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The Most Dangerous Man in America?

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“It is alarming to see just how rapidly the United States Constitution is being subverted and made to support liberal perspectives that would have alarmed the Founding Fathers,” Dobson said. Alarmed by recent federal court actions and looking back over the past four decades of judicial activism, Dobson warns that “Representative government is being sacrificed because the court has grabbed power.”

As evidence for his case, Dobson identified three critical U.S. Supreme Court decisions shaped by Kennedy as the author of the majority opinions. Specifically, Dr. Dobson pointed to the 1992 Planned Parenthood v. Casey decision as well as Romer v. Evans in 1995, and Lawrence v. Texas, handed down this past June. All three of these cases represent fiercely contested fronts in America’s cultural war. In each case, Justice Kennedy defined the decision as the author of the majority opinion and, in all three cases, Kennedy pushed the court to the left.

A graduate of Stanford University, the London School of Economics, and Harvard Law School, Justice Kennedy was first nominated by President Ford to a seat on the U.S. Court of Appeals for the 9th Circuit—the court that recently handed down the infamous decision outlawing the words, “under God” in the Pledge of Allegiance, and just recently forced a halt to the California recall vote. Justice Kennedy was appointed to the United States Supreme Court by President Ronald Reagan, after his first choice for the seat, Judge Robert Bork, was rejected by the U.S. Senate. The fact that Justice Kennedy was acceptable when Judge Bork was not should have been a significant signal of what was to come.

For years, legal scholars have noted that conservative judges on the U.S. Supreme Court tend to move left over time. As Stewart Taylor of Legal Times reminds, “Republican presidents have picked seven of the nine current Supreme Court Justices. But as the Court demonstrated so dramatically by blessing both gay rights and racial preferences, the result has been nothing like the “conservative Supreme Court” the media often depicts.”

On issues ranging from racial preferences to gay rights and abortion, these Republican-appointed justices have moved to more liberal positions over time. Justices John Paul Stevens, Sandra O’Connor, Anthony Kennedy, and David Souter have voted to strike down laws against homosexual activity, have upheld Roe v. Wade, and have ruled against prayer at high school graduations and at football games.

At the same time, polls consistently indicate that a vast majority of Americans hold positions on these issues considerably to the right of these justices. A key question is this: How do we explain the leftward drift of these judges appointed by conservative presidents? Liberal observers, pleased with the leftward movement of these justices, speak of them as “evolving” or “maturing” into more liberal positions. Others point to the fact that the justices are in close and constant contact with their clerks, drawn from the liberal environment of the nation’s elite law schools.

More importantly, the justices of the U.S. Supreme Court read the newspapers. They, like all others in Washington, are political figures who care—whether they admit this to be the case or not—what the liberal media think of them. They want to be admired and respected by the cultural elite. After just a few years in Washington, these justices find themselves in the middle of a social and cultural context that pulls them decidedly away from conservative positions. To put it bluntly, conservative positions on moral issues are not widely respected at cocktail parties inside the Washington beltway.

The cultural elites, including leading figures in the media, entertainment, academia, business, and government, hold political views and worldview commitments that are far more liberal than those held by ordinary Americans. The Hollywood-New York-Washington social scene is dominated by persons who see traditional sexual morality and so-called ‘family values’ as outdated and repressive. They are perplexed by the fact that so many Americans hold conservative convictions, are pro-life, and think that homosexual behavior is simply wrong.

Power and prestige are intoxicating substances. Washington’s culture is driven by a compulsive anxiety for persons to be seen as important and progressive. Add to this the reality that Washington’s hothouse atmosphere is determined largely by the media, and even with added diversity through new media outlets, the media culture is still far more liberal than the rest of the nation. As one insider explained, some justices keep at least one eye on the headlines—and fear making a decision that would produce the media’s disdain.

So, with a majority of the nine current justices appointed by pro-life Republican presidents, *Roe v. Wade* is still the law of the land—and sodomy laws are now unconstitutional. Issues like homosexual marriage are soon to come before the Court. Will Justice Kennedy see this as another right by which Americans can “define their own existence?”

