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When my husband passed the California Bar around 1970, we celebrated. Darold had attended Santa Clara University's law school at night while continuing his engineering job and I, pregnant with our second child, helped. At night I read his case books out loud when his eyes were too tired to focus, and I typed up his notes on course material that would be covered in the bar exam. After he passed the bar he began writing Last Wills for Lockheed colleagues, which I typed up at the kitchen table, using an electric typewriter equipped with a correcting ribbon (my saving grace). Eventually he left Lockheed Missile and Aircraft Company to hang out his shingle.

As newly-minted lawyer, Darold's admiration for the Supreme Court (SCOTUS) scarcely knew any bounds. SCOTUS was a force for the good, he said, more enlightened than the other government branches. He also said the three-pronged systems of government the Founders had toiled to implement was better than any other, for each branch kept the other from overreach. So long as voters did their duty, the system functioned well. As a newcomer to this country, I readily accepted his views.

At the time, these views were understandable. Chief Justice Earl Warren had shaped what became known as the Warren Court. Warren was instrumental in ending racial segregation in public schools with *Brown v. Board of Education* (1954). He affirmed the civil-rights and voting-

rights legislation passed by Congress and signed by President Johnson. He spearheaded radical changes in equal protection, law enforcement, and representative apportionment. When the Chief Justice retired in 1969, the Warren Court came to an end.

It wasn't until after Darold's death that I realized, our views of the Supreme Court as long-term driver of positive social change was in error. In 2001, when I was teaching at an HBCU (Historically Black College or University) in Tennessee, the textbook for Expository Writing was a compilation of essays by Black writers. From these I learned of SCOTUS's former complicity with slaveholders. The Court protected pre-Civil War Southern slave laws in the *Dred Scott* case and others like it. SCOTUS's 1897 *Plessy v. Ferguson* ruling affirmed Southern segregation laws.

More recently I encountered these cases again in an extensive review of the 2021 *Justice Deferred: Race and the Supreme Court*. The 445-page volume, carefully researched and put together by civil rights attorney Armand Derfner and historian Vernon Burton, gained a lengthy review and discussion by Randall Kennedy, a professor at Harvard Law School. *Justice Deferred* charts the Court's jurisprudence by examining nearly two hundred cases involving American racial minorities.

The Supreme Court has often been the most anti-progressive branch of the federal government, and it continues to be "deeply implicated in the country's racial oppression," asserts Kennedy in his review. SCOTUS "legitimated the conquest of Native American nations and the subsequent frauds and betrayals imposed on them." *Justice Deferred* examines cases brought by Native American chiefs who were given short shrift; others address Japanese Americans who

challenged internment or petitioned for citizenship; yet others were brought by Chinese immigrants harassed by e.g., local laws designed to privilege non-Chinese owners of laundries.

The post-Civil War SCOTUS decision in *Plessy* provided cover for racial separations across wide swaths of life, from schools to restaurants to marriages, writes Kennedy. He quotes from *Justice Deferred*, “This conscription of every white person in the army of racial discrimination gave official segregation a totalitarian cast.” In his *Plessy* dissent, Justice Harlan, a former slaveholder, pointed out the obvious: Segregation was done to Black Americans by white Americans who wanted to be spared sharing a carriage with Black citizens.

In 1922, SCOTUS upheld a law from 1790 that limited naturalization to “free white persons.” Already the Court had spent an entire century ignoring or suppressing basic rights. Following the brief progressive era of 1930 through 1970, “the fifty years since 1970 have witnessed a mostly accelerating retreat from racial justice,” says Kennedy.

The dismantling of the Voting Rights Act in 2013 was “an outrageous act of judicial delinquency,” Kennedy writes. *Shelby County, Alabama v. Holder* “minimized evidence of an ongoing effort to discriminate against Black voters” and “failed to give appropriate deference to congressional policy-making.” Predictably it eased the way for a flurry of voter suppression.

First enacted in 1965, the Voting Rights Act targeted the states with the worst records of voting discrimination, mostly in the South. For one thing, the Act ended literacy tests—which in itself prompted more than a million minority voters in the region to register. But the Act’s main impetus was a special provision, the preclearance requirement, which kept certain jurisdictions from implementing any changes affecting voting without preapproval from the U.S. Attorney General or the U.S. District Court for D.C. Over four decades, this requirement blocked more

than a thousand new voting rules. Originally enacted for five years, the Act was renewed three times, each time supported by congressional hearings, and held constitutional by the Supreme Court. In 2006, both houses of Congress voted almost unanimously to extend the Act again. When the Supreme Court cut the Voting Rights Act to pieces in 2013, it cleared the way for the avalanche of voting restriction laws we are seeing in 2021. It's already happened in states like Georgia, Florida, and Texas. No doubt more are to come.

I didn't see a discussion of *Citizens United v. FEC*, the SCOTUS decision of 2010, even though it affects racial inequity also. The ruling produced massive increases in political spending from outside groups. It expanded the already outsized political influence of wealthy donors, corporations, and special interest groups. It engendered the creation of super PACS and enabled dark money's influence on elections through shadowy nonprofits that don't disclose their donors.

Any election system skewed toward wealthy donors sustains racial bias in that it reinforces the racial wealth gap. Private wealth and big corporations exclude underrepresented voters in the "donor class" whose contributions beget the agendas in Washington and state capitals. Today a very small group of Americans wield outsize power in this country's political affairs. And "underrepresented voters" are hardly confined to Black Americans.

The other day I read an essay, "Warehouse Worker," as yet unpublished, in which the speaker looks back at his summer before college, which he spent working in a warehouse. His coworkers treated him, unlike their lone Black coworker, in an ok manner—until the foreman informed them, the speaker was leaving at the end of summer to go to college. The collective hatred his coworkers directed toward him was hard to stomach—that much bile for wanting an

education? Previously the target of their venom had been the Black coworker; now, they had an additional mark. They informed the speaker that, once before, a “college boy” had given notice. On his last day they beat him up and trashed his car. The speaker would encounter the same fate, they assured him. At the time the speaker wrote of the experience, he had gained some distance and understood, the warehouse workers envied him because he had a way out of the “shit jobs” from which they themselves could see no escape. They were married with family; quite possibly the wife also worked, maybe part-time, in the “shit job” service industry at poverty wages while paying through the nose for child care.

When did labor turn into shit jobs? In May 2020, two Harvard University researchers, Anna Stansbury and Lawrence Summers, provided an answer with documented data. The title of their findings rings academic: “The Declining Worker Power Hypothesis: An Explanation for the Recent Evolution of the American Economy.” Since the early 1980s in the U.S., write the researchers, “the share of income going to labor has fallen, measures of corporate valuations like Tobin's Q have risen, average profitability has risen even as interest rates have declined, and measured markups have risen. Over the same time period, average unemployment has fallen very substantially We argue that the decline in worker power has been the major structural change responsible for these economic phenomena.” Their hypothesis provides an explanation for observed changes in firms’ market power, the researchers assert, because “a declining labor share of income, and reduced unemployment and inflation, have defined the macroeconomic environment of the last generation.”

“Since the early 1980s.” This means the changes began long before *Citizens United* tilted the power structure so obscenely. I think it’s these changes that made possible the SCOTUS

decision. Supreme Court judges are political appointees; as such, they have never been as free of ideological influences as my late husband and I believed circa 1970. Already in 2008, five years after Darold's death, John Grisham's fictional judge in *The Appeal* fell prey to the influence of big money. Grisham, a former attorney, stays informed on judicial developments and exploits them in his fiction.

Since then the pandemic, and increasingly violent climate disasters, have made things even worse for the people in the labor stratum. They often end up ill or injured—and homeless.

In the spring of 2020 my son, who teaches veterinary sciences at Texas A&M in College Station, was strongly urged by his department chair to join other veterinarians in caring for injured animals after a tornado hit a small town at a nearby lake. When he got there, he was appalled at the contrast between the lakefront chalets—well-built vacation homes of the wealthy that had escaped unscathed—and the destroyed trailers and flimsy RVs of the workers who labor for their daily bread. It was the beginning of the pandemic; the veterinarians arrived with surgical masks and gloves while the animal owners wrapped bandannas or towels across noses and mouths. My son treated the dog of one man who confided he had no homeowners insurance on his—completely ruined—trailer home; he couldn't afford the insurance payments. What has become of the man and his family? Have they joined the ranks of the homeless, people who lost their homes, their furnishings, their treasured mementos, and possibly their health? Everywhere tent cities spring up, uncomfortable reminders of the Hoovervilles of not so long ago—this, despite “Help Wanted” signs everywhere you look. When you're homeless, you cannot commute to a job.

“The Great Coronavirus Divide: Wall Street Profits Surge as Poverty Rises” is the headline for John Cassidy’s essay in *The New Yorker* in October 2020. “The pandemic has highlighted glaring economic problems that have been building up for decades,” he writes, “including lack of job security, stagnant wages, and a hopelessly lopsided distribution of income and wealth.”

This is not just “someone else’s problem”; Wyoming suffers the same predicament. Justin Farrell, in his 2020 well-researched *Billionaire Wilderness: The Ultra-Wealthy and the Remaking of the American West*, contrasts the billionaire lifestyle in Teton County with that of the workers who toil for them—housekeepers, landscapers, childcare workers, cooks and caterers—who, to the last individual, are impoverished Mexican immigrants. They subsist, ten to fifteen crammed into a trailer, the adults taking turns sleeping in the beds, the children sleeping on the floor. “In my classroom, our Latino kids come in and they are exhausted,” said one teacher. Eviction is a standard occurrence and student homelessness a sad reality; “in every level I’ve had a homeless student.” The parents of these children work two and three jobs just to keep afloat. They have no choice—many are undocumented. So that in the Jackson Hole area, side by side with unimaginable wealth, a bone-grinding poverty has taken root.

Farrell, a Wyoming-born professor at Yale, notes at outset that his mother used to clean houses in the area. Today there’s not a chance that the children of these “underrepresented voters” avail themselves of an education as Farrell was able to do a generation ago. Sadly, the racial and economic divisions in Teton County reflect the national chasm.

Teton County is the wealthiest in the U.S. and “the most unequal community in the country.” This income inequality, Farrell notes, “is representative of national inequality.” He cites the following statistics:

- * In 2015, eight out of every ten dollars in income earned in Teton County came not from traditional wages or salary but from interest and dividends.

- * In 1970, \$52 million in annual income in the county came from investments and interest and dividends; by 2015, this number had shot up 6,500 percent, to \$3.4 billion.

- * Wages or salary from an ordinary worker’s job in 1970 paid \$39,943.

- * Forty-five years later, this figure had increased by only \$1,109—to \$41,052.

- * Since 1973, productivity among American workers has increased by 74 percent, while wages have increased by 2.5 percent. Workers’ productivity increased six times faster than their pay.

What is to be done? I wonder what Darold would tell me today. Deep structural changes must be undertaken, but do our votes even count any more?