Posted February 21, 2024. Editor's Headline: "Supreme Changes."

https://www.thecheyennepost.com/opinion/columnists/supreme-changes/article_0ef71218-d0f5-11ee-be32-2355b072c123.html

When I arrived in the United States from Europe, the welcoming atmosphere of the Golden State proved euphoric. Darold, my new husband, worked as a missile engineer by day and studied law at night; naturally, we followed California state court decisions as well as those of the Supreme Court, which was dubbed the Warren Court for its Chief Justice, Earl Warren. My husband was Republican but so was Warren, who was Governor of California when called to the bench. We lived 30 miles south of San Francisco, in Santa Clara, which was surrounded by fruit orchards and walnut groves.

Our firstborn joined us in December 1964, a time when the Warren Court was rectifying social inequities of long standing. Despite President Kennedy's assassination the previous year, we looked forward to more equitable days to come. Ten years earlier, with "Brown v. Board of Education," the Court had handed down decisions that set off a purpose-driven civil rights movement. In nearby Oakland the Black Panthers tested their meddle. Freedom Fighters jumped into buses heading south to secure African American votes.

Fast-forward some fifty-five years. Adam Cohen's 2020 "Supreme Inequality: The Supreme Court's Fifty-Year Battle for a More Unjust America" awakened the realization that our hopes and dreams—my hopes and dreams, since Darold died in 2003—have gone up in smoke. Cohen links unjust Supreme Court decisions to the injuries and deaths of low-income and middle-class earners, work-related but ignored by OSHA, the Occupation Safety and Health Organization that had been weakened by Supreme Court Rulings.

The author acknowledges that factors like globalization and job-destroying automation have contributed to inequality; still, he points to Court decisions that dismantled the legacy of the Warren years, 1953 to 1969. The reversals, usually by 5-4 votes, nixed jury verdicts and legal precedents on such issues as school desegregation, racial exclusion and discrimination, wage workers' rights, labor unions, women's rights, and even class-action suits.

Reading Cohen, I grew appalled by the actions of the Nixon Court, as it came to be known. During his six years as President, Nixon installed four Supreme Court justices, including Chief Justice Warren Burger, who replaced Earl Warren, forging a conservative majority that has held steady ever since. Congressional maneuvers like the Senate preventing President Obama from filling a Supreme Court vacancy ensured that a five-member conservative bloc has remained in place.

Nixon did more than appoint justices with extremely conservative views. "[I]f Nixon had not misused the power of the presidency to drive him off," Cohen points out, "Abe Fortas would have been on the Court in 1973." Fortas would have provided the additional vote the Rodriguez plaintiffs needed to rectify racially unfair school-district financing.

I lost track of Supreme Court decisions when I quit my role as "chief cook and bottle washer" in Darold's law practice and pursued a career in university teaching. At every step of my graduate studies, which I entered as "adult learner," I contended with sexist and ageist harassment by male colleagues and department heads. This was shocking to me; I'd assumed academics to be enlightened. My first employment gigs followed the pattern. While I thought it my bad luck, my sons suggested that my "lack of political finesse" might be to blame. My "bad luck" changed when I started teaching in Historically Black Universities (HBCUs) where women held key positions.

Rulings on political campaign finance have dismantled legislation meant to safeguard against undue influence. While the Court denied the poor and the middle-class rights to which they were entitled, writes Cohen, it invented advantageous ones for wealthy individuals and corporations. In the 2010 "Citizens United" case, the Court decided that spending money in an election was speech, "a bulldozer to sweep away one campaign finance reform after another," while interventions in politics, as in "Bush v. Gore," have worked against the principle that previous court rulings provide precedents.

Five decades of siding with the rich and powerful against low-wage earners and the outright poor have resulted in historic levels of socioeconomic inequality, pushing vast swaths of people into such desperate straits, they end up unhoused and camped on sidewalks. A 2018 study by the Federal Reserve Board found that even American middle-class families could not come up with \$400 in an emergency. Life expectancy declined from 2014 and 2017, notes Cohen, the longest period since 1914 through 1918, a period that included the flu pandemic and World War One.

Contrary to what Americans believe, the Supreme Court does not protect us equally; indeed, it hasn't done so for decades. The successes of the Warren Court—school desegregation, labor unions, voting rights, and class action suits—have been annulled in favor of rulings that protect privileged Americans and big corporations—Cohen discusses at length how the Court's "Exxon Valdez" annulled lower courts' imposition of punitive damages concerning the giant oil spill in Alaska's Prince William Sound in March 1989 that devastated one-third of Alaska's commercial fisheries.

The middle class, which includes those fisheries, has shrunk. Mass incarcerations have devastated African American and Latinx communities while wealthy individuals and corporations have had an inordinate say in elections, resulting in historic gaps between the most well-off and the least. "We the people" are unable to influence, let alone change, Supreme Court rulings that damage our lives.

Weakening organized labor unions, besides facilitating right-to-work laws, is helping the Republican Party, since public-sector unions are sources of support for Democrats. Cohen notes that "one study of the effect of right-to-work laws found, they reduce the Democratic vote share for president, Congress, governor, and state legislators by about 3.5 percent."

With the Court's conservative majority appointed by conservative presidents, it's hard to remember when the Court moved in the opposite direction. Under slightly different historical circumstances, the Warren Court could have continued on its path, helping create a society with

more equality, inclusion, and opportunity for all. In the book's Conclusion, Cohen quotes Edward Sparer, the leader of the Poverty Law Movement: the Supreme Court "could have led to a different America."