

“The Point of No Return”

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By Thomas Sowell

STANFORD, Calif.—This is an election year. But the issues this year are not about Democrats and Republicans. The big issue is whether this nation has degenerated to a point of no return—a point where we risk destroying ourselves, before our enemies can destroy us.

If there is one moment that symbolized our degeneration, it was when an enraged mob gathered in front of the Supreme Court and a leader of the United States Senate shouted threats against Supreme Court Justice Brett Kavanaugh, saying “You won’t know what hit you!”

There have always been irresponsible demagogues. But there was once a time when anyone who shouted threats to a Supreme Court Justice would see the end of his own political career, and could not show his face in decent society again.

You either believe in laws or you believe in mob rule. It doesn’t matter whether you agree with the law or agree with the mob on some particular issue. If threats of violence against judges—and publishing where a judge’s children go to school—is the way to settle issues, then there is not much point in having elections or laws.

There is also not much point in expecting to have freedom. Threats and violence were the way the Nazis came to power in Germany. Freedom is not free. If you can’t be bothered to vote against storm-trooper tactics—regardless of who engages in them, or over what issue—then you can forfeit your freedom.

Worse yet, you can forfeit the freedom of generations not yet born.

Some people seem to think that the Supreme Court has banned abortions. It has done nothing of the sort.

The Supreme Court has in fact done something very different, something long overdue and potentially historic. It has said that its own court had no business making policy decisions that nothing in the Constitution gave them the authority to make.

Get out a copy of the Constitution—and see if you can find anything in there that says the federal government is authorized to make laws about abortion.

Check out the Tenth Amendment, which says that the federal government is limited to the specific powers it was granted, with all other powers going to the states or to the people.

Why do we elect legislators to do what the voters want done, if unelected judges are going to make up laws on their own, instead of applying the laws that elected officials passed?

This is part of a very long struggle that has been going on for more than 100 years. Back in the early 20th century, Progressives like President Woodrow Wilson decided that the Constitution put too many limits on the powers they wanted to use.

Claiming that it was nearly impossible to amend the Constitution, Progressives advocated that judges “interpret” the Constitutional limits out of the way.

This was just the first in a long series of sophistries.

In reality, the Constitution was amended 4 times in 8 years—from 1913 through 1920—during the heyday of the Progressive era.

When the people wanted the Constitution amended, it was amended. When the elites wanted the Constitution amended, but the people did not, that is called democracy.

Another great sophistry was using the federal government’s authority to regulate interstate commerce to call all sorts of other things interstate commerce. In 1995, elites were shocked when the Supreme Court ruled—5 to 4—that carrying a gun near a school was not interstate commerce.

States had a right to ban carrying a gun near a school, and most of them did. But the federal government had no such authority. Nor did the Constitution give the federal government the right to make laws about abortion, one way or the other.

What both state and federal laws do have the right to stop is threats against judges and their families.

This is not a partisan issue. The Republican governor of Virginia is providing protection to Supreme Court justices who live in that state. But the Republican governor of Maryland seems to think that harassing judges and their families is no big deal.

Voters need to find out who is for or against mob rule, whether they are Democrats or Republicans. We are not going to be a free or decent society otherwise.