

The Delray Democrat

“We Must Sink or Swim Together”¹

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As America was mired in our First Great Depression, the United States Supreme Court issued its opinion in *Baldwin v. G. A. F. Seelig, Inc.* The unanimous decision was written by Justice Benjamin Cardozo, one of the Twentieth Century’s most eloquent and admired jurists.

The facts of the case and the rationale for the decision were both straightforward. In an effort to protect its dairy farmers from competition, New York passed a law setting a minimum price for milk sold in New York. By thus effectively imposing a tariff on milk imported from other states, the law interfered with interstate commerce, over which the U.S. Constitution granted Congress exclusive power.

New York’s desire to protect its dairy farmers was insufficient to overcome the constitutional violation, and Justice Cardozo might have left it there. Instead he took the occasion to contrast the divisive philosophy underlying the New York statute with the cooperative philosophy underlying the Constitution. In words as timeless as they are now timely, he perfectly captured the essence of the grand experiment we began over 200 years ago:

To give entrance to that excuse would be to invite a speedy end of our national solidarity. The Constitution was framed under the dominion of a political philosophy less parochial in range. It was framed upon the theory that the peoples of the several states must sink or swim together, and that in the long run prosperity and salvation are in union and not division.

Today, as we face the twin threats of the greatest public health crisis in a century and the highest unemployment rate since the First Great Depression, America is led by the most divisive president in modern history. Any hope he would rise to the occasion has long been dispelled.

After weeks of minimizing, indeed ridiculing, the threat posed by the novel coronavirus, President Trump finally comprehended its magnitude. He declared a national emergency and immediately declined to take responsibility for the government’s delay in producing and distributing test kits, an essential element in understanding and combatting the spread of the virus.

When governors of hard-hit states, mostly Democrats, begged for life-saving supplies such as ventilators, masks, and gowns, he mocked and insulted them. Treating them like contestants on *The Apprentice* (or Volodymyr Zelensky), he boasted that the level of federal support might depend upon how nice they were to him. In the midst of a pandemic that has claimed more than 75,000 Americans, this is not merely divisive – it is monstrous and unconscionable.

¹ *The Delray Democrat*, May 2020, p. 1.

He delayed for weeks before invoking the Defense Production Act to order production of critical supplies, falsely claiming the Act was rarely used and was tantamount to nationalizing a company. He finally invoked the Act with his trademark combination of bile and lies, blaming General Motor for moving too slowly on a contract for ventilators when in fact the Trump administration was the cause of the delay.

Trump's suggestion that states seek ventilators and masks on the open market led to chaos as states bid against one another, driving up prices, only to be outbid by the federal government. When states managed to purchase equipment, it was subject to delays and even confiscation by the federal government.

For example, 3 million N95 masks ordered by Massachusetts [were confiscated](#) in Port of New York and added to the federal stockpile. That seizure [was cited](#) by Republican Governor Larry Hogan of Maryland as the reason he arranged for the 500,000 coronavirus test kits he ordered from South Korea to be flown into BWI Airport in Maryland, rather than Dulles International Airport in Virginia. The Maryland National Guard and State Police met the plane and guarded the kits as the shipment was transported to an undisclosed location.

Perhaps the most divisive issue facing the nation today is when and how to lift the restrictions that have helped slow the spread of the virus. It pits people whose livelihoods depend upon reopening the economy against those whose lives depend upon keeping it closed until the curve of the disease has been flattened.

Once again, Trump has opted for division. He undermines governors by applauding Astroturf protests demanding that states (mostly Blue states) "reopen" their economies. He threatens that he might hold back support for states if governors don't abide by his request to open up their economies by relaxing stay-at-home rules: "They'll need, maybe, equipment that we have. We have a tremendous stockpile that we're in the process of completing. We're in a very good position."

No, Mr. President, "we" are not in a very good position. We are in the midst of the greatest public health crisis in a century and the greatest economic collapse since the Great Depression and you are making things much worse.

We are not swimming together, we are not even sinking together – we are sinking separately.