

"Writing the truth
as I see it;
trying not to
offend
those who will
disagree."

The truth as I see it™

Idaho Common Sense™



Craig L. Bosley, MD

Robert Gibbs is a verb

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The most entertaining moments of this presidency are watching Robert Gibbs explain the ramblings of Vice President Biden. With a straight face, a feigned sincerity and accompanied by the laughter of the press corps Gibbs says, "I understand what he said and I'm telling you what he meant to say." He invented a new verb — "gibbsing," a verb that well describes earlier rulings of the United States Supreme Court.

In 1803 with a 4-0 ruling in *Marbury v. Madison*, the Supreme Court used the question before them to expand their powers beyond what the Constitution enumerated.

In part their ruling said, "To what purpose are powers limited, and to what purpose is that limitation committed to writing, if these limits may, at any time, be passed by those intended to be restrained." This is an acknowledgement the Supreme Court understood that the powers of the government are constitutionally limited and the government itself cannot expand those powers.

Had they stopped there it would have been great, but they did not. Even though they understood the Constitution enumerated the powers of the Supreme Court, including "with such exception, and under such Regulations as the Congress shall make," they added to the ruling, "It is emphatically the province and duty of the judicial department to say what the law is."

The problem? It's not in the Constitution. They understood what the Constitution said, but they decided to tell us what it meant to

say. They "gibbsed" it. Moreover, how can Congress pass a law regulating the Supreme Court if the Supreme Court has the authority to declare that law unconstitutional? Is that what the founding fathers intended?

This 1803 ruling was expanded by the 1936 Supreme Court in *United States v. Butler*. Remember, the 1803 ruling outlined the limited powers of government. Even though the 1936 court understood that the Constitution does not allow the government to change its constitutional restraints, the justices told us what they knew the founding fathers meant to say. "Gibbsed" again.

In a 6-3 vote they ruled that the founding fathers meant the clause "for the general welfare of the United States" to be an enumerated power of Congress. Six Justices replaced the enumerated powers of Congress with unlimited powers. One branch of the government lifted constitutional restraints on another branch of government. Do you believe that is what the founding fathers intended with the Constitution, intended for the power of the Supreme Court?

Can the president or any member of the executive branch of government veto the Supreme Court? No. Can Congress override a Supreme Court ruling with a two-thirds vote like they can do with a presidential veto? No.

The balance of power? The checks and balances? The people? Ten men alone re-wrote the Constitution and did so without our

permission, as required by the Constitution.

The only way to override a decision of the Supreme Court is to follow Article V of the Constitution with an amendment needing approval of two-thirds of each House of Congress and approval of three-fourths of the states.

Article V was designed for Congress to recommend a constitutional amendment to the people, asking for our approval or disapproval. It was not designed for the people to have to propose a constitutional amendment to undo the changes that the government made to the Constitution without the people's approval.

Some will argue that only those who are experts in constitutional law are competent to question the Supreme Court. I prefer Thomas Jefferson's assessment — "Laws are made for men of ordinary understanding and should, therefore, be construed by the ordinary rules of common sense. Their meaning is not to be sought for in metaphysical subtleties which may make anything mean everything or nothing at pleasure." It is our job to question the government, the justices.

Is it time for a constitutional amendment returning the power to the people and returning checks and balances to the government? After all, it's our government.