FASTFACTS
JUDICIAL TYRANNY

CENTER FOR RECLAIMING AMERICA

"You shall appoint judges and officers in all your gates ... You shall not pervert justice; you shall not show partiality."

— Deuteronomy 16:18-19 (NKJV)

"It is clear from this that the Court has taken sides in the culture war, departing from its role of assuring, as neutral observer, that the democratic rules of engagement are observed."

— U.S. Supreme Court Justice Antonin Scalia, *Lawrence v. Texas*, June 26, 2003.

What Did Our Founders Envision?

"The judiciary is beyond comparison the weakest of the three departments of power . . . it can never attack, with success, either of the other two."

— Alexander Hamilton, "The Judiciary Department," *The Federalist Papers* (#78), 1788.

"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."

— Thomas Jefferson, *Memoirs, Correspondence, and Miscellanies from the Papers of Thomas Jefferson*, editor: Thomas Jefferson Randolph, 1830.

"I entirely concur in the propriety of resorting to the sense in which the Constitution was accepted and ratified by the nation. In that sense alone it is the legitimate Constitution. And if that be not the guide in expounding it, there can be no security for a consistent and stable ... exercise of its powers. What a metamorphosis would be produced in the code of law if all its ancient phraseology were to be taken in its modern sense."

— James Madison, *The Writings of James Madison*, editor: Gaillard Hunt, G. P. Putnam & Sons, 1910.

Courts Abandon America's Founding Principles

On July 4, 1776, Thomas Jefferson penned the Declaration of Independence. He wrote, "We hold these truths to be self-evident, that all men are created equal, that they are **endowed by their Creator with certain unalienable Rights**."

Though Jefferson acknowledged our Creator as the source of our rights, today's judiciary is relentless in its attempts to undermine that heritage. When ordering the removal of the Ten Commandments from the Alabama Judicial Building, U.S. District Judge Myron Thompson wrote, **"The state may not acknowledge the sovereignty of the Judeo-Christian God and attribute to that God our religious freedom."** His ruling was affirmed.

— U.S. District Judge Myron Thompson, *Glassroth v. Moore*, Case 01-T-1268-N, November 18, 2002.

Constitutional signer and Supreme Court Justice James Wilson wrote, "Human law must rest its authority ultimately upon the authority of that law which is divine. Far from being rivals or enemies, **religion and law** [church and state] are twin sisters, friends, and mutual assistants. Indeed these two sciences **run into each other**."

— James Wilson, *The Works of the Honourable James Wilson*, Lorenzo Press, 1804.

In 1947, in *Everson v. Board of Education*, the U.S. Supreme Court ruled that these two sciences were no longer permitted to *run into each other*. In fact, these judicial activists erected the so-called "wall of separation." In this decision, the court warned the New Jersey state legislature against excessive entanglement with Catholic parochial schools. Justice Hugo Black, a former Alabama Klansman, wrote, "The First Amendment has **erected a wall between church and state**. That wall must be kept high and impregnable."

— Justice Hugo Black, *Everson v. Board of Education*, 330 U.S. 1, February 10, 1947.

Judiciary Ignores the Tenth Amendment

The Tenth Amendment reads, "The **powers not delegated to the United States** by the Constitution nor prohibited by it to the States, **are reserved to the States** respectively, or to the people." In reference to religion, Thomas Jefferson wrote, "No power to prescribe any religious exercise or to assume authority in any religious discipline has been delegated to the General Government. *It must then rest with the states.*" Because matters of religion were not delegated to the federal government (including the courts), Jefferson believed that individual states were free to set their own religious traditions (i.e. displaying the Ten Commandments).

— Thomas Jefferson, *Memoirs, Correspondence, and Miscellanies from the Papers of Thomas Jefferson*, editor: Thomas Jefferson Randolph, 1830.

Selective Censorship

In January 2005, U.S. District Judge Clarence Cooper ordered the Cobb County (Ga.) School Board to remove stickers which read, "Evolution is a theory, not a fact," from biology textbooks. In his decision, Judge Cooper explained that the school board could not endorse this factual statement because the stickers could send "a message that the school board agrees with the beliefs of Christian fundamentalists and creationists."

— "Judge: Evolution Stickers Unconstitutional," *CNN News*, January 13, 2005.

On October 13, 2004, a Florida appeals court declared the 1997 "Women's Right-to-Know Act" unconstitutional. The state statute required abortionists to inform women of the medical risks associated with abortion, but the court decided that such information "imposes significant obstacles and burdens upon the pregnant woman which improperly intrude upon the exercise of her choice between abortion and childbirth."

— "Court Strikes Down Florida Abortion Consent," *CNN News*, October 14, 2004.

Legislating Morality: A Word From the Founders

"To suppose that any form of government will secure liberty or happiness without any virtue in the people, is a chimerical [vainly conceived] idea."

— James Madison

"Of all the dispositions and habits which lead to political prosperity, religion and morality are indispensable supports."

— George Washington

"Our Constitution was made only for a moral and religious people."

— John Adams

"Neither the wisest constitution nor the wisest laws will secure the liberty and happiness of a people whose manners are universally corrupt."

— Samuel Adams

Unalienable Right to Life?

On March 31, 2005, Terri Schiavo died after suffering 13 days of court-ordered dehydration. Despite many apparent conflicts of interest, an absence of Terri's written directives, and numerous conflicting medical diagnoses, Pinellas-Pasco Circuit Judge George Greer ruled that there was "clear and convincing" evidence that Terri should die. Realizing the dangerous implications of the court's decision, the U.S. Congress issued a subpoena to protect Terri from such an inhumane death, but one county probate judge snubbed his nose at the U.S. Congress. As a result, the U.S. Congress called a special Sunday session to pass legislation asking the federal courts to intervene — taking a brand new look at all evidence in the case. Incredibly, one federal judge rejected this order passed by Congress and signed by President Bush.

State Courts Join in the Action

In November 2003, the Massachusetts Supreme Judicial Court ruled 4-3 to dismiss millennia of history, their state Constitution, and public opinion, when it forced the state to legalize same-sex "marriage." Chapter 3, Article V of the Massachusetts Constitution reads, "All causes of marriage... shall be heard and determined by the governor and council, until the legislature shall, by law, make other provision." Despite clear instructions on the matter, the court usurped the role of the "legislature" and "governor and council" to further its own ideological agenda.

— *Hillary Goodridge v. Department of Public Health*, Massachusetts Supreme Judicial Court, November 20, 2003.

Despite extensive scientific evidence proving the unique identity of unborn babies, the Connecticut Supreme Court found that an unborn child could not be listed as an individual because it lacks unique identity. This decision came after a pregnant woman was sexually assaulted by her boyfriend after she refused an abortion. During this assault, the boyfriend forced two abortion pills into her, causing her to miscarry. Sadly, the Court found that the child "constitutes a part of the mother's body." The judges likened unborn children to "deciduous teeth, skin, and hair" that "also are shed by the body."

— *Connecticut v. Edwin Sandoval*, May 13, 2003.

Immorality Assumes the Throne!

When judges do not allow morality and values to "color their conclusions," these judges will issue frightening decisions. On June 1, 2004, U.S. District Judge Phyllis Hamilton declared the Partial-Birth Abortion Ban Act of 2003 unconstitutional. In callous disregard for humanity, Judge Hamilton wrote that the unborn baby's ability to feel pain is "irrelevant," because "the Act poses an undue burden on a woman's right to choose an abortion."

— *Planned Parenthood v. Ashcroft*, June 1, 2004.

In a 3-2 decision, the Colorado Supreme Court overturned the death sentence of a convicted murderer solely because the jurors consulted a Bible during the sentencing phase of the trial. Though Colorado courts continue to use the Bible when administering oaths to witnesses, the High Court determined that it was "improper for a juror to bring the Bible into the jury room to share with other jurors the written Leviticus and Romans texts during deliberations."

— *People v. Harlan*, March 28, 2005.

The Gavel Strikes Morality From the Law

On January 22, 1973, in the case of *Roe v. Wade*, the U.S. Supreme Court ruled that women have a right to abort their unborn children. Since then, more than 45 million unborn babies have been aborted in the womb. In the Court's decision, Justice Harry A. Blackmun dismissed the role of morality from the law. He wrote, "One's religious training, one's attitudes toward life and family and their values, and the moral standards one establishes and seeks to observe, are all likely to influence and to color one's thinking and conclusions about abortion ... Our task, of course, is to resolve the issue by constitutional measurement, free of emotion and of predilection."

— *Roe v. Wade*, January 22, 1973.

In 2003, the U.S. Supreme Court struck down a Texas anti-sodomy statute. In the case of *Lawrence v. Texas*, the Court Justice Anthony Kennedy wrote, "The fact that a state's governing majority has traditionally viewed a particular practice as immoral is not a sufficient reason for upholding a law prohibiting the practice."

— *Lawrence v. Texas*, June 26, 2003.

U.S. District Judge Gary L. Lancaster dismissed criminal charges against a man operating a hardcore pornographic website featuring simulated acts of rape, abuse, and torture. He wrote, "Public morality is not a legitimate state interest sufficient to justify infringing on adult, private, consensual, sexual conduct even if that conduct is deemed offensive to the general public's sense of morality."

— *United States v. Extreme Associates*, January 20, 2005.

In 2002, the U.S. Supreme Court overturned a federal statute prohibiting online child pornography. In its decision, the Court explained that the state went too far by banning all child pornography, arguing that some pornography can be created "using adults who look like minors or by using computer imaging." The Court concluded that the statute was too broad, punishing pornographers for "a single graphic depiction of sexual activity involving children … without inquiry into the work's redeeming value."

— *Ashcroft v. Free Speech Coalition*, April 16, 2002.

How Can Concerned Citizens Make a Difference?

In order to improve the condition of the federal judiciary, we must improve the landscape of the executive and legislative branches. Normally, federal judges are nominated by the President and confirmed by a simple majority in the U.S. Senate. However, during the 108th Congress, a minority of senators conspired to prevent the confirmation of any pro-life, pro-family judicial nominees to the federal appellate courts by engaging in an unprecedented use of filibusters — a tactic used to deny such nominees of simple "up or down" votes. In order to end a filibuster, sixty senators (a supermajority) must agree to allow a vote. Thus, in order to reform the judiciary, we must elect sixty senators with pro-life, pro-family values to confirm like-minded judges.

Resources

Original Intent: The Courts, the Constitution, & Religion by David Barton, WallBuilder Press, 1997.
A Matter of Interpretation: Federal Courts and the Law by Antonin Scalia, Princeton University Press, 1997.
The Tempting of America: The Political Seduction of the Law by Robert H. Bork, Free Press, 1990.

FASTFACTS is published by the CENTER FOR RECLAIMING AMERICA — an outreach of Coral Ridge Ministries — to inform, equip, motivate, and support Christians; enabling them to defend and implement the Biblical principles on which our country was founded. Founder: Dr. D. James Kennedy; Executive Director: Gary Cass; (877) SALT USA (725-8872); cfra@coralridge.org; www.reclaimamerica.org; P.O. Box 632, Ft. Lauderdale, FL 33302
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