

Constitutional Tinkering

by digby

The great Charles Pierce writes in on Altercation today to acknowledge the fact that Andrew Sullivan does seem to be genuinely anguished over Karl Rove's craven capitulation to the wing-nuts. He also points out something that I think is important and has not been discussed in any depth (except by me—to me) which is that this is just the latest in a whole line of assaults on the constitution.

Pierce points out that that this isn't the first time that the constitution has been used to discriminate. Indeed it our sacred document was founded on the heinous 3/5th compromise, so one could say that it took a civil war to purge the document of its inherent discrimination. But, even more recent history shows that a blatant disregard for the constitution, the traditions undergirding it, the fundamental firmament of it have been declared fair game by the right wing.

The impeachment is the best example. That provision clearly was designed not to be used as a political football, what with its super majority requirement for conviction and the obvious definition that it apply to high crimes and misdemeanors. It was used only once prior and that was while the country was just emerging from a civil war in which the president was perceived to be sympathizing with the losing side. Never before had anyone thought it should be used in a case of minor sexual indiscretion that caused no threat to the nation (as a "pillow-talk" spy scandal would, for instance.)

Clinton's impeachment was used as a blatantly political weapon to force him to resign, which thankfully, with the backing of the American people, he did not do. Nevertheless, it loosened the informal but serious restrictions against a powerful congress usurping the will of the people by attempting to remove a duly elected president on dubious legal grounds. Politicians had always before tried to steer clear of this type of unreviewable constitutional messiness because it is just the kind of thing that could truly destabilize what has become the most remarkably stable democracy on earth. No more.

Then, just 2 years later, unelected Supreme Court judges who had been appointed by the candidate's father and/or party decided a national election despite the fact that the constitution laid out a complicated scheme to require that *elected* representatives resolve just such issues in the congress and be answerable to the people for the outcome.

And as Pierce says:

Why shouldn't C-Plus Augustus look upon the Constitution as little more than a Post-It note for his campaign? It's not like We, The People respect it that much any more. We—and our representatives—handed the Bill of Rights over to John Ashcroft for use as a bathmat, after allowing its provisions to be recast as "loopholes" in our jurisprudence and our popular culture for nearly 30 years. The fact that Congress has willingly deeded over its war powers to the executive—apparently in perpetuity—is treated as the natural order of things, and not as the towering constitutional heresy that it is. Let's not even get into the fact that any country that truly respected the Constitution would have taken Tony Scalia out for a walk years ago.

There is an undemocratic strain in the modern Republican party that gets stronger and stronger as the far right exerts its muscle. As I wrote here, on American Street, this is becoming a rather serious problem not only for Democrats who have long had to deal with this stubborn GOP unwillingness to compromise on anything, but for Karl Rove who is finding out just what a problem it is trying to govern when a large portion

of the electorate insists upon moving further and further to the right every time you compromise or appease them. At some point, the country, moderate at heart, stops supporting such rightward actions and rebels.

This is what forces the GOP to nuclear options like constitutional amendments, violent demagoguery and impeachment. If you can't persuade a majority, and they can't, you end up trying to rule by force.

The far right wing is a very dangerous movement, as Dave Neiwert and others have laid out in such detail. I'm sorry that it took something this obviously bigoted to get someone like Sullivan's attention, but I'm glad it finally has.

However, the fact is that they have been willing to tinker with the constitution for purely political reasons for some time now. It's probably not a good idea to support that no matter who is on the receiving end. It's bad news for everyone.