



Written by [Patrick J. Buchanan](#) on February 10, 2017

Trump Must Break Judicial Power

“Disheartening and demoralizing,” wailed Judge Neil Gorsuch of President Trump’s comments about the judges seeking to overturn his 90-day ban on travel to the U.S. from the Greater Middle East war zones.

What a wimp. Did our future justice break down crying like Sen. Chuck Schumer? Sorry, this is not Antonin Scalia. And just what horrible thing had our president said?

A “so-called judge” blocked the travel ban, said Trump. And the arguments in court, where 9th Circuit appellate judges were hearing the government’s appeal, were “disgraceful.” “A bad student in high school would have understood the arguments better.”

Did the president disparage a couple of judges? Yep.

Yet compare his remarks to the tweeted screeds of Elizabeth Warren after her Senate colleague, Jeff Sessions, was confirmed as attorney general.

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Sessions, said Warren, represents “radical hatred.” And if he makes “the tiniest attempt to bring his racism, sexism & bigotry” into the Department of Justice, “all of us” will pile on.

Now this is hate speech. And it validates Majority Leader Mitch McConnell’s decision to use Senate rules to shut her down.

These episodes reveal much about America 2017.

They reflect, first, the poisoned character of our politics. The language of Warren — that Sessions is stepped in “racism, sexism & bigotry” echoes the ugliest slander of the Hillary Clinton campaign, where she used similar words to describe Trump’s “deplorables.”

Such language, reflecting as it does the beliefs of one-half of America about the other, rules out any rapprochement in America’s social or political life. This is pre-civil war language.

For how do you sit down and work alongside people you believe to be crypto-Nazis, Klansmen and fascists? Apparently, you don’t. Rather, you vilify them, riot against them, deny them the right to speak or to be heard.

And such conduct is becoming common on campuses today.

As for Trump’s disparagement of the judges, only someone ignorant of history can view that as frightening.

Thomas Jefferson not only refused to enforce the Alien & Sedition Acts of President John Adams, his party impeached Supreme Court Justice Samuel Chase who had presided over one of the trials.





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Jackson defied Chief Justice John Marshall's prohibition against moving the Cherokees out of Georgia to west of the Mississippi, where, according to the Harvard résumé of Sen. Warren, one of them bundled fruitfully with one of her ancestors, making her part Cherokee.

When Chief Justice Roger Taney declared that President Abraham Lincoln's suspension of the writ of habeas corpus violated the Constitution, Lincoln considered sending U.S. troops to arrest the chief justice.

FDR proposed adding six justices to emasculate a Supreme Court of the "nine old men" he reviled for having declared some New Deal schemes unconstitutional.

President Eisenhower called his Supreme Court choices Earl Warren and William Brennan two of the "worst mistakes" he made as president. History bears Ike out. And here we come to the heart of the matter.

Whether the rollout of the president's temporary travel ban was ill-prepared or not, and whether one agrees or not about which nations or people should be subjected to extreme vetting, the president's authority in the matter of protecting the borders and keeping out those he sees as potentially dangerous is universally conceded.

That a district judge would overrule the president of the United States on a matter of border security in wartime is absurd.

When politicians don black robes and seize powers they do not have, they should be called out for what they are — usurpers and petty tyrants. And if there is a cause upon which the populist right should unite, it is that elected representatives and executives make the laws and rule the nation. Not judges, and not justices.

Indeed, one of the mightiest forces that has birthed the new populism that imperils the establishment is that unelected justices like Warren and Brennan, and their progeny on the bench, have remade our country without the consent of the governed — and with never having been smacked down by Congress or the president.

Consider. Secularist justices de-Christianized our country. They invented new rights for vicious criminals as though criminal justice were a game. They tore our country apart with idiotic busing orders to achieve racial balance in public schools. They turned over centuries of tradition and hundreds of state, local and federal laws to discover that the rights to an abortion and same-sex marriage were there in Madison's Constitution all along. We just couldn't see them.

Trump has warned the judges that if they block his travel ban, and this results in preventable acts of terror on American soil, they will be held accountable. As rightly they should.

Meanwhile, Trump's White House should use the arrogant and incompetent conduct of these federal judges to make the case not only for creating a new Supreme Court, but for Congress to start using Article III, Section 2, of the Constitution — to restrict the jurisdiction of the Supreme Court, and to reclaim its stolen powers.

A clipping of the court's wings is long overdue.

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