Judges Get Their Comeuppance

by Phyllis Schlafly November 12, 2010

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The most important decision the voters made on November 2 may turn out to be Iowa sending out to pasture three state supreme court judges who had voted to make same-sex marriage constitutional, overriding the wishes of the people in Iowa and their elected representatives. The reverberations are cascading nationwide, and we hope this landmark election signals the beginning of the end of rule by arrogant supremacist judges.

During the last several decades, many judges have decided they are supreme over the other branches of government. They are backed up by a chorus of lawyers, law school professors, and leftwing activists who say we must accept judicial pronouncements as the law of the land.

The Founding Fathers designed the judiciary to be the weakest of the three branches of government. But supremacist judges over the last half century have expanded the judiciary into the most powerful branch of government, making policy decisions on the most vital and controversial issues of the day (such as the supremacist federal judge who presumed to overrule the massive vote of Californians on the issue of same-sex marriage).

Iowa is a good example: the Iowa state legislature had defined marriage as the union of one man and one woman. But the state supreme court decided to overrule the legislature and make Iowa the first state in the Midwest to put same-sex marriage on a par with husband-wife marriage.

When the three Iowa judges received only 45 percent approval on November 2nd, the law school professors were indignant. From far-away California, the Irvine law school dean cried, "Something like this really does chill other judges."

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Bob Vander Plaats, who led the campaign to defeat the three judges, rejoiced about the chill, saying, "I think it will send a message across the country that the power resides with the people." Drake University political science professor Dennis Goldford admitted, "Kicking out those three justices would be a warning shot across the judiciary's bow."

Some states elect their state judges in a general election in which candidates run against each other. Iowa is one of the states that, instead, use what is called the Missouri plan.

Under this procedure, the governor appoints state judges from a very small list of nominees chosen by the state bar association and then, after a term of years, the judge goes on the ballot, without any opponent, where the people can simply vote Yes to retain him in office or No to bounce him out.

If the judge gets a majority (sometimes a super-majority is required) of Yes votes, he wins "retention" and serves another term. If not, he is history.

Since states began adopting the Missouri plan in the 1960s, nearly all judges win retention, and very, very seldom is any judge rejected. Not a single Iowa judge has lost his perch on the bench since Iowa adopted the Missouri plan in 1962.

Almost the only judge who lost retention that the public remembers was California's supreme court Judge Rose Bird and a couple of her associate judges who were cast out in 1986.

The powers that be in Iowa tried to tell Iowa voters that they had an obligation to vote Yes on the three judges in order to maintain an independent judiciary. But what kind of an un-American election is that when you are told by important people you should vote Yes but not No?

Former Supreme Court Justice Sandra Day O'Connor, who for several years has been trucking around the country to support judicial supremacy, injected herself into the Iowa campaign by trying to make it unacceptable to vote No on any judge. She also joined the political campaign in Nevada where ballot Question 1 on November 2nd would have replaced the current voters' election of judges with the Missouri plan.

Robo-calls from O'Connor to Nevada voters were mistakenly activated to ring in voters' homes at one o'clock in the morning. That inconvenient, unwanted phone call was unlikely to win votes, and Nevada sensibly rejected Question 1 by 58 to 42 percent.

Oklahoma also allowed its citizens to make important decisions on November 2nd. A ballot referendum passed by 75 percent to require that official state actions be in the English language, a second ballot referendum passed by 70 percent to forbid courts from using or considering international law or sharia law, and a third referendum passed by 74 percent to require that each person present a document to prove his identity in order to vote.

We hope judicial supremacists don't try to overrule the vote of the people in Oklahoma. Fortunately, the judges can't do anything about the firing of the three Iowa judges; they are gone.