

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

# The truth as I see it®

Idaho Common Sense®



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## Constitutional Coup

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*"... the discretion of the judge is the first engine of tyranny."*

—Edward Gibbon, *"The History of the Decline and Fall of the Roman Empire"*

Are we witnessing a non-violent coup of the United States Constitution, methodically carried out by the United States Supreme Court? Has the Court placed itself above the executive and legislative branches of government, above the people, above the Constitution itself?

This coup started in 1803 when the Court claimed the power to rule on the constitutionality of acts of Congress. Claiming this check on Congress seemed appropriate because each of the three branches of government was meant to check the others.

But, the Supreme Court further claimed neither the President nor Congress could check the Court. The President could veto Congress, but not the Supreme Court. Congress could override the President with a 2/3 majority vote, but not the Supreme Court.

Ignoring the founding fathers intention that the Supreme Court be the weakest branch of government, they ruled themselves the most powerful branch. Do you think the founding fathers intended for nine Supreme Court justices, who are appointed rather than elected, to not only control our nation, but to control it with no way to override its decisions, with no checks on its powers?

Recently, retired Justice David Souter revealed the Justices' treasonous secret. He said that when considering a ruling, the Constitution

"has only a tenuous connection to reality" and using it leads to bad decisions. In other words, he believes the Supreme Court should supplant the Constitution.

If so, isn't that an admission of judicial misconduct? As the USA Today pointed out, at least Souter told the truth while other justices still try to "cloak their innovations with references to the Constitution's text."

Could Souter and other justices who believe in a "living Constitution" point to the wording in the United States Constitution that gives the Supreme Court this power? There are none. The only constitutional option available to the Supreme Court if the Constitution does not adequately address the case before them, is to refer the issue to the Congress, which does have the constitutional authority to propose an amendment to "We the people." Since this has never happened, doesn't this mean either the Constitution is perfect or the Supreme Court has replaced the Constitution to reflect a "living Constitution?"

In 2009, Justice Scalia discussed the concept of a "living Constitution." He said, "If you want change (without a constitutional amendment), you don't need a constitution. What you need is a legislature and a ballot box."

Is he correct? Can the Supreme Court ignore the Constitution, interpreting it to reflect the will of society without amending it as required in Article V? Scalia went on to say the reason the court cannot reflect the will of society is because the Court is not supposed to reflect the will of society, only the "will" of the United States Constitution.

Reflecting the will of the Constitution, Justice John Marshall Harlan sat on the 1896 Supreme Court

that ruled the "Jim Crow" laws separating "colored people" from "white people" were constitutional. His was the only dissenting vote, the other Justices voting what they considered the will of society, interpreting a "living Constitution."

Harlan said in his dissenting opinion, "The Constitution is color blind, and neither knows nor tolerates classes among citizens." He said this despite personally believing the "white race" was superior to all other races. He chose to follow the Constitution. He refused to vote the will of society. He refused to vote his personal beliefs. He understood his job. He honored his oath.

If only the four current Justices who voted against the Second Amendment in *McDonald v. Chicago* had his character. Sadly, these Justices agree with Souter that their job is to view the Constitution as "living," as needing to reflect the will of society – at least as they perceive it, their opinions superior to the Constitution.

Shouldn't the House of Representatives impeach these justices, and then the Senate convict them and remove them from office for judicial misconduct? The Constitution states justices can only "hold their Offices during good Behavior." Doesn't ignoring the Constitution constitute a failure of "good Behavior?"

The coup continues.

Dr. Bosley's book titled *The Truth as I See It®*, *Idaho Common Sense®* is hardcover, 374 pages, \$24.95 - available at the Idaho State Journal, 5<sup>th</sup> Street Bagelry and [www.craigbosley.com](http://www.craigbosley.com). To contact him directly, you can email him at [craig@craigbosley.com](mailto:craig@craigbosley.com). His columns are available at [www.craigbosley.com](http://www.craigbosley.com).

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