



11 of 62 DOCUMENTS

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The new Republican House majority intends to require that all legislation cite specific congressional authority. Tea party activists are calling themselves constitutional conservatives. A federal judge ruled Obamacare to be unconstitutional.

Many in Washington are worried. The idea that the Constitution is relevant to the operation of the federal government is a frightening concept to those constantly seeking to expand Leviathan. It has been years since the Constitution has had any meaningful impact on what is done in Washington.

The document creates a national government with only limited and enumerated powers. The 13th, 14th and 15th Amendments, passed in the immediate aftermath of the Civil War, expanded national power to protect individual liberty in the states. The amendments did not increase Washington's authority to infringe the liberty of the same individuals.

However, judicial "interpretation" changed over the years. Although the Founders provided a method to amend the nation's governing document, activists preferred to take a judicial shortcut. This turned the Supreme Court into a sort of continuing constitutional convention, with new amendments routinely enacted with just five votes.

Explained the high priest of feel-good jurisprudence, Justice William Brennan: "It is arrogant to pretend that from our vantage we can gauge accurately the intent of the framers on application of principles to specific, contemporary questions."

Yet the real arrogance is the claim that unelected judges are entitled to overturn settled legal understandings and complex political compromises because they prefer a different outcome. The proper interpretive objective is not to discern someone's secret intent, but to respect the common expectations of the legislators and citizens who drafted and passed the provision at issue.

If the people's intentions are not controlling, then what is the purpose of the Constitution? The document should simply authorize the executive and legislative branches to do whatever they feel like, subject to judicial review, based on whatever the judges feel like. Why bother with the pretense that constitutional interpretation is occurring?

Not every constitutional question has a clear answer, of course, but that doesn't mean honest application of originalist principles allows any answer. The nation's founding document envisioned a national government of enumerated powers. A jurisprudence of unlimited national power violates the nation's basic law.

The problem of government abusing power and violating liberty is eternal. That's why the Founders consciously limited the national government by enumerating its authority.

Has time passed their handiwork by? Then the people can implement Article V and amend the Constitution. It isn't easy, but that is no argument against following the law.

In contrast, advocates of a "living" Constitution prefer lawmaking by zeitgeist. If it feels good, interpret it -- that was always the unstated approach of Justice Brennan and those who shared his philosophy.

The basic problem is lack of fidelity to the Constitution, not "judicial activism." The Founders sought to limit the powers of government. To be true to that objective, judges have an obligation to act to enforce the Constitution.

Thus the court challenge to Obamacare.

Even the modern Supreme Court has recognized limits to the Commerce Clause, stating bluntly that the justices were not ready to accord the national government unlimited "police power" akin to that of states.

If the federal government can force Americans to engage in commerce by buying health insurance, it can insist that they purchase automobiles from bankrupt manufacturers, acquire securities from failing Wall Street concerns, become farmers by growing food in their yards and exercise three times a week.

Upholding this power would obliterate the constitutional scheme of limited government. There would be no need for Article 1, Section 8, other than one clause allowing Congress to regulate commerce.

If the American people want a national government of unlimited power, they can have one. But to do so, they should amend the Constitution. And if they don't want one, it should not be imposed on them by judges acting on personal whim.

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