Written by **Wallis W. Wood** on January 20, 2012

Supreme Court Tells Obama "No!"

Here's what happened in *Hosanna-Tabor Evangelical Lutheran Church And School v. EEOC*. The Hosanna-Tabor Evangelical Lutheran Church and School hired Cheryl Perich as a teacher. Perich had completed religious training and was considered a minister by the school. Perich taught secular subjects and a religion class, led prayers and devotions, and attended chapel with her class.

In 2004, Perich became ill and began the school year on disability leave. Hosanna-Tabor hired someone else to teach her classes. When Perich said she was ready to return to work a month later, the principal in effect said "thanks, but no thanks." The church tried to persuade her to resign and even offered her some benefits if she'd do so, but she refused and threatened legal action. When the two parties couldn't reach an agreement, Hosanna-Tabor fired Perich.

Rather than accept the decision, Perich claimed she had been discriminated against and sued for reinstatement and all of the pay she had missed. Rather than cave to her demands, Hosanna-Tabor refused.

That's when one of the most nefarious agencies of our Big Nanny government got involved. Perich filed a claim with the Equal Employment Opportunity Commission, saying her firing was in violation of the Americans With Disabilities Act. The EEOC filed suit against Hosanna-Tabor, alleging that Perich was fired for threatening legal action.

Had this happened in the regular workplace, I have no doubt what would have happened next. The employer would have caved. In fact, Hosanna-Tabor's lawyers and insurance company probably would have insisted on reaching a settlement, no matter the cost — in money or in principle.

But Hosanna-Tabor was made of sterner stuff. It contested the case all the way up to the Supreme Court. That's when the Court surprised many of us by ruling unanimously in favor of Hosanna-Tabor.

In the decision, Chief Justice John Roberts wrote:

> Requiring a church to accept or retain an unwanted minister, or punishing a church for failing to do so, intrudes upon more than a mere employment decision. Such action interferes with the internal governance of the church, depriving the church of control over the selection of those who will personify its beliefs. By imposing an unwanted minister, the state infringes the free exercise clause, which protects a religious group's right to shape its own faith and mission through its appointments. According the state the power to determine which individuals will minister to the

> faithful also violates the establishment clause, which prohibits government involvement in such ecclesiastical decisions.

Roberts labeled as "extreme" the Obama administration's argument that the First Amendment does not protect a religious organization's right to choose its own leaders.

Hooray for the Court! In years past, Justices haven't always done a very good job of defending the Constitution's limitation of government. But they got it right this time.

Who knows? Maybe a new day is dawning. We'll soon find out; in one of the biggest issues to come before it in decades, the Court is expected to rule this term on the constitutionality of Obamacare. When it does, let's hope it uses the U.S. Constitution to decide the issue. Wouldn't that be a refreshing change?

There are other issues I'd like to see the Court rule on, such as the unconstitutional "czars" Obama has appointed. The czars are making and enforcing important national policy without ever facing a congressional hearing. No "advise and consent" here, no matter what the clear intention of our Founding Fathers was.

I'd also like to see the Court address those "recess" appointments I wrote about recently. There is no question that Obama was openly defiant of the rules, traditions, and his own position on the issue when he was a Senator. As William McGurn pointed out in a *Wall Street Journal* column, "Mr. Obama's aggressive disregard for any constitutional limit on what he wants to do has come to define his approach across the board."

Indeed. But even more disgusting are all the liberal hypocrites who lambasted George W. Bush for "shredding" the Constitution when he was President, but pointedly refuse to issue a single word of concern or condemnation when Obama does the very same thing — or worse. Quoting McGurn again:

> We now know that the professed concern for the Constitution was fake. We know it was fake because the same Bush claims of executive authority in war that provoked such apoplexy in our pundits, professors and politicos have for the most part been embraced by Mr. Obama — all to the distinct sound of silence.

Happily, those of us who want to restore the Constitution aren't being silent. There are more of us than ever before; some of us are even in Congress.

Thomas Jefferson had it right when he warned more than 200 years ago:

> In questions of power, let no more be heard of confidence in man, but bind him down from mischief by the chains of the Constitution.

I think many of our opponents can actually hear those chains getting closer — sort of like Ebenezer Scrooge when he faced Jacob Marley's ghost in *A Christmas Carol*. But be warned: Many creatures are at their most dangerous when they think they're being cornered.

Until next time, keep some powder dry.

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