

American Revolution 2.0: Not The Founders' Revolution

By Don Sutherland

Two hundred forty six years ago, the Founders of an emerging nation mutually pledged their lives, fortunes, and sacred honor in a declaration of independence that proclaimed, “We hold these Truths to be self-evident, that all Men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the Pursuit of Happiness...” Theirs was a broad conception of liberty, as was abundantly made clear when the young nation’s Constitution was drafted and its ratification was championed in the Federalist Papers. That was American Revolution 1.0.

Much has changed since then. In the “pursuit of a more perfect union,” women were elevated to equal status, slavery and institutional racism were abolished, and the franchise of marriage was extended to all people. The Thirteen Colonies grew into a single nation, survived a devastating Civil War that brought an end to slavery, and rose to become among the world’s greatest powers in history. In that role, the United States imperfectly but persistently championed democracy, human rights, and individual freedom at home and abroad. Much remained to be done in addressing pockets of racism, intolerance, and various other inequities. But much had already been accomplished.

Now, all of that is at risk. American Revolution 2.0 is gaining force. The January 6, 2021 insurrection that carried out defeated President Donald Trump’s self-coup attempt was its “Lexington” and “Concord.” Following the violent assault on the Capitol that almost overturned the nation’s constitutional republic, right-wing Talk Radio—the “pamphlets” of American Revolution 2.0—continues to relentlessly push an intolerant message, malicious propaganda, and disinformation aimed at dividing the nation’s people, all to further the ongoing illiberal revolution.

The next great battle of American Revolution 2.0 took place during June 23-30, 2022. During that time, the U.S. Supreme Court—packed by ideological justices appointed by Donald Trump—launched a devastating fusillade against liberty. In *New York State Rifle & Pistol Association, Inc. v. Bruen*, it advanced a radical revisionist view of the Second Amendment stripped of its opening language concerning “a well-regulated Militia”, to deprive New York State of its authority to regulate the carrying of firearms. In *Dobbs v. Jackson Women’s Health Organization*, the Court ignored precedent and trampled prudence to seize the liberty women enjoyed over their bodies to effectively authorize states to impose forced birth mandates on women. In *West Virginia v. EPA*, the Court preemptively confiscated the EPA’s statutory authority to regulate greenhouse gas emissions from power sources, hobbling the nation’s efforts to effectively address anthropogenic climate change and depriving existing and future generations of their natural right to a safe and healthy environment.

These three legally-dubious, politically-motivated, and judicially-reckless decisions are the biggest advance yet for the illiberal elements waging American Revolution 2.0. In those decisions, the U.S. Supreme Court threw off its judicial robes for the “red hats” of the Trump movement. It trashed judicial restraint for an unequivocal political crusade. It ripped the United

States from the 21st century and hurled it toward era that resembles a medieval past where intolerance reigned, women had inferior status, and liberty was an alien notion.

These three decisions will inflict damage that could last decades, if not longer. They will inflict an economic social, and human toll. Promising girls will be thwarted from the pursuit of Higher Education. Talented women will be driven from the workforce. Marriage will be abridged. Carbon pollution will wind up much worse than would otherwise have been the case. Lives will be lost from forced pregnancies, increased gun violence, and exacerbated climate change.

These three decisions lay a precedent, one that signals great danger ahead. A court that displaces the textual reading of statute with a concocted “Great Controversies Doctrine,” as was necessary to carry out its preemptive strike against the EPA’s statutory authority, is one that is unbound by institutional or societal constraint. Looking to the forthcoming 2022 term, the Court has decided to take up *Moore v. Harper*. In that case, the crusading Court could redefine the fundamental nature of American elections, greatly increasing the probability of undemocratic and illegitimate outcomes.

American Revolution 1.0 with its pursuit of independence to secure fundamental rights and self-government and American Revolution 2.0 with its quest to constrain fundamental rights and suffocate government ‘of, by, and for the people’ could not be more different. On this Independence Day, Americans should look back to American Revolution 1.0 and renew their commitment to the ideas that drove that struggle. If not, the principles articulated on July 4, 1776 could ultimately be lost and American democracy could “perish from the earth.”