

YEAR-END SCOTUS RANT

This past year brought us the full flowering of a central project of the filthy rich white people who fund the insurrection party: the takeover of SCOTUS by a gang of hardline fanatics. Big Wallet Boys don't care about religion, they worship money. They want SCOTUS to screws up any government regulation that slows down their plundering of the American economy and Planet Earth. But they don't care what SCOTUS does on culture war issues because they are not affected.

Of course SCOTUS has always been politically conservative and a blight on the promises America made to each of us. The few sprinkles of decency we've gotten over the centuries were either a) tiny steps towards enabling all Americans to benefit from Constitutional rights enjoyed by white men, or b) grudging reversals of old precedents inflicting the prejudices and hatreds of dead rich white men on we the living. For a detailed look at the disgusting history of SCOTUS on individual rights, see *The Case Against The Supreme Court*, by Erwin Chermersky

The provocateurs supported by the rich use culture war issues to anger up the rubes and while they're distracted, SCOTUS can work toward the goal set by the rich: enabling their moneymen to steal the country blind and route us to an unlivable future.

We can identify the goals of the longer serving members. John Roberts is dead set against the Voting Rights Act, and has never missed a chance to use a case with a voting-related issue to subvert it. Clarence Thomas and Sam Alito have been stewing in their own bile so long they are fully rotted; they both live to stick it to the libs.

In 2022, though, we got bitch-slapped by the revanchists, including the three religious zealots appoint by Trump and McConnell. The Holy Six imposed their religious views in a number of

cases, ruling that women have no right to control their own bodies, that coaches are free to dragoon their players into worshipping the god of the coach's choice, and that religious leaders are free to spread a pandemic.

The big casualty is rational jurisprudence. In case after case, SCOTUS has ignored the trial record, made up its own facts, reached out to take cases before a record can be made, ignored precedent, including precedent about rejecting precedent, invented new Constitutional "doctrines", taking faked-up cases for the sole purpose of striking down actions the Holy Six, the rubes, or rich people don't like, and delaying justice through the shadow docket.

The result of these deviations from normal practice is the utter lack of stability. On Twitter law profs ask what they should teach about Constitutional law. The Fox News Six make it too easy: the Constitution means only whatever five of them say on any given day. The same question can be asked about Administrative law: is there any? And the power of Congress: does it have any? And the power of the Executive: does a Democratic President have any power? Not if SCOTUS doesn't like it.

We have historically entrusted courts with the task of determining which rights belong to the people, and the extent to which governments at all levels can exercise their Constitutional powers in controlling people. Courts do this by interpreting and applying terms like liberty and due process found in the Constitution. Courts have always lagged behind the consensus of the American People on issues of rights, but change has come, if at a frustrating pace. For example, at least for now, governments don't execute very many mentally ill people.

SCOTUS doesn't care about any of this. Read *Bruen*, where Spouse of Insurrectionist Clarence Thomas says that the only restrictions on guns that are Constitutional are those in place at the time of the adoption of the Second Amendment, 1792. At that time, there was no

concept of domestic violence. So, a Texas law prohibiting people subject to domestic abuse protective orders from owning guns is unconstitutional.

In other words, you don't have the liberty of not being murdered by an abusive spouse. And you don't have the liberty of going to a school, a place of worship, a concert, a grocery store, or a parade unless you are willing to take a bullet from a person armed by SCOTUS.

We can't protect ourselves from corporate depredations either. SCOTUS restricts government regulation for years if not forever. It strikes down every law it doesn't like, by which I mean any law rich people don't like. In *West Virginia v. EPA*, it ignored the long-standing rule that SCOTUS doesn't issue advisory opinions when it struck down a regulation of air pollution that was withdrawn before it ever took effect. And it invented a brand spanking-new doctrine, the major question doctrine, to arm itself further against Congress trying to regulate anything.

In *Shelby County v. Holder*, the Court announced that Congress hadn't done enough investigation to justify the reauthorization of the Voting Rights Act. That act offended the Dignity Of The States, another brand new invention. That same logic can be used with the major questions doctrine to argue that Congress hasn't done enough to justify authorizing agencies to regulate anything SCOTUS doesn't like. And of course SCOTUS gets to decide whether a question is a major question.

Congress and executive agencies aren't allowed to make rules to protect us from deadly pandemics. Only SCOTUS is allowed to do that. They killed mask mandates in the workplace, freed up unscrupulous religious leaders to infect their followers, and just recently interfered with international diplomacy by enjoining the Biden Administration from junking a Trump rule barring entry of asylum seekers because Covid is so terrifying. So much for consistency.

Neither Congress nor the President have resisted the hijacking of their power. They didn't impose any limits on SCOTUS, by restricting its jurisdiction, cutting its funding, publicly attacking decisions as overtly political or poorly reasoned, holding hearings, or even taking the mild step of imposing ethical requirements. They just sit and watch the Holy Six enjoying their self-declared role of Philosopher Kings, the Platonic Ideal. Democracy? That's not in the Constitution.

The worst part is that they expect you and me to respect them. We "cross a line", in Alito's words, when we say they are illegitimate. They are spitting on us and telling us we are powerless to stop them.

Are we?