

Are elected officials and government employees “above the law”?

Brunson Brothers Constitutional challenge, next SCOTUS conference June 22, 2023

Op Ed By Brenda Donnellan on June 9, 2023

Do we expect our public servants to obey the Constitution? Can we REQUIRE our elected employees to follow the Constitution?

The answers ought to be that “**Nobody** is above the law” and “Yes, we must require them to obey the law” and, remember, the Constitution was written to *limit* the power and authority of the federal government.

But, over the centuries, Americans became apathetic and forgot to keep an eye on their government. You might say they were intentionally lulled to sleep by very sly, conniving, power-hungry people with ulterior motives who would exploit that apathy.

Then, in March 2021, an almost iconoclastic event occurred. An attempt to force congress to obey the Constitution and to protect America! The Brunson brothers of Utah filed a lawsuit against 385 members of Congress, former Vice President Pence, President Biden and Vice President Harris. The brothers’ claim is that, amidst the allegations of election fraud in the 2020 election, including possible foreign interference and the breaking of many state and federal laws, 100 members of congress proposed an investigation into those allegations, but a majority of members wrongfully voted against the investigation.

The Brunson brothers (Loy, Raland, Deron and Gaynor) realized that – whether or not election fraud had occurred – congress had a duty to investigate the allegations of threats to our country and our Constitution. In refusing to investigate, these members of congress broke their oath of office, and the lawsuit seeks to punish them by permanently removing them from office and not allowing them to hold public office again.

The Brunson lawsuit:

<https://ralandbrunson.com/> Background of the case, the 3 lawsuits, and individual timelines of Loy’s suit and Raland’s two suits.

<https://loybrunson.com/> Latest updates from Loy, including a sample letter for you to send to SCOTUS.

Jenna Ellis, formerly a lawyer in Trump’s White House and now a radio personality, claims that “we the people” have no right to scrutinize every vote and ask the courts for their opinion.

(<https://www.msn.com/en-us/news/politics/trump-attorney-sides-with-supreme-court-knocking-down-case-to-reinstate-him/ar-AA168qe1>)

She is perpetuating the laissez-faire attitude that allows unscrupulous people to get themselves elected and then write the rules for how they do their jobs as though they are the owners of America instead of servants of the American people.

Jenna claims that the proposed investigation is not a “justiciable” issue, not appropriate to adjudication by the judiciary. That is a curious statement since it is accepted since Marbury vs. Madison in 1803 that the Supreme Court has the right of Constitutional oversight of the other two branches. (<https://www.archives.gov/milestone-documents/marbury-v-madison>)

Jenna completely ignores that little phrase in Article VI of the Constitution that is the crux of the lawsuits. *“The Senators and Representatives before mentioned, and the Members of the several State Legislatures, and all executive and judicial Officers, both of the United States and of the several States, shall be bound by Oath or Affirmation, to support this Constitution; . . .”* If elected servants are not bound by this qualification then the entire Constitution is worthless. It might be iconoclastic at this point in time to stand up to federal tyranny, but we must begin to ENFORCE THIS STANDARD, THIS OATH, for EVERY SINGLE EMPLOYEE.

She dismisses the vote on the investigation as a “political question” with a flimsy discussion of “authority.” It is not a question of law regarding investigations, as Jenna suggests. The question is, when 100 members of congress were concerned about a possible threat to the nation, did they look into it? Did they obey their oath? Did they protect the Constitution and the country and the people of the United States from threats, both foreign and domestic?

In addition, Article IV, Section 4 of the Constitution provides that, *“The United States shall guarantee to every State in this Union a Republican Form of Government, and shall protect each of them against Invasion[.]”* Did the three branches of the United States government do their job during the 2020 election to guarantee a republican form of government and to protect us against invasion?

Jenna is correct in saying that, if we don’t like their votes, we should send our representatives packing. But this particular vote/issue is a threat to our sovereignty, to our country’s continued existence, to the foundation of the United States of America. If those who are trusted with concocting laws to regulate our lives and tax our livelihoods will not protect us from enemies who threaten our free elections; if they do not even care to investigate the possibility that breaches occurred – then they must be held accountable.

So what if this fundamental precept of our Constitution hasn’t been enforced in the preceding 230 years! Now that we recognize our failures; now that we see clearly that our country is being systematically dismantled; now that we are learning about “enemies, foreign and domestic”; the time has come for radical action.

Does Jenna believe that the only role “we the people” have in our government is to vote every two years and otherwise support the candidates of our choice? And, what alternative do we have if voters of one state send good representatives to Washington but other states consistently send men who appear to hate the Constitution? Is there no recourse for “we the people” of the first state?

I think that a lot of people are afraid to upset the apple-cart. Others might worry that “we the people” will read the Constitution some more and realize that the federal government is exceeding by magnitudes the limits set by the Constitution; that the federal government has assumed many more powers than the few enumerated ones granted to it by the states. “We the people” might realize that we have been lied to about the “supremacy clause.” Article VI does not say that the federal government is supreme. The states would never have agreed to that! It declares that the Constitution itself and laws made in support of IT will take precedence over any laws (federal or state) that might conflict with it. And, at the same time, any law that is not authorized by the Constitution is, according to the Founding Fathers, null and void.

The courts haven’t been very helpful in our efforts to demand election integrity and to expose corruption, and that likely will continue. But, I agree with the Brunsons – who have given them several chances. Let’s give them another chance. They might get it right this time!