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Idaho Common Sense™



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Role of the Supreme Court?

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A Justice of the United States Supreme Court is retiring. A chance to re-shape the court. A chance to change history. Wait a minute. Don't the above statements suggest the United States Constitution is flexible, open to interpretation, no need to amend it?

Dare I suggest the primary role of the United States Supreme Court is to preserve and protect the integrity of the United States Constitution as written and intended by the Founding Fathers? And isn't Congress the only branch of government given the authority to propose amendments to the Constitution, as prescribed in Article V? President Obama, who has taught constitutional law, made several statements about the next Justice. He said we need a Justice with "empathy," a Justice who understands how "our laws affect the daily realities of people's lives," a Justice who "protects people who don't have a voice."

Are any of these within the purview of the Supreme Court? Or, is he describing the role of Congress rather than the Supreme Court? Isn't Congress charged to look out for "we the people," enacting laws and proposing amendments to the Constitution? And, isn't it "we the people" who have the final say if a change to the Constitution is acceptable, Article V requiring not only the approval by 2/3 of each House of Congress BUT also approval by the voters in 3/4 of the states? This is onerous, and with good reason. The Constitution should not be casually changed or modified

by Congress, let alone by Justices of the Supreme Court, appointed for life, not even elected by "we the people."

Wouldn't it be unconstitutional if the Supreme Court viewed cases in the way proposed by the President? To the contrary, shouldn't their rulings be consistently traditional, cautious, conservative and going out of their way to always rule on the side of resisting even the slightest shift in the Constitution? Isn't their job to hold Congress to the strictest letter of the Constitution, only budging from that position when presented with a constitutionally approved amendment?

Even Justice Ruth Ginsburg does not understand the role of the Supreme Court, opining that we need another female Justice. Is that proper or should she be advocating for the Justice best suited to preserve and protect the Constitution — nothing more? Moreover, if anything beyond excellence is to be a criteria, isn't it the role of Congress to propose an amendment to the Constitution presented to "we the people" for approval?

From the birth of our country, Congress has systematically tried to usurp more power than granted it in the Constitution. For generations, the Supreme Court kept check on Congress, keeping it within the confines of the Constitution. It was President Roosevelt who intimidated and coerced the Court to abandon the Constitution. Early into Roosevelt's New Deal, the Court regularly ruled his programs unconstitutional. In retaliation, President Roosevelt tried to "stack" the court in his favor,

proposing an added Justice be appointed for every Justice over the age of 70 years 6 months.

Even though his "court-packing plan" failed in Congress, the Supreme Court cowered to his threats and started "interpreting" the Constitution rather than "protecting" it. The Justices lost their vision and abandoned their duty to the Constitution, several rulings radically expanding the powers of the federal government beyond anything the Founding Fathers granted or intended. The Justices failed their oath. They abolished the writings and visions of the Founding Fathers, reducing the Constitution to nothing more than a series of suggestions.

This country does not belong to the President, Congress or the Supreme Court. It belongs to "we the people." And, "we the people" still have the power; that power, our vote. We can, and must, bring our government back to the Constitution, however difficult it may be. Do we want to return to the Europe we left in 1776 or maintain the democracy our Founding Fathers gifted us? Do we want to be a kept citizen ruled by the government or a free citizen ruling the government? Our choice.