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Newsroom

Goldstein on Tea Party View of Constitution

The ProJo's Ed Fitzpatrick profiles Professor Jared Goldstein and his research into the basis for Tea Party platforms such as 'reclaiming' the Constitution.

From the Providence Journal's regular column by Ed Fitzpatrick: "[Examining the Tea Party's Constitution](#)":



January 25, 2011: By now, we're familiar with the Tea Party's rattlesnake-on-a-yellow-background Gadsden flags and with what the movement stands against: the new health-care law and the stimulus package, taxes in general and President Obama in particular.

Less attention is paid to what Tea Party supporters support: "reclaiming" the Constitution and returning the government to constitutional principles. **Jared A. Goldstein, a law professor at the Roger Williams University School of Law, in Bristol**, is delving into that topic in a pair of draft law review articles.

Goldstein, a former U.S. Justice Department appellate lawyer who teaches constitutional law, notes the movement began in February 2009 when CNBC's Rick Santelli decried President Obama's proposal to provide assistance for homeowners facing foreclosure. Santelli said: "It's time for another Tea Party."

Since then, the Tea Party has risen rapidly, helping to elect candidates while wielding significant influence within the Republican Party, Goldstein says, so it's worth taking a close look at the Tea Party's constitutional vision.

That's a difficult task since the Tea Party lacks a single leader or platform, but the movement has embraced two books written in the 1980s by W. Cleon Skousen, including "The Five Thousand Year Leap," Goldstein says. Since being reissued in 2009 with an introduction by TV and radio commentator Glenn Beck, the book has become a best-seller and is often called the Tea Party "bible," he says. "Skousen's books are decidedly strange sources to inspire a contemporary political movement" because they're "the products of the paranoid edges of the radical right wing of the Cold War era."

But the books are finding an audience with Tea Party supporters who share a "fundamentalist vision of the Constitution," Goldstein says. Both Skousen and Tea Party supporters believe that fundamental values — including limited government, free markets and individualism — are under attack, and they often distinguish between "true believers in the constitutional faith" and "anti-Americans," he says.

Goldstein acknowledges that "politics not only ain't beanbag, it also ain't a constitutional law seminar." But he says any rhetoric used to divide "true Americans" from "anti-Americans" should be "condemned as a danger to constitutional democracy."

He says the Tea Party is in some ways at odds with former Supreme Court Justice Oliver Wendell Holmes Jr.'s view that the Constitution was "made for people of fundamentally differing views."

And he describes the Tea Party's constitutional views as a mix of two legal theories — "originalism," which emphasizes the original meaning of the Constitution at the time it was adopted, and "popular constitutionalism," which emphasizes letting the people (rather than elite judges) determine its meaning.

“The Tea Party movement is a surprising hybrid of these two positions, a sort of popular originalism,” Goldstein says. “It is the Reese’s Peanut Butter Cup of legal theory, and it provides the opportunity to ask whether these two great tastes go great together.”

If you’re hungry for more information, the law school hopes to host a symposium about the Tea Party’s constitutional views this fall.

To read the full article, click [here](#).