

Chuck Grassley Lays Out Some Supreme Court Truth

Earlier this week, Senate Judiciary Committee Chairman Chuck Grassley (R-Iowa) once again took to the Senate floor to lay out some truth for President Obama and Senate Democrats.

“Our constitutional republic is designed with a series of checks and balances,” he said. “As any branch gets too powerful, or exceeds its authority and tries to impose on the American people policies they don’t want, the people express their will through the electoral process.”

Grassley said that is what has been witnessed over the last several election cycles. But, over the past few years, the president has engaged in a “systematic and massive over-reach of his executive power” that has caused the people to respond.

“Since he was first sworn into office in 2009, nearly 70 additional Republicans were elected to the People’s House,” he said. “And there are 13 more Republican senators today than there were in January of 2009.

“In January of 2014, frustrated that the people’s representatives wouldn’t enact his liberal policies, the president said, famously, that he’d use ‘a pen and a phone’ and impose his agenda anyway. Just a few months later, in November 2014, the people spoke and sent nine additional Republicans to the United States Senate.

“This is the beauty of our system of checks and balances, and our constitutional design.”

The Framers knew a thing or two about executive over-reach, Grassley said. They had firsthand experience with an executive who imposed his will on the people unilaterally—a reference to King George III—and that is why the Constitution imposes

checks and balances and a separation of powers in government.

“This president has pushed the envelope at every turn,” he said. “In my view, he has sought to impose his will on the American people in ways, and to a degree, that this nation has never before witnessed.

“What is striking about this president’s record before the Supreme Court, is that even with a court as liberal as ours, the Obama administration still has the lowest-winning record of any president going back to at least the Truman administration. Now, when presented with this undeniable fact, the president’s apologists quickly grasp for nearest bogus defense: Most notably, they claim the Supreme Court is more ideologically hostile to this president than previous courts were to other presidents.”

Grassley said that was a “crafty argument,” but one that the late Supreme Court Associate Justice Antonin Scalia would have called “pure applesauce.” Leading Supreme Court analysts declared the last term of the Supreme Court, even with Justice Scalia, as the most liberal since the 1960s. □

He also noted that President Eisenhower faced a Supreme Court with eight justices appointed by Democrats, and that President Nixon’s administration began with an even more liberal court than Eisenhower. He said President Obama hasn’t lost cases before the current court because it’s ideologically hostile, but rather because his “power grabs” are based on “an unwillingness” to recognize the Constitution limits his power.

Grassley then laid out several examples:

“The president’s lawyers argued he could ignore the Senate’s determination of when it was in session in order to make recess appointments. No president in our history ever claimed that recess appointments were permissible in that situation.

"But the Office of Legal Counsel, once considered the 'crown jewel' of the Department of Justice, offered a tortured justification to sanction that assertion of power. If this view of presidential power were allowed to stand, the President could bypass the Senate with ease to install individuals in powerful government positions, with no check from the Senate, as the Constitution envisions.

"Fortunately, the Supreme Court disagreed, 9-0 ...

"The Obama administration argued the Equal Employment Opportunity Commission could resolve an employment discrimination case between a minister and the church that fired her. With this argument, the Supreme Court found, the Obama administration managed to violate two different provisions of the First Amendment at the same time.

"It violated the Free Exercise of Religion Clause, because if the president's argument carried the day, the government could interfere with a church's religious doctrines. And it violated the Establishment Clause, because if this president had his way, the federal government could get into the business of selecting a church's ministers.□

"The Supreme Court rejected those claims, 9-0.

"On the regulatory front, in a series of rulings, the Supreme Court rejected the president's arguments that agencies can deny the ability of private citizens to seek relief against regulatory overreach. For instance, the court rejected the EPA's power to force a homeowner—through escalating fines—to comply with an order, while at the same time denying that homeowner the ability to challenge the order in court.

"The Supreme Court rejected the EPA's claims, 9-0.

"In another case, the court held, contrary to the position advanced by the Army Corps of Engineers, a landowner can sue in court for just compensation for a taking when the

government-caused flooding of his property is temporary and recurring. Again, the Supreme Court rejected the government's position, 8-0.

"When the IRS attempted to enforce a taxpayer summons, while at the same time denying the taxpayer the right to question the IRS officials about their reasons for the summons, the Supreme Court rebuked the administration 9-0.

"In still another case, the court rejected the Equal Employment Opportunity Commission's argument that its decisions aren't subject to judicial review when it concludes, by its own estimation, it fulfilled its duties to attempt conciliation under Title VII of the Civil Rights Act of 1964. Once again, the Supreme Court rejected this claim, 9-0.

"Similarly, when a veteran's benefits were denied, and the appeal wasn't filed within a certain time period, the Department of Veterans Affairs turned around and denied that veteran the ability to seek judicial review. The Supreme Court rejected the VA's position, 8-0.

"And when the FCC changed its policies midstream regarding isolated examples of indecent language, the Supreme Court found, 8-0, the FCC had violated due process."

Grassley said there are many other Supreme Court decisions rejecting this president's power grabs, where the vote tallies were much closer. Each time, President Obama and his lawyers make "utterly baseless" arguments for executive and regulatory power in case after case.

"In so many of these cases, the unifying thread underlying this president's litigating position is the notion that the people are subservient to the federal government and its agencies, rather than other way around," he said. "So far, the Supreme Court hasn't agreed.

"But during this presidential election, the American people

should consider whether they want to elect a president who may nominate a justice who will embrace such a vast expansion of executive and regulatory power.”