

## **Has the US become an oligarchy?**

By Bill Federer, American Minute, 20 November 2016

Nov. 19, 1863, Abraham Lincoln delivered his Gettysburg Address where 50,000 soldiers were killed or wounded in a three-day battle:

Fourscore and seven years ago our fathers brought forth upon this continent a new nation, conceived in liberty, and dedicated to the proposition that all men are created equal.

Now we are engaged in a great civil war, testing whether that nation, or any nation so conceived and so dedicated, can long endure.

We are met on a great battlefield of that war. We have come to dedicate a portion of that field as a final resting place for those who here gave their lives that that nation might live. It is altogether fitting and proper that we should do this.

But in a larger sense we cannot dedicate, we cannot consecrate, we cannot hallow this ground. The brave men, living and dead, who struggled here, have consecrated it far above our poor power to add or detract.

The world will little note, nor long remember, what we say here, but it can never forget what they did here. It is for us, the living, rather to be dedicated here to the unfinished work which they who fought here have thus far so nobly advanced.

It is rather for us to be here dedicated to the great task remaining before us – that from these honoured dead we take increased devotion to that cause for which they gave the last full measure of devotion – that we here highly resolve that these dead shall not have died in vain – that this nation, under God, shall have a new birth of freedom – and that government of the people, by the people, for the people, shall not perish from the earth.

President Theodore Roosevelt stated in 1903: “In no other place and at no other time has the experiment of government of the people, by the people, for the people, been tried on so vast a scale as here in our own country.”

Let us be watchful, lest we surrender forever our constitutional republic and “government of the people, by the people, for the people.”

Is “government of the people, by the people, for the people” perishing from the earth?

Thomas Jefferson wrote to William Jarvis, Sept. 28, 1820: “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.”

Students are taught America is a democracy, historians clarify it is a constitutional republic, but in actuality, America is functioning as an oligarchy – a rule by a few unelected federal judges.

Webster’s 1828 Dictionary defines “oligarchy” as: “A form of government in which the supreme power is placed in a few hands; a species of aristocracy.”

## **Examples**

Missouri's legislators passed a ban on partial birth abortion Sept. 5, 1999. Democrat Governor Mel Carnahan vetoed it. In a historic session, fifteen thousand citizens knelt in prayer around the State Capitol as the Legislature overrode his veto. Days later Federal District Judge Scott O. Wright suspended the law – and five years later it is still in limbo.

For years a bill to ban partial birth abortion worked its way through the U.S. Congress, being signed by the president Nov. 5, 2003. The next day a federal judge suspended the law for years – if not forever. In fact, 31 states passed bans on partial birth abortion, only to have un-elected federal judges suspend them.

## **Despot**

“Absolute and arbitrary authority ... independent of the control of men” is the Webster Dictionary definition of “despot.”

Thomas Jefferson warned of judicial despotism to William Jarvis, Sept. 28, 1820: “Our judges are as honest as other men, and not more so ... and their power (is) the more dangerous, as they are in office for life and not responsible, as the other functionaries are, to the elective control. The Constitution has erected no such single tribunal, knowing that to whatever hands confided, with corruptions of time and party, its members would become despots.”

In his 1841 inaugural address, President William Henry Harrison warned: “The great danger to our institutions does ... appear to me to be ... the accumulation in one of the departments of that which was assigned to others. Limited as are the powers which have been granted, still enough have been granted to constitute a despotism if concentrated in one of the departments.”

## **Exercise in futility**

Immense effort goes into the legislative process – political campaigns, registering voters, getting to polls, voting, swearing in, introducing bills, debating bills, voting on bills, overriding vetoes – yet this is all an exercise in futility if only a few unelected judges can invalidate the entire process.

For example:

- The people of Arizona voted English as their official language, but federal judges overruled. (9th Circuit, Prop. 106, March 3, 1997)
- The people of Arkansas passed term limits for politicians, but federal judges overruled. (Sup. Ct., Term Limits v Thornton, May 22, 1995)
- The people of California voted to stop state-funded taxpayer services to illegal aliens, but federal judges overruled. (Prop. 187, Nov. 20, 1995)
- The people of Colorado voted not to give special rights to homosexuals, but federal judges overruled. (Sup. Ct. Romer v Evans, 1992)
- The people of Missouri defeated a tax increase, but federal judges overruled. (8th Circuit, Missouri v Jenkins, Apr. 18, 1990)
- The people of Missouri limited contributions to State candidates, but a federal judge overruled. (8th Circuit, Shrink Pac v Nixon, Jan. 24, 2000)
- The people of Missouri passed “A Woman’s Right to Know.” Governor Bob Holden vetoed it. Legislators overrode his veto, but a federal judge overruled. (U.S. District Judge Scott O. Wright, Sept. 11, 2000)
- The people of Nebraska passed a Marriage Amendment with 70 percent of the vote, but a federal judge overruled. (U.S. District Judge Joseph Batallion, May 12, 2005)

- The people of New York voted against physician-assisted suicide, but federal judges overruled. (2nd Circuit, April 2, 1996)
- The people of Washington voted against physician-assisted suicide, but federal judges overruled. (9th Circuit, March 6, 1996)
- The people of Washington passed term limits for politicians, but federal judges overruled. (Sup. Ct., Term Limits v Thornton, May 22, 1995)
- The people of Montana voted by an overwhelming 74 percent to define a marriage as between one man and one woman, but federal judge Brian Morris overruled. (Nov. 19, 2014) Republican Rep. Steve Daines stated an “unelected federal judge” had ignored Montanans’ wishes. (Associated Press, Nov. 19, 2014)

## **Lincoln**

In 1857, Democrat appointed Supreme Court Justice Roger Taney gave his infamous Dred Scott decision that slaves were not citizens, but property.

In his first inaugural address, March 4, 1861, Abraham Lincoln stated: “I do not forget the position assumed by some that constitutional questions are to be decided by the Supreme Court. ... The candid citizen must confess that if the policy of the government upon vital questions affecting the whole people is to be irrevocably fixed by decisions of the Supreme Court, the instant they are made ... the people will have ceased to be their own rulers, having to that extent practically resigned their government into the hands of the eminent tribunal.”

Have Americans “ceased to be their own rulers”? Have Americans “resigned their government into the hands of the eminent tribunal”?

Have we become an American oligarchy? Has “government of the people, by the people, for the people” perished?

## **Usurping power**

Fifty-five men wrote the Constitution, but only 39 signed it. Why did some not sign it? They did not think it put enough limits on the power of the federal government.

Men like Samuel Adams, George Mason and Patrick Henry were against the Constitution. Why? Because they did not think it put enough limits on the power of the federal government.

The promoters of the Constitution convinced the 13 states that if they ratified the Constitution, the first action of Congress would be to put limits on the new federal government. There were 10 limits – the first Ten Amendments or Bill of Rights.

Over time, the federal government usurped power from the states. Thomas Jefferson warned Mr. Hammond in 1821: “The germ of dissolution of our federal government is in ... the federal judiciary; an irresponsible body ... working like gravity by night and by day, gaining a little today and a little tomorrow, and advancing its noiseless step like a thief, over the field of jurisdiction, until all shall be usurped from the states.”

Concerned the judges were over reaching, Jefferson wrote Sept. 6, 1819: “The Constitution is a mere thing of wax in the hands of the judiciary, which they may twist and shape into any form they please.”

## **Concentrated power**

The Founders disliked concentrated power. Colonial leader John Cotton stated: “For whatever transcendent power is given, will certainly over-run those that give it. ... It is necessary therefore, that all power that is on earth be limited.”

James Madison stated at the Constitutional Convention, July 11, 1787: “All men having power ought to be distrusted.”

John Adams wrote in his notes from an oration at Braintree, Massachusetts, Spring 1772: “There is danger from all men. The only maxim of a free government ought to be to trust no man living with the power to endanger the public liberty.”

George Washington stated in his farewell address, Sept. 17, 1796: “And of fatal tendency ... to put, in the place of the delegated will of the Nation, the will of a party – often a small but artful and enterprising minority. ... They are likely, in the course of time and things, to become potent engines, by which cunning, ambitious, and unprincipled men will be enabled to subvert the Power of the people and to usurp for themselves the reins of government; destroying afterwards the very engines which have lifted them to unjust dominion.”

President Andrew Jackson stated in his Bank Renewal Bill Veto, July 10, 1832: “It is easy to conceive that great evils to our country and its institutions might flow from such a concentration of power in the hands of a few men irresponsible to the people. Mere precedent is a dangerous source of authority, and should not be regarded as deciding questions of constitutional power.”

President William Henry Harrison stated in his inaugural address, 1841: “The tendency of power to increase itself, particularly when exercised by a single individual ... would terminate in virtual monarchy.”

Lord Acton wrote in his letter to Bishop Mandell Creighton, April 5, 1881: “All power tends to corrupt and absolute power corrupts absolutely.”

### **Control government**

James Madison sums up the current dilemma in Federalist Paper #51: “In framing a government which is to be administered by men over men, the great difficulty lies in this: you must first enable the government to control the governed; and in the next place oblige it to control itself.”

Is the Judicial Branch under control?

President Andrew Jackson stated in his seventh annual message, Dec. 7, 1835: “All history tells us that a free people should be watchful of delegated power, and should never acquiesce in a practice which will diminish their control over it.”

Citizens must not to give in to “a practice which will diminish their control over” the delegated power of the Judicial Branch, lest Americans find themselves pledging, not “to the Republic, for which it stands,” but to a new American Oligarchy.

### **Confusion of powers**

November 18, 2003, even as Massachusetts legislators were working to define marriage as between a man and a woman, four state Supreme Court judges “ordered” the state legislature to pass a law within 180 days recognizing homosexual marriage.

Instead of “separation of powers,” the Massachusetts Supreme Court is suffering from “confusion of powers.” The Judicial Branch of government cannot “order” the Legislative Branch to do anything.

Thomas Jefferson wrote to Abigail Adams, Sept. 11, 1804: “Nothing in the Constitution has given them (judges) a right to decide for the Executive, more than to the Executive to decide for them. ... But the opinion which gives to the judges the right to decide what laws are constitutional, and what not, not only for themselves in their own sphere of action, but for the legislature and executive also, in their spheres, would make the judiciary a despotic branch.”

Deciding what laws are needed is the responsibility of the Legislative Branch. The Judicial Branch is simply to administer the laws according to the meaning the legislators had when passing the laws.

Thomas Jefferson explained to Supreme Court Justice William Johnson, June 12, 1823: “On every question of construction, carry ourselves back to the time when the Constitution was adopted, recollect the spirit manifested in the debates, and instead of trying what meaning may be squeezed out of the text, or invented against it, conform to the probable one in which it was passed.”

### **All would be lost**

Baron Montesquieu, the most quoted writer by the framers of the Constitution, warned of the dangers of uncontrolled judicial power in his “Spirit of the Laws,” 1748: “Nor is there liberty if the power of judging is not separated from legislative power and from executive power. If it were joined to legislative power, the power over life and liberty of the citizens would be arbitrary, for the judge would be the legislator. If it were joined to executive power, the judge could have the force of an oppressor. All would be lost if the same ... body of principal men ... exercised these three powers.”

Alexis de Tocqueville, author of “Democracy in America” (1835), warned: “The president, who exercises a limited power, may err without causing great mischief in the state. Congress may decide amiss without destroying the Union, because the electoral body in which Congress originates may cause it to retract its decision by changing its members. But if the Supreme Court is ever composed of imprudent men or bad citizens, the Union may be plunged into anarchy or civil war.”

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