Cheers For An Independent Judge

by Phyllis Schlafly January 10, 2007

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Marketing policy of the book publishing industry now calls for a catchy title followed by an explanatory subtitle. The Tyranny of Tolerance was published this month with the subtitle: "A Sitting Judge Breaks the Code of Silence to Expose the Liberal Judicial Assault."

This sitting state court judge, Robert H. Dierker Jr., speaks from first-hand experience with some of the cases he discusses. Before becoming a judge 20 years ago, he represented the City of St. Louis in the landmark case in which activist federal judges levied a billion dollars of new taxes on Missouri citizens, a legislative power now unconstitutionally grabbed by state courts, too.

After he became a judge, Missouri's ban on partial-birth abortion came into his court in 2000. It became his duty to witness that gruesome procedure, and he may be the only judge who ever saw one.

The liberals usually claim they want an "independent" judiciary, unbridled free speech, and tolerance for all points of view. Now they are trying to kill the messenger because they can't counter Judge Dierker's copiously documented arguments. Judge Dierker asserts that "illiberal liberals are at the root of the constitutional crisis that we face today." In a nutshell, they act as though "History and tradition count for nothing; the language of the Constitution itself counts for little; the only criterion is whether a ruling will advance the liberal agenda."

The false theory that the written text of the U.S. Constitution is "evolving" has been used by the illiberals to transform obscenity, abortion and sodomy from crimes into constitutional rights. Their accomplice in judicial attacks on religion, the ACLU, Judge Dierker says, should be called the "Anti-Christian Litigation Union."

The illiberal liberals are angry that this sitting judge has exposed their game plan to use the courts to override self-government. The radical feminists are more than angry; they are trying to get Judge Dierker censured and/or fired, and have even suggested he be subjected to a "judges' book review" to prevent judges from "offending the bench."

The feminists' tantrums remind us of MIT Professor Nancy Hopkins, who said she wanted to "throw up" after hearing Harvard President Larry Summers utter words heretical to feminist ideology. Summers tried to appease them by repeatedly apologizing and offering millions of dollars to finance feminist academic goals, but the merciless feminists forced him to leave Harvard anyway.

I'm betting that Judge Dierker will not be intimidated by the radical feminists' histrionics because he has the great quality of "Manliness," so well described in Harvard Professor Harvey Mansfield's recent book of that name. Mansfield defines manliness as "confidence in the face of risk" and assertiveness in causes beyond themselves.

Judge Dierker, indeed, has taken on a cause beyond himself even though he recognizes it is "the third rail" of politics. This battle desperately needs to be fought by a sitting judge who can report on the feminists' judicial assault on the U.S. Constitution, on the separation of powers, and on the equal protection clause, which they pervert to function like George Orwell's "Animal Farm" where "All animals are equal, but some animals are more equal than others."

Professor Mansfield describes the philosophical background of what he calls feminist "nihilism," i.e., an attack on men, morality, marriage, masculinity, motherhood, and human nature. Judge Dierker likewise understands that the radical feminist agenda "is based on hatred for men" and disdain for what the feminists repeatedly deride as the Ozzie and Harriet traditional family lifestyle.

In criticizing what he calls "The Cloud Cuckooland of Radical Feminism," Judge Dierker describes how the feminists use sexual harassment litigation to punish men. Cooperative courts now allow sexual harassment litigation based on words alone, without evidence of objective harm to the woman or job detriment.

Sexual harassment claims have become the weapon by which the feminists vent their malice toward men. The "illiberal liberals and the feminists don't want equality; they want to make some people more equal than others. And they've made it happen through their dominance of the courts."

Judge Dierker accurately points out the mischief of the gender commissions that demand changes in the way courts treat women, quotas in judicial appointments, and special training to re-educate judges and lawyers to toe the feminist line, especially in cases involving domestic violence. This feminist indoctrination encourages prosecutors to "pursue rape cases to trial, regardless of the merits of the case" (like the prosecutor of the Duke lacrosse players?), and never to criticize feminist jurisprudence.

Why hasn't Congress used its constitutional power to limit the jurisdiction of federal judges? Maybe because the "tyranny of tolerance" has so intimidated congressmen that they lack the manliness to risk the tantrums of the illiberals and the feminists.