was the 53rd Governor of Alabama, serving from 2011 until this week. A member of the Alabama House of Representatives and a medical doctor, like Siegelman he was a formidable campaigner. His margin in the 2010 election was the largest ever for a Alabama GOP Gubernatorial candidate. He broke his own record four years later.

Things began to turn for Governor Bentley in March 2016, when a fired former staffer accused Bentley of having an affair with his senior political advisor, Rebekah Mason. Hardly the first time a politician had been caught in flagrante delicto. But to use the old cliché, the cover-up was worse than the crime.

Turns out, good old Robert had used the good old power of his office, given to him by his good old state to conceal his affair from the public. He conducted the affair with his travel funds. He threatened members of state staff who helped his wife (now ex-wife) to uncover the affair. He used law enforcement officials and his state-funded security staff to conduct various operations to cover his tracks. He also had a little issue where his campaign funds would get just a bit co-mingled with his personal funds. All of this is illegal. Unlike certain other Alabama Governors, Bentley’s issues extended to state money as well as campaign

money. And he also clearly received direct personal benefit.

Well, even if his party controlled the state government, these indiscretions too much to ignore. But the investigation went a bit differently than the Pryor-Siegelman affair. Alabama's Attorney General was now Luther Johnson "Big Luther" Strange III.

Strange's investigation didn't exactly move quickly, despite the fact that most of the facts were in the open. Even before the 2016 election, it was completely clear that Bentley had misused the power of his office. Alabama's State Auditor filed an ethics complaint, and there were bi-partisan calls from the State Legislature for him to resign. But Strange urged caution – he requested the Legislature hold off on impeachment proceedings indefinitely while he continued his investigation.

Bentley was permitted to plead guilty to two misdemeanors, relating only to the campaign finance abuses. He will never answer for his misuse of public funds. He received a suspended sentence, and faces probation and 100 hours of community service. He also must repay \$9,000 to his campaign, and then turn over all of his campaign funds to the state.

But the delay in reaching the settlement had far-reaching consequences. In one of his final acts as Governor, Bentley appointed Luther Strange to the United States Senate. A seat had opened with the appointment of Jefferson Beauregard Sessions III to Attorney General. Bentley also used his power as Governor to set Luther's first election as far in the future as legally possible. Strange will have two invaluable years of seniority before he faces the voters.

Luther Strange will be a heavy favorite for re-election to a full six-year term. Bentley will be \$9000 poorer and have spent a couple weeks as a pro bono dermatologist.