

One of the key benefits of a representative governing system is that it provides justice---fairness, something that autocracies do not provide. Populist systems do not provide justice either; they offer the passions of the mob. The American system (derived in part from the British system, part of Anglo-Saxon law that mandates a jury of one\222s peers in a criminal case) has always been an evolving institution. We have evolved from exclusively White Male juries to those today that permit women and minorities to serve on juries and to become judges and justices.

The current Justice Department, including its head, the US Attorney General, is under fire by President Trump. Previous presidents, including that of disgraced president Richard Nixon, might have resented the Justice Department, but obeyed its laws. Nixon was ordered to surrender his tapes, and he did so.

The first president to deliberately ignore a Supreme Court ruling was Andrew Jackson, who ordered a genocide of the Cherokee Indians which the court attempted to oppose. Jackson did not care, and did not cease.

The court of Supreme Court Justice Taney (1836-1864) ruled in a case in which a slave brought north by his owner sued for his freedom, but his case was denied and the court ordered runaway slaves in the north to be returned to their masters (as property).

It took the next President, Abraham Lincoln, to set this to rights. His appointed Supreme Court validated the 14th amendment that freed the slaves and supported in law the Reconstruction, only to have those laws revoked or weakened after Lincoln\222s death and his successors (Andrew Johnson\222s) presidency.

The next challenge to the court was under the administration of Franklin Delano Roosevelt, who was faced by a devastating economic depression that he had to reverse, using a flood of new laws to address the destitute nation\222s needs. Several of his new laws were vetoed by a very conservative court, and in frustration, he tried to appoint more justices than just the nine there. The public and Congress reigned him in on this. Fortunately, in Roosevelt\222s 5-4 court, with a conservative majority, one justice changed sides and most of Roosevelt\222s laws passed.

The Earl Warren Court (1953-1969) demonstrated how a political philosophy can change under a new stimulus. Warren, the Republican Governor of California, was appointed by President Eisenhower. Contrary to his conservative credentials, Warren\222s court affirmed an important case, the challenge to segregation in the public schools. *Brown v. Board of Education* (1954) finally permitted Black students to attend all-White schools. This same court decided that prayer in public schools was unconstitutional under the First Amendment, along with striking down Bible readings in public schools. This Court also protected the rights of those accused of crimes: the Miranda rule (the arrested could not be compelled to condemn themselves). There is a comparable rule now in British jurisdiction too.

The Burger Court (1969-1986) (also Republican) established the right of women to have abortions (rights over their own bodies), *Roe. V. Wade*. They also ruled in *US v Nixon*, that no person, not even the President, is completely above the law. (This issue is currently being challenged by President Trump, who has selected a candidate for Supreme Court who does not like this law.)

The Rehnquist Court (1986-2005), also Republican, nonetheless declared flag burning a form of First Amendment speech, voided laws prohibiting late-term abortions, and struck down laws prohibiting sodomy. Its most controversial decision was deciding between George W. Bush and Al Gore in the contested Florida election, the deciding vote for Bush.

The current Roberts Court (2005) has drifted to the right in areas like the death penalty, abortion restrictions, campaign-financing regulations, and rejecting Washington, DC\222s handgun ban law. President Obama nominated Elena Kagan and Sonia Sotomayor, (first Hispanic American) increasing women on the court, and nominated a centrist, Merrick Garland, who was denied a hearing by the Republican-controlled Senate.

President Trump appointed a conservative to replace a conservative justice who died. He has now succeeded in appointing an under-fire conservative justice to replace a

swing-vote moderate. Maybe a step too far?

685 words

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