

Aiding and Abetting a Gross Fiction

How the “We must get our Justices appointed” clamor perpetuates the fiction of ‘judicial supremacy’ upon our nation.

Every four years, as the presidential election approaches, both the Democrats and Republicans try to persuade their faithful to vote for their candidate (regardless of how awful they are) because “We must appoint the Supreme Court Justices – otherwise our nation will get utterly destroyed or set back 40 years if the other side gets to do that.”

This of course is based upon what has wrongly become the norm in our nation – that we have a government by judiciary. We have replaced a monarchy with an oligarchy. The judiciary has become politicized – a thought totally abhorrent to America’s founders.

The fiction of ‘judicial supremacy’ has three tenets which carry huge weight in the minds of Americans. First, most Americans falsely believe that an opinion issued by the Supreme Court is “the law of the land.” Second, they falsely believe that the Supreme Court is the final arbiter of what is constitutional or unconstitutional. And third, they falsely believe that all other branches of government must bow down to the judiciary.

This is a great fiction. These beliefs are an idol in the minds of Americans – and they must be destroyed.

When pro-lifers, conservatives, and Republicans wail for the importance of the vote for president based upon who gets to appoint the Supreme Court Justices – they are aiding and abetting this great fiction.

Remember, this is a fiction the left has harnessed in order to use the judiciary as a hammer. They impose their policies upon the public through judicial power because they know they cannot accomplish it through the proper channel of the legislature, namely representative government. They have been doing this for decades. The left is committed to societal transformation without representation – and they do it via the judiciary.

The arrogance of these madmen in the federal judiciary is astounding. Their hubris knows no limits and has been on display for over 100 years.

Charles Evan Hughes, who was the Chief Justice of the Supreme Court under the bulk of FDR’s tenure as President, stated in a speech in 1907, “*We are under a Constitution, but the Constitution is what the judges say it is.*”

Harlan Stone, appointed by Republican Calvin Coolidge and nominated for Chief Justice (after Hughes) by FDR, wrote in the *United States vs. Butler* (1936) case, “*The only check upon our own exercise of power is our own self-restraint.*”

Judge Richard Posner, appointed to the 7th Circuit Court of Appeals by Reagan, stated in November 2015 that, “It’s funny to talk about the oath judges take to uphold the Constitution *since the Supreme Court has transformed the Constitution in its decisions.* The oath is not really to the original Constitution, or to the Constitution as amended. It is to some body of law created by the Supreme Court. You can forget about the oath. That is not of significance.”

The view of America’s founders concerning the judiciary was wholly opposite of this arrogance – wholly opposed to what the federal judiciary has become.

Thomas Jefferson stated in 1823: “At the establishment of our constitutions, the judiciary bodies were supposed to be the *most helpless and harmless* members of the government. Experience, however, soon showed in what way they were to become the most dangerous.”

Alexander Hamilton who was the most favorable to the judiciary – wanting to allay the fears that other of the founders had of the judiciary – stated: “The judiciary, from the nature of its functions, will always be *the least dangerous to the political rights of the Constitution*; because it will be least in the capacity to annoy or injure them.”

James Madison – known as the architect of the Constitution – stated: “*In republican government, the legislative authority necessarily predominates.*” Not bow down to the judiciary – rather the legislative branch predominates. The judiciary is not the strongest. The judiciary is not the final arbiter. Their opinions are not “the law of the land.”

Jefferson warned of ‘judicial supremacy’ 200 years ago. He wrote to a friend proffering the idea of ‘judicial supremacy’ by stating: “You seem to consider the judges as the *ultimate arbiters* of all constitutional questions; a very dangerous doctrine indeed, and one which would place us under the despotism of an oligarchy.” He went on to write: “The Constitution has erected *no such single tribunal*, knowing that to whatever hands confided, with the corruptions of time and party, its members would become despots.”

And that is what the Supreme Court is in our day – despots.

The Constitution does not bind us to a suicide pact with the federal judiciary. That branch is lawless – and it is in need of the checks and balances of the other branches.

The lawless authoritarianism of SCOTUS and the federal judiciary needs to be opposed by all other branches of government at all levels of government – federal, state, county, and local.

As legal historian Alpheus Thomas Mason wrote not too long ago: “Implicit in the system of government the Framers designed is the basic premise that *unchecked power in any hands whatsoever is intolerable.*” And that includes the Supreme Court.

So ponder this pro-lifer, consider this conservative, remember this Republican, next time you stampede everyone to vote for your president on the basis of who gets to appoint Supreme Court Justices – you are aiding and abetting a fiction. You are giving credence to a lie. You are doing a disservice to truth. You are perpetuating poppycock.

Our duty, rather, is to declare the truth of this matter and demand that the other branches of government do their duty and interpose against the unjust, immoral, and constitutionally-repugnant actions and opinions of the Supreme Court and the federal judiciary. May Christ be praised in the earth.

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