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The Courts Today—Loaded Dice on a Slippery Slope

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For hundreds of years, citizens in western countries have looked to the courts for justice, for the unbiased application of law to individual cases. The appeal to the courts has been an appeal to impartiality, to accumulated wisdom and precedent. Those bringing their cases before the courts have done so in the hope and expectation that the learned judges will apply "the rule of law" equally, fairly and "without prejudice". That is, that the facts and arguments presented will be weighed against current laws and the result will be justice as generally understood. Sadly, this is no longer the case.

Evidence continues to mount that courts in both Canada and in the US are no longer detached arbiters of justice, dispassionately connecting the dots for their unlearned fellow-citizens. They have enthusiastically embraced their new social activist roles as de facto legislators, usurping that function from the elected representatives and are shamelessly proclaiming new laws and throwing out those laws with which they disagree. In the US, the Supreme Court has decreed that "same-sex marriage" shall be permitted in all 50 states, effectively short-circuiting the dialogue and debate which has raged from state to state. In Canada, the Ontario Superior Court has clearly sided with the anti-God perspective of the Legal Society of Upper Canada (LSUC) in ruling that graduates from Trinity Western University's (TWU's) proposed law school may be refused a licence to practice in Ontario with that court's approval.

The 5-4 decision by the Supreme Court of the United States (SCOTUS) was accompanied by the scathing dissent of the four justices who disagreed, revealing the deep level of their concern—not only with the ruling itself but with the process by which nine unelected judges become the effective " rulers" of a nation. The written dissenting opinions of Justices Roberts, Scalia, Thomas and Alito are worth reading in their entirety (find excerpts here[1]). For the purposes of this article, a couple of points may be sufficient.

Justice Scalia says the ruling undermines the most basic right of Americans established by the Revolution of 1776—the right to govern themselves—giving the right of rule instead to nine unelected judges. As an aside, he points out that not one of the nine judges currently on the bench is an evangelical or protestant of any denomination, although nearly one-quarter of US citizens ascribe to that worldview.

He rightly says that would not matter if they were honestly applying constitutional law instead of deliberately enforcing a social transformation according to their own world views. Justice Scalia goes on to condemn the "hubris" of the decision and the vagueness of its claims.

Justice Thomas decries the stated purpose of the Court's action in protecting "dignity", something for which he rightly says the court has no mandate; he also points out that dignity is not something that can be conferred or taken away by any law or court.

The Canadian ruling by Ontario's Divisional Court panel ignores religious liberty entirely. The 3-person panel chose instead to pontificate on the court-created "right" of students to live as they wish, even while attending Trinity Western University, a school built and run with a clear mandate to promote a biblical worldview. It remains a question why those who disagree with Trinity's principles and lifestyle covenant for students would want to attend. There are, after all, other law schools like those which churned out our current batch of judges and lawyers all

across Canada, including those who made this ruling. In fact the ruling itself shows the need to have an alternative law school where future lawyers could learn to apply Canadian law, with its inherited biblical foundations, free from the taint of political correctness.

As pointed out in previous articles, Canadian courts have been used to strike down laws on abortion, prostitution and assisted suicide. Every ruling granting legitimacy to same-sex marriage and which ultimately led to its enshrinement in law in 2005 can be traced back to the Egan case in 1995, in which the SCOC took it upon itself to declare that even though the Charter of Rights and Freedoms made no mention of "sexual orientation", etc., it "should have". In other words, the SCOC illegally inserted the concept of equal access to the benefits of marriage into its "reading of" the Charter. A few court cases later and the courts—which are supposedly guided by the Charter, common law and precedent—simply created a supposed "right" out of thin air and then proceeded to create their own precedents. In 2005, when the Liberal government of the day pushed through "same-sex marriage" (a literal contradiction in terms), it justified its actions by pointing to the court decisions already made.

Today, the courts seem to be in free fall, wantonly granting special privilege to those with whom they agree and punishing those with whom they disagree. Until now, no federal government has had the courage, integrity or confidence to use Section 33 to challenge a bad decision of the courts. The Notwithstanding Clause has never been used federally. In very rare cases, it should be. The recent Supreme Court dictate which threw out the law protecting the vulnerable from assisted suicide is one example. The SCOC ruling gave Parliament only one year to write a new law. That time runs out in February. The Notwithstanding Clause would give parliament five years to research and respond to the court decision, certainly a more reasonable period of time to properly address challenges and concerns in regard to protecting the elderly and disabled. ARPA Canada has just prepared a brilliant draft of legislation which would invoke the Notwithstanding Clause. Read their press release and draft legislation[2].

The CHP endorses this draft and encourages MPs of every party to work together to pass this legislation. The CHP would exercise its responsibility to confront a court system drunk with its own power and arrogantly mandating sweeping changes to the social institutions and values upon which our nation was founded. We cannot continue to allow a handful of unelected judges to redefine morality. Nations have fallen in the past when the collective conscience has been overpowered by the actions and attitudes of an entitled elite. This is the time in which all those holding to biblical principles must come together to challenge this court-approved descent into national insanity. If we are silent while Canada collapses, we will share the blame and we will answer this question from those who come after us: When you saw national disaster coming, what did you do? We will want to have a good answer.

To help the Christian Heritage Party stand up for Truth, for the unborn, for the elderly, for traditional marriage, for religious freedom and freedom of speech, for smaller, more accountable government, please join us today![3] Help us to make a difference!

Footnotes

[1] www.npr.org/sections/thetwo-way/2015/06/26/417720924/roberts-celebrate-todays-decision-but-do-not-celebrate-the-constitution

[2] arpacanada.ca/72-news/2346-arpa-canada-unveils-draft-legislation-prohibiting-assisted-suicide-and-euthanasia-and-invoking-the-notwithstanding-clause

[3] https://www.chp.ca/get-involved