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Idaho Common Sense[®]



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Judicial 'good Behavior'

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We hold Supreme Court Justices in high regard, but should we? The Constitution says they "shall hold their Office during good Behavior?" Well, let's look at their behavior.

The process of confirming a justice leaves little doubt; they are political appointees who serve for life. Although they occasionally surprise their advocates, they usually vote as expected. From the time of the very first Supreme Court appointments, judicial restraint and respect for the Constitution has progressively given way to judicial legislation.

Three sitting judges, Ginsburg, Breyer and Sotomayor, have made public statements suggesting they believe the Constitution is theirs to evolve; to decide based on their personal values, no need to amend it.

Justice Breyer is actively lobbying to change the Second Amendment, claiming its author James Madison introduced it only as a compromise to get the states to ratify the Constitution, even though the needed number of states had already ratified it.

He also overlooks the fact that when the United States Senate ratified the Second Amendment, it rejected proposed language saying, "for the common defense," showing that it refused to place any limit on our right to bear arms.

Speaking on the Second Amendment, Justice Breyer said, "Changes in the nature of society, the development of the urban police force, the nature of modern

urban crime, the movement of population away from the frontier, with frontier life's particular dangers and risks, all have made gun possession less important in terms of the amendment's objectives – even if these objectives include the value of personal safety." Does he have the constitutional right to modify the Second Amendment?

In his book "Making Our Democracy Work," Breyer claims the court "should view the Constitution as containing unwavering values that must be applied flexibly to every-changing circumstances." Isn't he saying he has the right to evolve the Constitution based on his perception of what's right for the times? Is this "good Behavior?"

Justice Sotomayor said, "I would hope that a wise Latina woman with the richness of her experiences would more often than not reach a better conclusion than a white male who hasn't lived that life," adding, "our gender and national origins may and will make a difference in our judging." Isn't she admitting that her rulings will be biased?

Wasn't she also advocating legislating from the bench when she said the "court of appeals is where policy is made." Is this "good Behavior?"

In interviews, Justice Ginsburg appealed for more women on the court, claiming they were needed because the male justices had "never been a 13-year-old girl." Again, doesn't the statement reveal

she will rule with personal bias? Isn't she admitting she and Justice O'Connor ruled with personal bias when she admitted they were "together in all the gender discrimination cases?"

Ginsburg also advocates that Congress can get around the Second Amendment by using the interstate commerce clause of the Constitution to limit the rights that gun owners have under the Second Amendment. Isn't this trying to subvert the Bill of Rights? Is this "good Behavior?"

Is it the justices' role to decide what the Constitution should say rather than what it does say? Are they violating their oath of office when they vote with personal bias? Do they have the right to use their rulings to amend the Constitution on our behalf?

Shouldn't we demand justices who will doggedly protect the Constitution, personal beliefs irrelevant, sex of the justice irrelevant, race of the justice irrelevant, political biases irrelevant? Doesn't anything less subvert and destroy our Constitution?

Justices Breyer, Ginsburg and Sotomayor openly admit using their personal values and personal agendas when voting. Should they be impeached and removed from the court? It's worth some thought.

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, 5th Street Bagelry and www.craigbosley.com. To contact him directly, you can email him at craig@craigbosley.com. His columns are available at www.craigbosley.com.