

The Supreme Court — A Judicial Oligarchy

Ezra Taft Benson, *An Enemy Hath Done This*, Chapter 23, 262–268.

“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, in ordinary litigation between parties, in personal actions, the people will have ceased to be their own rulers, having, that extent, practically resigned their government into the hands of the eminent tribunal.”

(Abraham Lincoln, First Inaugural Address, March 4, 1861.)

Almost everyone recognizes that *something is wrong with the Supreme Court*. One does not have to be a constitutional lawyer to sense it. After a decade or more of Court decisions following a consistent and recognizable pattern, crime now runs rampant in the street, subversives who are openly dedicated to the destruction of our way of life operate in our midst with complete impunity, and government has grown to gigantic proportions never envisaged by the framers of our Constitution. People are beginning to wonder who is master and who is servant. If one looks closely, the hand of the modern Supreme Court can be found in all of these major developments.

Decisions of the modern Supreme Court have undermined the forces of law and order and, more than any other single cause, are directly responsible for the nation’s soaring crime rate. This is a broad statement, to be sure, but it is more than substantiated by a review of the Court’s decisions involving confessions, material evidence and police investigative procedures. Space does not permit a detailed analysis of the impact upon law and order of such milestone cases as Mallory, Mapp, Escobedo and Miranda, but they all add up to one incontrovertible fact: *The modern Supreme Court has tipped the scales of justice in favor of the rights of criminals at the expense of the rights of law-abiding citizens who are the victims of those criminals.*

Most Americans are not fooled by the glib communist phrases about “peaceful coexistence.” They realize that communists are *not* merely members of the Nazi party during World War II, part of an organization whose objectives and activities place them in the position of being enemies of the United States. The American branch of the Communist is comparable to a commando detachment of enemy troops working on our own soil to create the conditions necessary for the eventual communist conquest of our nation. The only difference is that unlike our enemies of the past, the communists plan to conquer from the *inside* using such weapons as riots, civil war, political manipulations, brainwashing, blackmail, false leadership,

and treason. Whether we like it or not, the international communist organization has declared total war against the United States, and *we are fighting for survival*.

Unfortunately, however, the majority members of the modern Supreme Court apparently know nothing about all this, or at least prefer to pretend that it isn't so. *In one decision after another, the Court had closed its eyes to the facts of life regarding the true nature of communism*, and has treated it as a harmless little group of people who are *not* enemies of the United States, but merely loyal Americans who belong to a minority political party and espouse unpopular ideas and theories. How incredibly naive! the result of this mistaken concept of communism has been as follows:

1. Known communist leaders have been returned to their jobs in all walks of life including labor unions, the teaching profession and even to practice law.

2. The states have been denied the right to have their own anti-communist laws. The Court has required them to depend entirely upon the various federal anti-communist laws, such as the Smith Act and the International Security Act.

3. Finally, the Court has, one by one, declared unconstitutional each of the sections of the federal anti-communist laws, or placed such restrictions upon their operation that they cannot realistically be enforced.

4. The Court has thrown so many obstacle in the path of government agencies investigation communism that, at present, we not only have no laws to protect ourselves against the internal menace of communism, but we have all but stopped any effective investigation into the degree to which communism may have penetrated into the nerve-venters of our nation's life.

Are there communists high in government, in the communications media and elsewhere? It is difficult to know who and where they are until investigations are once again made possible by reversing the effects of certain Supreme Court decisions and Executive Orders. It is incredible that the American people should be denied this vitally important information. It all adds up to one inescapable conclusion. *Decisions of the modern Supreme Court have given tremendous aid and comfort to our communist enemy.*

Every child learns that the American form of government is based upon the concept of diffusion of powers. To prevent any one person or group of persons from acquiring tyrannical power over our people, the founding fathers devised a unique system of dividing political power over many governmental units, and then using each unit as a partial check against the other. Sovereignty was separated between the federal government and the states. The federal government was given those

aspects of sovereignty which involved relations with the rest of the world, such as military might, tariffs and treaty powers. But those aspects of sovereignty which were primarily local and internal, such as local law-enforcement, civil courts, schools, and, for that matter, anything else not delegated to the federal government of specifically excluded to the states by the Constitution, these were strictly left to the states or the people of those states to handle in whatever way they saw fit. And this included the right *not to handle it at all*, if that was their wish.

In addition to the safeguard against over concentration of political power that was effected by a division of sovereignty between the states and the federal government, our founding fathers also wisely established three branches of the federal government--the legislative, executive, and judicial--as partial checks against each other. Even the legislative branch was further subdivided into two parts--the House and the Senate--each with different modes of election so that one would represent the people directly, and the other would represent the people indirectly through the states. Every conceivable precaution was taken to insure that the government which they had created would not be able to gather total political power into one place and become as venal and oppressive as the one from which they had separated.

If those who so carefully drafted the checks and balances into our Constitution could have looked into the future and seen what the Supreme Court of the United States would do to their masterpiece, they would have been dismayed. Through the process of supposedly “interpreting” the Constitution, the Court has twisted beyond recognition just about every conceivable clause to justify the transfer of *all* sovereignty from the states to the federal government beyond any definable limit, and then to make it possible for all such powers to fall into the hands of the executive branch of government. We may still give lip service to the checks and balanced of our constitutional republic, but the phrase is now quite hollow. The checks and balanced are gone. The Constitution has become but a piece of paper that, instead of protecting men’s liberties *against* encroaching government, is now a source of phrases to be “interpreted” in such as way as to grant new and novel powers *to* government. Instead of a true Republic with limited political power, we have been brought to a democratic dictatorship similar to those in Latin America where one man, although he carries the pleasing title of President, and is elected to office by majority vote, nevertheless has almost unlimited political power during his period of office. Some people may feel that this development is both healthy and necessary to deal effectively with other dictatorships around the world; some may feel that it is a betrayal of the American Revolution and a frightful step backward in political development; but no one can deny that *it has happened*.

The record of the modern Supreme Court in the matters just described is sufficiently tainted to justify a thorough airing and investigation to either vindicate the Justices in the eyes of the public or to have them replaced. The Constitution provides a sensible and orderly procedure for accomplishing just such a review. A simple majority vote of Congress would require the Senate to conduct an open hearing to determine if any Supreme Court Justice has disqualified himself for continued public trust, which otherwise is in his hands for his entire lifetime. When Congress asks the Senate to conduct such a hearing, it is called impeachment. But impeachment does not necessarily mean removal. That is determined by the outcome of the Senate action, and requires at least a two-thirds vote. If the Senate determines, in accordance with Article II, Section 4, that a Justice has committed "treason, bribery, or other high crimes and misdemeanors," he is automatically removed from office.

Consider for instance charges of High Crimes and Misdemeanors. It is true that the Constitution nowhere defines what is encompassed by this phrase, but that does not mean that it cannot be understood. If the Senate can demonstrate that a Justice of the Supreme Court, through the decision in which he has concurred, actually *has* undermined the forces of law and order, or *has* destroyed our constitutional checks and balances, then, surely, these do constitute High Crimes and Misdemeanors.

As citizens, we, too, have an obligation to uphold and defend the Constitution. If we believe that the Justices of the modern Supreme Court have committed High Crimes and Misdemeanors, then it is not only our right, but our *duty* to call for Congress to institute impeachment proceedings. Article II, Section 4 was written into the Constitution for a very good reason. The time is long overdue for it to be dusted off and put into operation.

It is my conviction that the Constitution of the United States was established by the hands of wise men whom the Lord raised up for this very purpose.

The Lord, expects us to safeguard this sacred and inspired document for the blessing of all of us and our posterity. If we fail so to do we will not only lose our priceless freedom but jeopardize the cause of truth throughout the entire world.

THE SUPREME COURT Jefferson & Hamilton

“The judiciary of the United States is the subtle corps of sappers and miners constantly working under ground to undermine the foundations of our confederated fabric. They are construing our constitution from a co-ordination of a general and special government to a general and supreme one alone.... Having found, from experience, that impeachment is an impracticable thing, a mere scare-crow, they consider themselves secure for life; they sculk from responsibility to public opinion, the only remaining hold on them.... An opinion is huddled up in conclave, perhaps by a majority of one, delivered as if unanimous, and with the silent acquiescence of lazy or timid associates, by a crafty chief judge, who sophisticates the law to his mind, by the turn of his own reasoning.” (Thomas Jefferson, *Works* 7:192)

*“It has long been my opinion, and I have never shrunk from its expression, the *the germ of dissolution of our federal government is in the constitution of the federal judiciary*; an irresponsible body, (for impeachment is scarcely a scare-crow) working like gravity by night and by day, gaining a little to-day and a little to-morrow, and advancing its noiseless step like a thief, over the field of jurisdiction, until all shall be usurped from the States, and the government of all be consolidated into one. To this I am opposed; because, when all government, domestic and foreign, in little as in great things, shall be drawn to Washington as the centre of all power, it will render powerless the checks provided of one government on another, and will become as venal and oppressive as the government from which we separated.”* (Thomas Jefferson, *Works* 7:216)

*“I am sensible of the inroads daily making by the federal, into the jurisdiction of its co-ordinate associates, the State governments. The legislative and executive branches may sometimes ere, but elections and dependence will bring them to rights. *The judiciary branch is the instrument which, working like gravity, without intermission, is to press us at last last into one consolidated mass.*”* (Thomas Jefferson, *Works* 7:199)

“It can be of no weight to say that the courts, on the pretence of a repugnancy, may substitute their own pleasure to the constitutional intentions of the legislature.... The courts must declare the sense of the law; and if they should be disposed to exercise WILL instead of JUDGEMENT, the consequences would equally be the substitution of their pleasure to that of the legislative body.” (Alexander Hamilton, *Federalist* No. 78)