The Biggest Election Issue In 2002

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The media's passion to report what is going to happen tomorrow rather than what already happened is filling newspaper pages and TV channels with predictions of whether Republicans will retain the House and/or win the Senate. The predictions are virtually worthless.
The coming election won't decide whether or not we go to war, whether the Homeland Security bill will pass, whether seniors will get their prescription drugs paid for by the taxpayers, or whether Social Security will be privatized. But the 2002 election will decide whether constitutionalists or judicial activists control the federal judiciary for the next 30 years.

Bill Clinton appointed almost half of all federal judges now serving and they will be on the bench for the rest of their lives. In addition to the 373 Clinton-appointed judges, federal judges appointed by Presidents Jimmy Carter and Lyndon Johnson are still deciding cases.

It was a Lyndon Johnson-appointed judge, still on the court, who in 2002 ordered the forcible drugging of a prisoner who has never been tried or convicted, but has been kept in prison for nearly five years, longer than his sentence would have been if he had been convicted. The case of United States v. Sell is now on appeal to the Supreme Court.

Although Republican Presidents made some judicial mistakes, George W. Bush has done his job by nominating judges who respect the Constitution. The Daschle-Leahy Democrats, who control the U.S. Senate, have refused to confirm them or even to allow the Senate to vote on most of them.

The federal judges appointed by Clinton, Carter and Johnson are the biggest threat to constitutional self-government today. The federal courts today are precariously balanced between activists and constitutionalists, and only the election of a Republican Senate can restore balance to the courts.

We will continue to have an activist judiciary unless we balance the courts with judges appointed by President George W. Bush. While the American people typically have the opportunity to correct a bad election result four years later, a bad legal precedent may last forever.

We have suffered a half century of activist/liberal court decisions that seriously threaten to undermine our Rule of Law. Activist judges have been advancing a liberal agenda that opposes religious values, conventional morality, the separation of powers, our structure of federalism, the Rule of Law, and even the right of all of us as American citizens to govern ourselves.

Some of our most far-reaching social, economic and political decisions have been made by judges rather than by our elected representatives. These include decisions about criminal procedures, prayer and the Ten Commandments in public schools, internal security, pornography, forced busing, racial preferences and quotas, term limits, abortion, and election procedures.

The federal courts have invented new "rights" such as the right to abortion and welfare payments. The federal courts have arbitrarily overturned the votes of the people in California, Colorado, Arizona and Washington State who had the old-fashioned belief that they could exercise self-government.

The federal courts have set themselves up as a super-legislature and grabbed authority to micromanage schools, prisons, hiring standards, and legislative reapportionment. The trouble with some judges is that once they are appointed to the federal judiciary, they seem to think they have been anointed to rule over us lesser mortals.

Liberals love to talk about the "living" Constitution. Liberal icon Justice William J. Brennan wrote about the "evolution" of constitutional doctrine and the law as "a moving consensus." Justice John Paul Stevens based his anti-capital punishment decision (Atkins v. Virginia) this year on "a national consensus" and "polling data."

The reason the Democratic Senate is holding up President Bush's nominees is that Senators Tom Daschle and Patrick Leahy want more judges who believe in constitutional "evolution." Most Americans, on the other hand, want judges who rely on the United States Constitution as their point of reference.

We have a constitutional remedy to solve many of these problems. Congress should limit the jurisdiction of the federal courts, as authorized in Article III of the U.S. Constitution.

Congress should pass Rep. Todd Akin's (R-MO) bill to withdraw jurisdiction from the courts over cases regarding the Pledge of Allegiance to the Flag. This is a great issue on which Congress should exercise its Article III authority.

It's time for grassroots Americans to realize how the federal courts have grabbed powers that violate the Separation of Powers and turned themselves into an Imperial Judiciary. November 5th is our big opportunity to restore our constitutional form of government by electing Senators who will confirm good constitutionalist judges and Representatives who will curb the power of the federal courts.