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SOCIAL AND ECONOMIC CONSERVATIVES JOIN HANDS FOR JUDICIAL REFORM

When President Ronald Reagan, in discussing the alleged differences between the legislative priorities of the social conservatives and the economic conservatives, said that "we have only one agenda," he was widely reported to be giving lip service to the social conservatives while giving the action to the economic pragmatists. Reagan's words became grist for the mill of the reporters whose stock-in-trade is driving wedges between the Reagan Administration and the constituency that elected him.

It is now clear that the social conservatives and the economic conservatives among the Reagan coalition are marching together on what is probably the premier issue of the present time. That issue is the reform of the Federal judiciary, and the goal of both groups is to stop the arrogant abuse of power by the lifetime-tenured Federal judges.

Within a three-week period, Attorney General William French Smith, that model spokesman of the economic conservatives, and Paul Weyrich, the spokesman for the Free Congress Foundation and the Committee for the Survival of a Free Congress (described by the media as "the New Right"), both launched broadside attacks on the Federal courts for their abuse of power during the last decade.

In a speech to the Federal Legal Council, Attorney General Smith accused the Federal courts of "constitutionally dubious and unwise intrusions upon the legislative domain." He said that the Justice Department will try to move the law of the land in the direction of the Reagan policies on abortion, school desegregation, sex and race quotas in jobs, envirionmental protection, and the rights of aliens and prisoners.

Attorney General Smith was specific in his accusations. He said the Federal courts have engaged in "extravagant" efforts "to restructure entire school systems in desegregation cases," to take over "entire prison systems and public housing projects," and to force business and government to achieve "numerical results based upon race or gender" (the customary euphemism for quotas).

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A couple of weeks later, Paul Weyrich unveiled a 382-page book published by the Free Congress Research and Education Foundation called "A Blueprint for Judicial Reform." It is a compilation of 22 scholarly studies and papers on various aspects of judicial abuse of power, along with constructive suggestions for reform.

Authors of the various papers include constitutional law professors such as Jules B. Gerard, Charles E. Rice, William A. Stanmeyer, and Grover Rees III; prominent practicising constitutional lawyers such as William B. Ball; constitutional lawyers who have served on the Senate Judiciary Committee such as Senators Sam J. Ervin, Jr., John P. East, Orrin Hatch, and Charles Grassley; and State Attorney General John Ashcroft. Articles by two leading economic conservatives are also included: George Gilder and Thomas Sowell.

The book presents a variety of proposals for reform of many facets of the judiciary problem such as to give Congress (by a two-thirds vote) the right to reverse Supreme Court rulings or to remove Federal judges from office; to require Federal judges to stand for reelection by the people; to withdraw jurisdiction from the Federal courts; to require judicial nominees to be more responsive to Senators in their "advise and consent" function; to resurrect the viability of the Tenth Amendment; to give Congress a veto over Federal rule-making agencies; and to provide tax credits to attorneys who voluntarily provide free legal services to the poor (as an alternative to funding the Legal Services Corporation).

The "Blueprint for Judicial Reform" also includes a fresh look at the First Amendment and the religion issue by constitutional law professor James McClellan, who is now Chief Counsel of the Senate Subcommittee on Separation of Powers.

The smart politicians have already sensed that what is called "the Imperial Judiciary" is the core issue of the 1980s because it touches a half dozen sensitive issues of paramount concern to Middle America. That is why there are 31 bills now pending in Congress designed to strip the Federal courts of their asserted power to rule on such issues.

These two major criticisms of the Federal courts launched by Attorney General Smith and by the Free Congress Foundation provide the scholarly backup for a national debate of immense constitutional, political, social, and moral dimensions. They also prove that Ronald Reagan was right when he said his supporters "have only one agenda."

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