

The Supreme Court's War on Life, the Universe and Everything

From abortion to climate change, a wave of yellow journalism targets the men and women in black robes.

WSJ, By [Gerard Baker](#), July 4, 2022

Below: Capitol Police watch as abortion-rights activists protest in front of the Supreme Court, June 29.



It may be commonplace these days to predict another civil war in America, but for much of the media the conflict has already begun. We're at war, folks, and the enemy wears black robes.

The Supreme Court's decision to overturn *Roe v. Wade* last month represented a declaration of war on women, [multiple news outlets](#) agreed.

The Washington Post's most reliably partisan left-wing convert [decided](#) the object of the court's bellicosity this last term encompassed much more than one sex: "The Supreme Court declares war on modern America."

With commendable restraint, a writer for the Intercept sought to narrow the supposed field of conflict somewhat but still [reached](#) for the martial metaphor: "Radical Supreme Court Declares War on the 14th Amendment."

For Vanity Fair, commenting on *West Virginia v. Environmental Protection Agency*, the court's enemy belligerent was, bafflingly, an [abstraction](#): "Supreme Court Has Declared War on Governing."

But leave it to the Guardian to [exceed](#) them all in hyperbole: "The U.S. Supreme Court has declared war on the Earth's future."

What a battlefield! Women, America, Earth, with some skirmishing at the Equal Protection Clause and "governing." You thought civil war sounded bad. This is planetary-level stuff. Surely some imaginative headline writer will push the widening gyre of media hysteria to its logical conclusion: "Supreme Court Declares War on Solar System, Cosmos, Everything."

Aside from concluding that someone in editorial authority urgently needs to declare war on lazy metaphors, we can draw an important lesson from this strikingly uniform reaction to a historic court term: 50 years or more of judicial activism have immunized an entire generation of journalists, progressive politicians and social-policy advocates against any understanding of the idea of judges as neutral arbiters of the law.

From the first full term of a high court whose majority is committed to interpreting the law rather than making it, we know definitively it is for many Americans a revolutionary concept tantamount to an act of aggression. The left and its standard bearers in the media have become so inured to the idea of the judicial branch as an additional arm of the legislature that they regard any departure as an act of hostility.

For that half-century, judges have been allies in the progressive struggle to remake America—either as friendly facilitators of the aims of Democratic presidents and lawmakers or as useful bulwarks against the efforts of Republicans.

The left has surely been encouraged in this belief by the apparently bipartisan nature of the progressive, activist interpretation of the judiciary's role. Justices appointed by presidents of both parties, have affirmed it. If Anthony Kennedy could reaffirm *Roe* and John Roberts could uphold *ObamaCare*, then this is surely the settled and universally agreed-on function of the court: to align itself efficiently with the dominant ideology of the times.

This ideology requires the judiciary to view its role not as the independent interpreter of law in the light of what the Constitution as written permits, but as supplier of a spurious legal authority for explicitly political goals that have no constitutional justification.

Sometimes this required the court to invent rights where none existed, and sometimes it required the court to disallow rights that did exist. The practical corollary was that a complaisant court became essential both when the necessary authority for what progressives were seeking to achieve couldn't be found by political means and when what they could achieve through the political process couldn't be justified by constitutional authority.

The court's decisions in all the key cases of the latest term signal with pellucid clarity that that era is over.

[*Dobbs v. Jackson Women's Health Organization*](#), the decision overturning *Roe*, found no right to abortion in the Constitution, returning the issue to the political process. In [*West Virginia v. EPA*](#), the court declined to validate presidential authority that Congress hasn't delegated—and in the process produced the entertainingly ironic spectacle of Democratic lawmakers decrying a decision that reasserted their legislative supremacy.

In [*New York State Rifle & Pistol Assn. v. Bruen*](#), which struck down New York's restrictions on carrying firearms in public, the court reaffirmed that states can't toss aside constitutional rights they find uncongenial. The same was true in [*Kennedy v. Bremerton*](#), which ruled that a school district couldn't deny a football coach's First Amendment right to kneel in prayer after games.

The partisans of the left are having a hard time getting used to the idea that the high court will no longer be used to validate their objectives, to bestow a false constitutional authority on their long, hitherto successful campaign to reshape the country. On the strength of the evidence so far, from the angry reaction of media and politicians alike, it seems they aren't going to let that happen without a fight. You might even say, if you could permit yourself to borrow their hyperbole for a moment, that they've declared war on the Constitution.

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