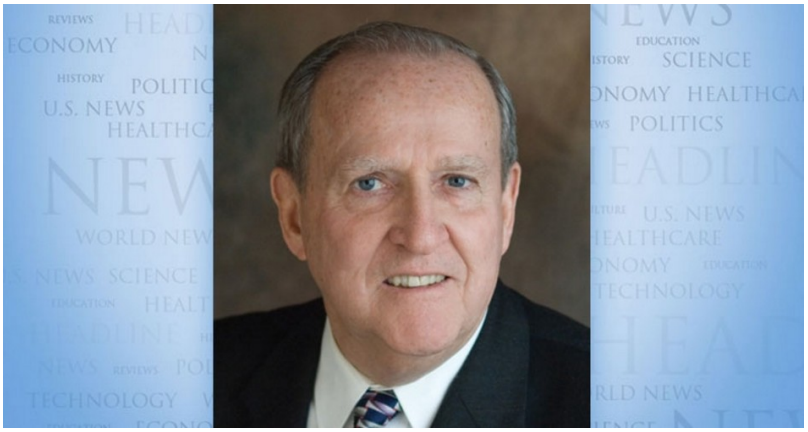
Written by **John F. McManus** on June 26, 2020

Court Oversteps Constitutional Boundaries



The Founders of our nation intensely loathed democracy. It's not terribly difficult to find statements expressing such a distaste from John Adams, Ben Franklin, Alexander Hamilton, Edmond Randolph, James Madison, and others. What those men believed wasn't some new preference arising in the late 18th Century. They had studied history, including the designs of both honorable and dishonorable men, and sought to produce workable and sensible rules on which all Americans should be governed.

Madison's comprehensive condemnation appears in *Federalist* essay #10, where he explains: "democracies have ever been spectacles of turbulence and contention; have ever been found incompatible with personal security or the rights of property; and have in general been as short in their lives as they have been violent in their deaths." Tell that to most high school civics teachers today and watch eyebrows raised in wonderment.

The men who produced the U.S. Constitution gave us a Republic, the rule of law. They carefully rejected Democracy and its rule of either a mob or a misuser of office. For them — and for us — the Founders insisted on the adherence to law, not following what a mob or even a few highly placed judges wanted. And after the states ratified the Constitution, our nation had a government whose branches contained individuals who were required to obey the law (the Constitution), not the whims or preferences of any branch of the government, or any group of citizens. If an already enacted law was found to be deficient and in need of change, they expected the lawmaking branch (the Congress) to act to fix it.

The Supreme Court has just relied on what democracy truly is, a government by partisanship, whim or evil design, not by adherence to the strictures contained in the Constitution. There is no law-making power awarded to the Supreme Court and its justices, They are solemnly required to act only in accordance with the document they swore to uphold. The Court's 6-3 majority ruled in *Bostock v. Clayton County* that the word "sex" in the 1964 Civil Rights Act doesn't mean either "male" or "female" (the meaning relied upon in the 1964 law) and now includes "sexual orientation" or even chosen "gender identity." Six of the individuals wearing those black robes greatly enlarged the meaning of the word "sex" to include even manipulations in the biological makeup of human beings or conduct that is clearly forbidden by the Almighty. They arrogantly broadened what a 1964 law stated by inserting a new meaning of a single word to include categories of human choices not even considered in the 1964 law.

If there was a need to address the newly coined categories known as "sexual orientation" or "gender identity" (I doubt such a need exists and I would voice opposition to any claim that there is), let the lawmaking body do its duty. That's the Congress, not the assumed power of the Judicial branch. In fact, Congress has repeatedly refused to enact laws expanding the meaning of the word "sex." But the Supreme Court has now said that the lawmakers of 1964, and many others during the past five decades

really meant to include the desires of homosexuals and transgenders.

The democracy-favoring six justices assumed power to rewrite a duly enacted law's meaning. They kow-towed to a small segment of society and expanded meaning of the word "sex," enlarged its scope, and showed how democracy works. They effectively made a new law, a power never granted them by the Constitution. Where the 1964 law prohibited discrimination based on sex, the current Court's majority decided to include discrimination based on a person's choice of sex, even a person's attempt to change his or her sex through some medical procedure. In his dissent, Justice Samuel Alito called what his six colleagues had done "a brazen use of authority." It was also an *illegal* use of authority.

The justices have now created a situation where the leader of a religious school for youngsters cannot discharge a teacher who, after months or years of being known as a man while teaching, shows up one day in women's clothing and announces that he is now a woman. Nor can such a school refuse to hire a known homosexual. Six Supreme Court judges claim it would be illegal to discharge such persons or refuse to hire them. That's how the 1964 law has been altered.

The justices will insist that they were merely "interpreting" the 1964 law to conform with current attitudes and practices. But interpreting any law is not their job however widely such a belief is being promoted today. A jurist's job is to apply the law, not find a way to skirt its real intent. Thomas Jefferson recomended reliance on the "safe and honest meaning" of a law at the time it was enacted." He spoke out against "trying what meaning may be squeezed out the text, or invented against it." He, too, was an opponent of democracy. But such "squeezing" has become common practice.

Congress can put a stop to judicial power run amok. It can limit the jurisdiction of the Supreme Court and lower federal courts. Members of Congress might be surprised to learn of this brake on the Judicial Branch. Tell him or her to check out Article III, Section 2, Paragraph 2. And ask them and fellow Americans to cease referring to our Republic as a Democracy.

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