

Editor's note: Chris Sprowls penned this article 12 years ago while in law school at Stetson University, where he was vice president of the Stetson chapter of the Federalist Society. He will assume the role of Speaker of the Florida House of Representatives in November 2020.

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The Federalist Society: An Ally In The Fight Against Judicial Activism

Chris Sprowls



In the wake of last year's dismissal of several U.S. Attorneys, left-wing political pundits and bloggers found an unusual target: The Federalist Society. While the Society has no identified political ties, does not file lawsuits on behalf of conservative issues, and in no way lobbies on Capitol Hill, critics have taken aim at

the group for its so-called "political clout" to influence both judicial and political appointees within the Bush administration.

In an all too familiar fashion, these critics have portrayed this legal society as a secret conservative organization that has an unhealthy effect on the integrity of our government. This article is intended to

shine a light on what the Federalist Society really is, what it stands for, and what it means in the fight for the preservation of “originalism.”

The Federalist Society for Law and Public Policy Studies traces its origin to 1982, when a group of conservative and libertarian law students became dismayed by the absence of instruction—or instructors, for that matter—expressing an originalist approach to legal analysis. Originalism, or strict constructionism, is the legal philosophy that jurists should interpret the Constitution in a manner that reflects the original intent of the framers.

Originalists believe that the Framers scripted a document that would not evolve, devolve, or morph throughout the history of the Republic. Of course, the Framers did expect the document to be amended, as evidenced by the fact that they chose to amend it themselves, but they could not have intended for carefully chosen words to convey a different meaning today than when adopted in 1789.

Alexander Hamilton, James Madison, and John Jay wrote the Federalist Papers in 1787 to convince the young nation that it was because men are not angels that we need government, and that this government would perpetuate the spirit of the revolution by providing a system in which no one branch would dominate the other two, with the ultimate purpose of protecting the basic rights granted to our individual citizens by the document then and now.¹

The Federalist Society is about exploring these ideas. The society has over 180 chapters with 5,000 student members at law schools across the country. The lawyer division boasts 20,000 members, and in 1996 the society began a Faculty Division to encourage academic dialogue. In Florida, all ten accredited law schools claim chapters. Many of Florida’s conservative-minded lawyers and jurists remain involved with the group through lawyer divisions in Tampa, Orlando, Miami, and Tallahassee.²

The society offers law students the opportunity to engage legal scholars and leaders in their respective fields by utilizing the organization’s speaker’s bureau. The bureau provides a dynamic and broad field of interesting speakers for chapters to invite to speaking engagements, group meetings, or special seminars. The Federalist Society pays for these speakers to visit law school chapters, thus providing the means necessary to allow students to engage in the intellectual discourse that the society embodies.

Ronald Reagan knew the impact that the organization would have on America’s legal education when he said, “The Federalist Society is changing the culture of our nation’s law schools. You are returning the values and concepts of law as our Founders understood them to scholarly dialogue, and through that dialogue, to our legal institutions.”

Mr. Reagan, who once quipped that freedom is only a “generation from extinction,” knew that the Society did and would serve the Republic by safeguarding

the intent of the Framers and ensure that the dialogue and spirit of federalism as it was described in the Federalist Papers and embodied in the Constitution would live forever.

The Federalist Society is dedicated to the proposition that in order to preserve our Republic's most sacred of principles, the rule of law; we must constantly be vigilant in our study, understanding the commitment to the law, and through it, to freedom.

As for the Society's influence on the debate over originalism, we must look only to the many notable current and former members, including Justices John Roberts, Samuel Alito, Antonin Scalia, and Clarence Thomas. Former Solicitor General Theodore Olson and Judge Robert Bork are also among the group's most prestigious supporters.

While these individuals are some of the most conservative individuals in the eyes of the legal community, they are also some of its most celebrated scholars. Some critics, noticing that many of the attorneys being hired by the Department of Justice are members of the Federalist Society, have asserted that membership was perhaps code for conservative, somehow indicating that this person is a true believer in some standardized, wholesale version of conservatism.

However, the critics have seemed to notice that many of the same individuals are members of the American Bar Association, our nation's largest legal organization. Hiring members of the ABA does not stir suspicions of a conspiracy, nor does it serve as a lightning rod for political rhetoric, despite the fact that a larger number of government lawyers are members of the ABA than of the Federalist Society.

The Federalist Society and its members are about exchanging ideas concerning the future of our system while clinging to our most venerated and rooted principles - those that the Republic was founded upon and without which our nation would surely perish.

These gatekeepers often find themselves in government service, not because of who controls Congress or the White House, but because the essence of their beliefs is derived from the principles that the Founders gave us and constitute the pillar upon which our system rests: the rule of law.

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References

- 1 Federalist Papers #51.
- 2 Federalist Society Online, <http://www.fed-soc.org/aboutus/id.28/default.asp>.