



Written by [Selwyn Duke](#) on November 26, 2018

Justice Roberts' Rebuke of Trump: Time to Kill the Courts' Unconstitutional Power

In his [Obergefell v. Hodges](#) same-sex "marriage" dissent in 2015, U.S. Supreme Court Chief Justice John Roberts (shown) lamented the opinion and wrote, "[D]o not celebrate the Constitution. It had nothing to do with [the ruling]." It was a bold rebuke of his colleagues in the majority, whom he was condemning for, it's clear, acting not as judges but politicians. This is the same John Roberts that just rebuked President Trump for complaining that too many jurists act not as judges but politicians.



Of course, this is also the same John Roberts who in 2012 acted as a politician, essentially "rewriting" ObamaCare so he could vote to uphold the law. It's all just more evidence for why the judiciary, being quite fallible, should not enjoy the power known as judicial supremacy.

For the record, Roberts responded last Wednesday to Trump's criticism of the judiciary with what is a "believe me, not your lying eyes" statement, saying, "We do not have Obama judges or Trump judges, Bush judges or Clinton judges. What we have is an extraordinary group of dedicated judges doing their level best to do equal right to those appearing before them. That independent judiciary is something we should all be thankful for."

The judiciary certainly has often been independent — of sanity, principle, the law, and even the Constitution itself. What it's generally not independent of is ideology, which clearly governs far too many rulings.

By leaping to his lawyer brethren's defense (and into lunacy), Roberts brings to mind a point Thomas Jefferson once made. "Our judges are as honest as other men, and not more so," the founder warned in 1820. "They have, with others, the same passions for party, for power, and the privilege of their corps."

Clearly driven by concern for the privilege of his corps, Roberts's statement strains credulity. If judges are ever and always just impartial gatekeepers, why was the Left going ballistic during Brett Kavanaugh's confirmation hearings? Why do SCOTUS nominations today always spark the most rancorous, passion-possessed battles?

Roberts once correctly said that a judge's job is merely to call "balls and strikes." Yet baseball players and fans don't protest, scream, riot and hurl false accusations over a given umpire's hiring, precisely because such officials actually do make a good-faith effort to apply the rules without any obvious bias in favor of one team or another (this doesn't mean fans don't take issue with a given call).

But political people do protest, scream, riot, and hurl false accusations over judicial nominees precisely because judges do clearly often exhibit bias in favor of, usually, just "one team."

Ironic here is that leftists, despite making Roberts their anti-Trump champion for a day, will often scoff at the very idea of judicial impartiality. In fact, after making the point in June that "'conservative' and



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‘liberal’ *should* be irrelevant terms when speaking of justices,” I got into a [minor Twitter dust-up](#) with a liberal who wrote that this was “a semi-naïve view of the law.”

This attitude is unsurprising from a group (leftists) that doesn’t believe in Truth (absolute by definition) and thus can’t believe in principle and, hence, can’t see why anyone would be principled. They project their own situational-values mindset onto others.

In reality, originalism is not only possible but practiced, albeit by a precious few judges. But “naïve” is the best thing one could say about something else. Last Wednesday evening, George Washington University Law School professor Jonathan Turley appeared on *Tucker Carlson Tonight* and commented on Roberts’s rebuke, saying that while he has disagreed with the notorious Ninth Circuit court, he has “never questioned the motivations of those judges” because judges “really do try to get things right; these are decent people trying to come to the right decision.”

Seriously? Is there no judge — not even one in America — with bad motivations, who doesn’t care about the “right decision” but will reliably deliver a left decision? If so, this is the only field anywhere, in the annals of man, comprised of pure, angelic beings without sin — and then, by all means, they should govern us as an oligarchy. (Video below of Turley waxing romantic about the lawfare class.)

Now, I’ll mention that a judge I know well — a truly wonderful man — told me in no uncertain terms that “most judges are sociopaths.” When I pressed him and said he must be speaking loosely, he replied that, no, he really does mean *most*. This may or may not be accurate, but, regardless, there’s no question that judges have arrogantly overstepped their bounds to trump popular will and make or break law as their passions dictate.

Having said this, I get it. Turley is *friends* with the lawfare set, runs in its circles and probably goes to its cocktail parties; he wants to stay on good terms with its members for personal and professional reasons. He has to defend the brotherhood.

The point is that Roberts’s and Turley’s statements simply aren’t serious. They’re the marketing lines of men concerned with “power, and the privilege of their corps.”

More and more such power is arrogated over time, too, yielding ever more brazen judicial activism. There was the aforementioned *Obergefell v. Hodges* opinion, which the late Justice Antonin Scalia said contained not even a “thin veneer of law.” There was the January “Some Presidents are More Equal Than Others” opinion [stating](#) that even though DACA (Demanding Amnesty for Cultural Annihilation) was created via executive order by Barack Obama, it could not be ended via executive order by Trump. Then there were the “judges” who — despite a ‘50s law stating that a president may ban “any alien or class of aliens” (so, yes, an actual “Muslim ban” is *entirely* lawful) — ruled against Trump’s travel prohibitions, without even “striking down” the law. I guess their guiding principle now is Aleister Crowley’s credo, “Do what thou wilt shall be the whole of the law.”

So these judges, along with Roberts and Turley, also prove Jefferson right about something else: judicial supremacy should not exist.

Especially since it doesn’t — as a *constitutional* provision.

This judicial “power” — whereby the courts’ opinions on law’s constitutionality constrain the other two governmental branches — is *not in the Constitution*.

Rather, it was declared unilaterally by the courts themselves, most notably in the *Marbury v. Madison* decision (1803). Yeah, it was that “power, and privilege of their corps” thing again.



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Jefferson correctly [said](#) that judicial supremacy places “us under the despotism of an oligarchy” that is “in office for life” and beyond the “elective control.” In other words, we’re not a government of, by and for the people if five unelected lawyers can overrule the will of 328 million Americans.

In fact, Jefferson warned that judicial supremacy would make our Constitution a *felo de se*, an “act of suicide” — and we are killing ourselves.

And we must stop.

How? Just pressure your elected officials, who’ve taken an oath to uphold the Constitution, to just say “No!” to unconstitutional judicial usurpation. Having neither army nor police force, judges enjoy their extra-constitutional, un-American power at the other branches’ pleasure. Refuse to obey, and it goes bye-bye.

Thus, were I a president or governor, my response to unconstitutional rulings would be: The judges have made their decision. Now [let them enforce it](#).

Just let them try, let them cry. Choose liberation and once again be governed by the rule of law — not the rule of lawyers.

Photo of U.S. Supreme Court Justice John Roberts: AP Images



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