

H A R L A N R I C H A R D S

April 16, 2013

Republican Power Grab

Republican state legislators are so enraged over Dane County judges declaring parts of their voter restriction act and labor union-busting legislation unconstitutional that they introduced legislation to bar those courts from issuing injunctions when they find that state laws are unconstitutional.

This unprecedented action has legal scholars and laypersons alike flabbergasted. That a right-wing Republican legislature would seek to abrogate the power of the courts to bar unconstitutional laws from taking effect boggles the mind. Our state government, like the federal government, is based on sharing of power by three branches: legislative, executive and judicial. The court's main authority is to act as a check against overreaching by the other two branches. Courts interpret laws and pass judgment on their constitutionality. If a law is unconstitutional, it is not a valid law. But the proposed legislation seeks to keep unconstitutional laws in full force and effect until they are reviewed by an appellate court or the state supreme court. It can take years to get a case through the lower court and decided on appeal. I have one case right now that I appealed in 2011 that still hasn't been decided by the appellate court.

Many people have described this latest piece of legislation as a power grab. But it is more than that. Once upon a time, we prided ourselves on being a nation of laws. Fair and just laws. It was a major step up from what was termed the rule of men, i.e., whoever was in power made up the rules and everybody else had to obey. That's what the American Revolution was all about. King Goerge's arbitrary and unfair treatment of the colonists forced them to band together, revolt and create a better government.

The right-wing radicals currently running Wisconsin are returning us to those pre-democracy days. They hold clear majorities in the legislature, hold the governor's office and even control the state supreme court. Their only impediment is the Dane County Circuit Court. Those judges must win reelection in a liberal county and don't dare rubber stamp the Republican agenda for fear of losing the next election.

We can thank the U.S. Supreme Court's decision in Citizen's United which permitted millions of dollars to flow into Wisconsin for every election to buy the state government.