

SCOTUS, Bostock v Clayton Co, Georgia

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On 15 June 2020 the Supreme Court of the United States proffered its opinion in the case of Bostock v. Clayton County, Georgia, once again broadening the interpreted meaning of law to be in line with an intentional and desired outcome and, effectively, rewriting the law itself, completely outside the people's Congress.

As is to be expected from the proletariat, any objection to SCOTUS's opinion is reduced to

"you think people should be able to be fired from their jobs just because they're gay?"

And while not unexpected, it's still sad to see direct examples of chronological adults electively demonstrate a child mentally and a willingness, like growing children, to proffer opinion so clearly outside of their knowledge and capability for independent and critical thought. But what sort of citizen, what sort of adult even asks such a question? Seriously, let's think about that for a quick moment before proceeding.

Say we had but four rules, when it's your turn you can move your piece,

- 1) forward two spaces
- 2) left, one space
- 3) right, five spaces
- 4) breaking any of the first three rules, you lose your move

Now during your turn you move your piece backwards two spaces and I call you on breaking the rules and direct you to place your piece back to its starting position and it's now my turn. At which point you say,

"you think people should be able to lose their turns just because they wanted to move backward?"

This is logically exactly the same problem. *To say that employers have the right and should have the freedom to hire and fire their employees for whatever reasons they deem and for whatever discriminators they wish is NOT to say that I or you or anyone does or must agree with them.*

Yet, **the issue before the court** is not whether or not **anyone** agrees with the employer's discriminating hiring practices, it is **whether or not that discrimination is currently defined as illegal under the law**.

And yet, millions of so-called adults, who have no unfamiliarity with the concept of us being a "country of laws," can just revert to the naive, sophomoric response of a toddler and be completely accepting of the full coercive force of government being used to enforce something to which their young minds agree but which is counter in fact in law!

Yet, ordered liberty under the law in a civilized society doesn't work this way. Or, where it may, it becomes a cancer that, like the Jörmungandr, continuously consumes itself and the very principles it tries to uphold.

Moreover, how are real adults, genuinely trying to learn, understand and discuss social issues, supposed to handle such adult-children? For starters and well beyond even the experience and expertise of such adult, what portion do you expect proffers such a statement and implied opinion AFTER actually reading the court's opinion? If they cannot step up to a voluntary conversation and bring adult level effort, reason and critical thinking, why should they be treated in return with adult level respect and discourse? Notice I said 'voluntary' conversation, one would think an adult would have no difficulty recognizing the choice to remain silent and listen rather than opine childishly.

But even more fascinating is the extremely cretinous and vulgar expansion of the proletariat's shared perversion of the meaning and concept of one's 'rights!' As any child is forced to understand once they move through Piaget's, "Concrete Operational Stage," where they begin to lose "some" of their "preoperational" egocentrism and begin to consider others and how they think and feel, what we might call empathy, the concept of one's "Rights" is inextricably bound to a problem of hierarchy and priority!

While one has every Right to be Gay, another has every Right to not agree with, accept, associate, or tolerate this trait, and while one right certainly doesn't trump the other, the resolution, when and where they come into "apparent" conflict and demand a hierarchy, is simply not the sort of straightforward exercise in critical thinking and reason one can expect from the caliber of today's citizen.

The tyranny of unconstitutional, social engineering legal statutes aside, any of Piaget's children would certainly know, almost intuitively, how to resolve such a conflict concretely. Once successfully developed within them, the child instinctively understands that while he and another playmate both have the same right to the toy in the sand box, if the playmate was playing with the toy first, the playmate having also a right to play alone, to, in effect, not share, and that his desire and right to play with the toy simply cannot supersede, or tyrannize, the rights of the playmate. At that moment of conflict, he must embrace the idea that not all of **his** rights can be exercised at this time. And while this example is academic in that it solidifies what is in reality an abstract concept, it's the relationship, the conflict and the way in which we resolve the issue that is of significance.

There is nothing intrinsically incompatible with the Right to being Gay and the Right to not agree with Homosexuality. And separately, neither can authentically supersede the other. But as humans do, we must complicate matters and when you admix a job and an employee/employer relationship the proletariat very quickly forgets everything they learned by about age 11 and decides, instead, to "wing" it with what just feels good TO THEM! The complication of the nexus of the Right to be Gay, the Right to be anti-Gay and the Right to a Job all of a sudden reduces the proletarian to an adolescent and the conflict becomes unsolvable by intellectual and reasoning efforts and devolves into a willingness to actively accept the coercive violence of the state in order to effect the outcome they, egocentrically, desire!

Title VII notwithstanding, an employer, a baker, anyone has every right to hire or work for anyone and to discriminate however they want. Attempts to socially engineer behavior, and the retarded¹ expansion of meaning with this opinion is just such an attempt as well as being an abuse of language itself, is not sustainable and does not work. In fact, such attempts harm us all, we'd all be much better off allowing discriminators their equal rights and to PAY the cost of their discriminating if they so choose and so can.

From Justice Kavanaugh's dissent:

Instead of a hard-earned victory won through the democratic process, today's victory is brought about by judicial dictate—judges latching on to a novel form of living literalism to rewrite ordinary meaning and remake American law. Under the Constitution and laws of the United States, this Court is the wrong body to change American law in that way. The Court's ruling "comes at a great cost to representative self-government." Hively, 853 F. 3d, at 360 (Sykes, J., dissenting). And the implications of this Court's usurpation of the legislative process will likely reverberate in unpredictable ways for years to come.

Notwithstanding my concern about the Court's transgression of the Constitution's separation of powers, it is appropriate to acknowledge the important victory achieved today by gay and lesbian Americans. Millions of gay and lesbian Americans have worked hard for many decades to achieve equal treatment in fact and in law. They have exhibited extraordinary vision, tenacity, and grit—battling often steep odds in the legislative and judicial arenas, not to mention in their daily lives. They have advanced powerful policy arguments and can take pride in today's result. Under the Constitution's separation of powers, however, I believe that it was Congress's role, not this Court's, to amend Title VII. I therefore must respectfully dissent from the Court's judgment.

Of course as is often the case, the case involves a number of intertwined principles, some direct and obvious, and others more nuanced and subtle but to the obvious question on **whether or not employers should be able to hire or fire people based on any discriminatory characteristic** including sex or sexuality, there is but one correct answer, yes! And while the child-adult struggles with that answer and, in effect, throws the equivalent of a child's temper-tantrum in their bafflement against the simple child view of utopia and splendor among people, it is that emotional, animalistic reaction that burns away any sensibility and clarity that might have allowed them to view the answer in any reasonable or intellectual way.

To the point, in saying this is the only answer is not in any way an implication that one agrees with such discrimination. But again, understanding this in any principled way requires nuance and effort.

How is it that, when viewed from the role of government, that one can say such discrimination is disagreeable and yet allowable? This would be a tricky question for any parent teaching a child.

Similarly, for the child-adult mind, who fails to comprehend the distinctions between government and society and who, moreover, looks actively to government as the **Rod** to enforce the collective will of society on others there is only one simple and valid outcome: their utopian vision of how society should be ordered by government enforcement. The challenges of a constantly changing "collective will" and the void of any meaningful justification of a collective will as a guide to governance notwithstanding, this just simply is not the way our system of government was meant to work. For starters, while the idea of a collective will can work and have beneficial effects when voluntary and used by Society, when involuntary as in the case of government, it quickly breaks down into tyranny and oppression. As Frederick Bastiat made clear in, "The Law," the collective will, being derived itself from the individual, cannot lawfully be used in any greater way than for that which it acts as substitute. I recently posted a short, cute video that explains this concept in simple terms suitable for most of today's child-adults: <<https://www.youtube.com/watch?v=PGMQZEIXBMs>>

With respect to discrimination, people have a right to discriminate whether we agree with them or not. But more significantly, more people, in a collective group do not magically have more legitimate power and authority as a Mob or as a Government, to take away or prevent others from the full

exercise of their rights, regardless of how the mob feels on the matter.

More significantly, simplicity comes at a real cost. In this case, the child-adult reaction that is not generally in disagreement, that an employer *should* not discriminate, obfuscates the intellectual reality that a free society actually celebrates: Freedom!

It is purely the result of a child mind that one could conclude it is reasonable that an ordered society and a structured government could forever, through time and culture, continuously be issuing rules and regulations, constantly changing and adjusting, to engineer the perfect society. Moreover, such engineering renders the idea of a lawful society moot as just as culture and current thinking changes and evolves, the law then must also. And once the law becomes a changing, redefined, nebulous concept it is no longer grounded in actual law but becomes something quite different and distinct. Whatever it becomes is irrelevant, what is relevant is that it is **not** law!

As Michael Boldin said in the Tenth Amendment Center video, "The Enumerated Powers of the States," <https://www.youtube.com/watch?v=Y_5PShF0Uk8>

...the constitution is an 18th century legal document. It's not just prose.... ...like any legal document... the legal meaning of the constitution is the same today as it was understood to mean at the time that the people gave it legal force.

This is an intrinsic characteristic of language. Language cannot be interpreted, or re-interpreted as it were, into a modern perspective as this is fundamentally antithetical to the very way in which language works and, in fact, developed in humans. If this concept is new or difficult to you, see my piece on this, "On the Intrinsic Nature of Language and the Development of Language in Humans," <http://burns.digitalsurvival.net/downloads/Learning-What-You-Were-Not-Taught/The-White-Chair/the-white-chair_On-the-intrinsic-nature-of-language.pdf>

It is fascinating to me that the same child-adults who would be angry if such an abuse of language were to be used to their personal disadvantage have absolutely no compulsion against the very same abuse of language being used by the government as long as it comports with their comfortable views on the matter at hand. How can this hypocrisy be awarded or responded to with anything less than offense and derision? Can you imagine reinterpreting say a land contract long after the signing to "reinterpret" boundaries and extents? Or, can you imagine the bank where you have your auto loan writing you to say they've reinterpreted your auto loan to mean that your interest should be calculated and compounded hourly instead of daily? Oh the outrage! Yet this idea of a "living constitution" or "living language" that can be redefined years down the road just escapes the capacity of the average, child-adult today! Let's remember what Michal Boldin said,

...like any legal document... the legal meaning of the constitution is the same today as it was understood to mean at the time that the people gave it legal force.

How can a legal document be any less?

And we've not even yet touched on the real costs involved with discrimination. In a free Society with a voluntary and Free market, people are free to exercise their industry and their rights but that is not to suggest that doing so doesn't come with consequences. And here we find more heady concepts the child-adult just isn't prepared to comprehend and intellectually digest. Funny how despite this fact, those same child-adults display no compunction in offering their opinion on these matters.

Matters that are usually far outside their knowledge and experience. It is as if, knowing they are not seasoned, surgeons, they're still perfectly willing to pick up the scalpel and cut open your chest! I suppose that's not too far fetched, I recently watched some rioters place a tourniquet on the leg of an injured rioter for a surface, flesh wound. I guess in some way that could be seen, more broadly, as a positive!

Again, it's fascinating that we would even have to discuss the fact that decisions have consequences to the child-adults across the political isle. Don't parents teach children this very idea each and every day, year in, year out as a child grows into adulthood? From the actions they take to the very words they utter, how is this concept confusing or misunderstood? But apply it to

you think people should be able to be fired from their jobs just because they're gay,

and you'll find that ***the preponderance of child-adults simply cannot exercise intellect or reason when there is an overwhelming emotional connection to a desired answer or outcome.***

This is a weakness! And from the perspective of a healthy, intelligent, population it represents a cancer that infects and grows and will continue to do so until at some critical mass something breaks. At that point, we fight until this weakness is purged, or at the very least rendered inert or controlled, and the strong rise again to lead. We can only hope that the celebration of freedom survives this fight!

Because in the end the key to the answer here is NOT whether or not you or I, or anyone, agree with an employer who decides they are willing to pay the consequences for discrimination, the key is whether or not a government with a monopoly on force is going to be used legitimately to uphold all of our freedoms or if that force is going to be used counter to freedom and to enforce some collective will onto others by ***explicitly taking away their freedom.*** The employer who fires an employee for discriminatory reasons does not steal the employee's freedom but the government who punishes an employer, by using force to compel conformity to some collective will, does steal the freedom of the employer.

And what are the consequences for discrimination by an employer? Are there even costs associated with discrimination? Of course there are! One need only look at professional sports to see this on display. Moreover, you also can see the self-directing, self-regulating action of the free market. As Dr. Thomas Sowell said, in a 1981 broadcast of, "*The Firing Line w/ William F. Buckley Jr.*,"

...it's cheaper for non profit organizations to discriminate no matter who they discriminate against. Therefore you would expect them to be in the fore front of discrimination where it is direct discrimination or reverse discrimination, and that's largely what you find.

...it was never to their advantage to do so, except in so far as they simply had prejudices which they were able to indulge. I'm saying that whatever they do, discrimination cost them a lot less then it cost someone in a competitive industry. Highly competitive industries, for example sports and entertainment, have typically been much more open than much more closed in kind of non-competitive things like public utilities, and non profit organizations, foundations, universities, hospitals and so on.

<https://www.youtube.com/watch?v=Y021WAdUIW8> (38:08)

Do we see any professional sports teams being discriminatory based on race? How can they be? To

do so would be to pay an extreme cost associated with that discrimination which would translate into an inferior sports team that, quite simply, would not measure up and this would translate directly into losses of fans and viewer dollars!

And whether we personally can see it or not, there is always a cost when discriminating. In some cases that cost is more than acceptable, for example, NASA discriminates from the very beginning of its astronaut selection process, which significantly restricts its set of candidates. From that small set an even smaller set, usually under twenty, are ever selected. Employers already face similar reductions to the set of candidate employees when they discriminate for acceptable characteristics, years of education or experience, etc, this only worsens when the discriminators include what most of us would consider unacceptable, phenotypical characteristics. And that represents a cost, irrespective of whether or not the employer considers it affordable or not.

And there are others.

Customers might not be happy with a business's discriminatory practices and they may choose to take their business elsewhere.

Current and future employees that do not agree with their employer's discriminating hiring practices or his views on characteristics such as race or sex or sexuality may find the work environment inhospitable, at least in principle, and will keep looking for alternatives or quit their employment immediately, once the employer's views are understood. This not only can cost the employer an employee but all the time, effort and training that was invested into that employee to integrate them into the workplace and business, this is additional cost.

From customers to employees, all of these struggles because of unacceptable discriminating practices also places the business at a real disadvantage when measured against their competition, if that competition does not engage in these same discriminators. This translates directly into a disadvantage in the market place.

And while some of these may take time to manifest, they are in no way trivial. It may be manageable, for a time, but eventually information spreads, the word gets out, prospective employees seek out the competition directly and competition exploits weaknesses. A business that cannot find the dependencies, and that includes labor, to carry out it's mission or provide its product or services will certainly struggle and most often fail.

And where does the actual empirical data lead us? In a 2019 interview surrounding the new edition of Sowell's book "*Discrimination and Disparities*," Sowell recounts,

*... in South Africa. That was the classic case. I deliberately picked the country where there is no question at all about the racism of the people in control of the country. Which is to say that the whites had openly proclaimed white supremacy. And yet in South Africa, there were occupations where the black workers outnumbered the white workers even though it was illegal to hire any black workers in that occupation. And **this was not due to the white employers having different social views**. Rather, the cost to them of not hiring blacks was just too high.*

Concerning landlords and rent,

The landlords of Harlem weren't less hostile toward blacks, they were more hostile. The realtors and building owners were assuring the white tenants that they were not going to let any blacks move into Harlem and, thus, there was no reason for their tenants to leave. Well, as it turned out that was a bad prediction. And my point is the reason it failed was the cost to the discriminators.

Now, if every single realtor in Harlem had stood firm on not letting blacks into Harlem, then Harlem might not be black today. But even racists, who prefer one race to another by definition, tend to prefer themselves most of all. So if a landlord has a building where he is having trouble finding tenants at the prices he wants to charge, but he can find blacks willing to pay those prices, then he is not going to pass up that money. Most people would not. And once that process starts, it becomes costlier and costlier for the holdouts among landlords and realtors to continue holding out.

Now, in San Francisco, they have restricted the supply of housing by restricting the building of housing. And there is no cost—people who already own houses or apartment buildings can easily vote to restrict the building of more housing. That causes the price of existing housing to go up. So, by 2005, the number of blacks living in San Francisco was less than half of what it had been in 1970 even though the total population of the city had increased. And that's because more and more blacks were priced out of the housing market and forced economically to leave San Francisco.

So I doubt there was anywhere near the amount of hostility toward blacks in San Francisco in the late 20th century as there was toward blacks in Harlem one hundred years earlier. But where the cost of discrimination was low, people discriminated and where it was high they had to give it up.

[<https://thefederalist.com/2019/06/13/an-interview-with-thomas-sowell-on-discrimination-race-and-social-justice/>](https://thefederalist.com/2019/06/13/an-interview-with-thomas-sowell-on-discrimination-race-and-social-justice/)

Most businesses cannot run successfully, and certainly not as successfully as they might, while intentionally placing themselves at a disadvantage in the marketplace against their competitors while arbitrarily giving up the best employee talent all for the pettiness of bigotry. Which is not to say that it never happens, only that in the larger context of the principle of using government force, indeed unconstitutional force, against the bigot's natural freedoms in an attempt to fix a perceived problem that is not really much of one is a lot to lose, for everyone. And a lot of raw power and utopian belief transferred to government without any empirical evidence that such discrimination actually hurts the groups discriminated against or that government can regulate change that actually fixes the perceived problem. This is sophomoric at best!

In his 1985 book, "*The Economics and Politics of Race, An International Perspective*," Dr. Thomas Sowell put to bed the idea that a group's economic fate can be quantifiably blamed upon the perspectives of the surrounding society over and above the groups own internal patterns and culture, patterns of which follow the same group the world over.

Race may have no intrinsic significance... and yet be associated historically with vast cultural differences that are very consequential for economic performance.

In an appearance on, "*The Firing Line w/ William F. Buckley Jr.*," in 1981 Dr. Sowell explains,

...a re-examination of the whole set of underlying assumptions... about social thinking in general. One of the things I wanted to deal with in this book and the reason it's an international perspective, is whether or not a group is in fact formed by the society around it or whether, in fact, a group has its own pattern which follows it wherever it goes.

And so I then looked at groups in other countries, the Germans in Brazil and Australia and Russia, the Chinese in Indonesia, in the United States, other countries to see, do they in fact have their own pattern or are they simply reflecting what's happened to them in that particular country. And what I found by and large was that they had their own pattern.

Taking this lack of empirical evidence forward more generally to include all forms of discrimination and considering that, by its very nature this discrimination harms the purveyor of this behavior, who, as we have seen, pays a cost or a consequence for that discrimination, be it affordable in the long term or not, is to say that all government attempts to engineer behavior and in particular to criminalize the freedom of discriminatory behavior does not, in fact, harm the group that is characterized by this discrimination in any quantitative way. But in contrast, such government attempts DO in fact steal the liberty from those who engage in discriminatory behavior and, in a more principled manner, makes all of us less free in our relationship to our government.

Moreover, ***it is a primary obligation of government to protect our rights***. It is NOT an obligation of government to tweak and twiddle, engineer social behavior, and protect a prescribed outcome of the interactions, cooperations, or frictions between free people. So as a measure of principle the State should not be concerning itself with regulating behavior, be it discriminatory or otherwise.

Unfortunately, through the pettiness of child-minds over generations, we've managed to shackle ourselves with some bad statutes that have, upon malfeasance and acceptance, allowed the government to criminalize employment discrimination for a number of distinct characteristics, namely, "because of,"

race, color, religion, sex or national origin.

But "the law" by any reasonable measure does not speak to nor suggest "sexuality" or "sexual orientation."

So, what did our wizards in black robes have to say in *Bostock v. Clayton County* on this matter? Well the finding is not only offensive in its ridiculousness, its reasoning, if one can even call it that, is downright wizardry and magic, as the concurring justices have fabricated the outcome they feel is best and just, regardless of the actual text and intention of the statute.

Moreover they have wholesale just butchered the *sine qua non* rule, otherwise known as the "but for" rule, in such a childish manner, the opinion is more at home in a short story starring "*Sabrina the Teenage Witch*" than it is befitting the country's high court.

Title VII states,

It shall be an unlawful employment practice for an employer -

(1) to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national origin

The justices open their opinion stating,

we proceed on the assumption that "sex" signified what the employers suggest, referring only to biological distinctions between male and female.

and,

An employer who fires an individual for being homosexual or transgender fires that person for traits or actions it would not have questioned in members of a different sex.

Now, some facts:

- ✓ **homosexual** and **transgender** are **biologically ambiguous** terms!
- ✓ To say someone is a homosexual in no way indicates their biological distinctiveness!

Yet the justices found a way to reason that to fire someone because of their homosexual or transgender status is to fire them because of their biological distinction. Are they retarded?¹ In other words, someone who has a personal conviction against homosexuality must actually have a conviction against men or women!

They've framed the issue this way,

- ✓ a WOMAN who likes sex with men, employer's ok with that,
- ! a MAN who likes sex with men, employer is not ok with that and fires the employee

Uh oh, illegal termination, breach of Title VII same exact scenario but-for the change in biological distinction between male and female.

But is this even valid? Of course not, it completely ignores the actual reason for termination, homosexuality, again biologically ambiguous! So the justices have **just ignored the employer's principled reason for firing** the employee and decided to magically connect just such dots as to suggest it is instead action based on sex! What, even semi-intelligent, person really judges that Title VII ever meant that, or that the plain text even CAN?

Why did they just ignore,

- * a WOMAN who likes sex with women?

Because THAT exposes the actual distinction indicated by the defendant, their explanation that they fired the employee because of homosexuality or transgenderism, and it would not correlate to a difference based on biological sex or gender!

This is the cancer infecting our great Country and Character, a willingness to use the coercive, violence of government to literally do the opposite of what it means to be a country of laws and to have a Constitutional framework for government and instead let everything be malleable, redefinable and ethereal.

Any American citizen who doesn't understand that this in effect reduces the Constitution and even

the Laws of our country to absolute nothingness, meaningless, is functionally retarded¹ and an enemy of this Country, its principles and its Honor!

The White Chair

25 June 2020

¹'Retarded' is my term. But Webster's defines it as

1. *informal + usually offensive* : very stupid or foolish
2. *dated, now usually offensive* : slow or limited in intellectual or emotional development :
characterized by intellectual disability

It's important we speak "truth to power," right? And that includes the power of the masses of the population who, like a frog in a pot, do not even perceive their own decline and yet insist on always being made to feel good regardless of the empirical evidence. So what does the science actually tell us?

Well, the news isn't good, and while it is outside the scope of this commentary, the summary take away is that we are in fact making ourselves dumber, ***slower and more limited in intellectual development***. Especially, Liberals (democrats, democratic socialists, etc.) who have been found to be affected by "*less than optimal performance in overall brain function*". This is a taboo subject but if you're interested, you should start here:

<https://www.anonymousconservative.com/blog/sample-page/>

Modern Political Thought in the Context of Evolutionary Psychology

<http://www.anonymousconservative.com/modern.pdf>

And if all that isn't enough to blow your mind, you might be surprised to realize this conclusion is indirectly supported from different disciplines from completely different directions. Michael Trust, aka anonymous conservative, from Evolutionary Biology but if you want to go further see:

From Psychology

"The Liberal Mind: The Psychological Causes of Political Madness",

<http://www.libertymind.com/>

Lyle H. Rossiter, Jr., M.D.

[The Righteous Mind](#)

Why Good People are Divided by Politics and Religion

Haidt, Jonathan, Phd Psychology

From Political Science

AJPS, American Journal of Political Science, <https://ajps.org/>

NY Post Article on the AJPS Paper and Study from 2012:

"Science says liberals, not conservatives, are psychotic"

<https://nypost.com/2016/06/09/science-says-liberal-beliefs-are-linked-to-psychotic-traits/>

It may be unsettling but read and understand what the latest science is uncovering before burying your head in the sand!