

## JUDGE MICHAEL WARREN

### JUDICIAL PHILOSOPHY

John Adams explained the Founders' sentiments when he wrote that good government and the very definition of a republic "is an empire of laws." The First Principle of the rule of law is indispensable to maintaining our unalienable rights, limited government, equality, and the Social Compact. The judiciary is the guardian of the rule law.

As Alexander Hamilton explained in Federalist No. 78, the constitutional and legal limitations of power on executive and legislative authorities "can be preserved in practice no other way than through the medium of courts of justice . . . Without this, all the reservations of particular rights or privilege would amount to nothing." On the other hand, courts must exercise self-restraint to avoid the temptation of revising, "correcting," or implementing policies the people or legislature have not enacted. "The courts," Hamilton continued, "must declare the sense of the law, and if they should be disposed to exercise WILL instead of JUDGMENT, the consequence would equally be the substitution of their pleasure for that of the legislative body."

Thus, to properly fulfill their role, courts must interpret the law as originally understood by the people (in the case of the Constitution) or the legislature (in the case of statutory construction). See, e.g., Cooley, *Constitutional Limitations*, p 55 ("[t]he object of construction, as applied to a written constitution, is to give meaning to the intent of the people adopting it"). With regard to the Constitution, this is so because the fundamental charter "is made for the people and by the people . . ." *Traverse City School Dist v Attorney General*, 384 Mich 390, 405 (1971).

As Justice Cooley reflected, "Constitutions do not change with the varying tides of public opinion and desire; the will of the people therein recorded is the same inflexible law until changed by their own deliberative action; and it cannot be permissible to the courts that in order to aid evasions and circumventions, they shall subject these instruments, which in the main only undertake to lay down broad general principles, to a literal and technical construction, as if they were great public enemies standing in the way of progress, and the duty of every good citizen was to get around the provisions whenever practicable, and give them a damaging thrust whenever convenient. They must construe them as the people did in their adoption, if the means of arriving at that construction are within their power." *Bay City v State Treasurer*, 23 Mich 499, 506 (1871). In other words, judges should not legislate from the bench, but apply the law as adopted by the lawmakers.

At the University of Michigan Law School - no bastion of conservative jurisprudence - I proudly served as an officer of the Federalist Society. Since then I have not wavered in my commitment to the rule of law. It is a centerpiece of my book and Patriot Week. I have been an outspoken and consistent advocate for rule of law and original meaning for decades. As a dedicated Federalist and rule of law judge, I will continue to protect the Constitution and the law.

Paid for by Judge Michael Warren for Court of Appeals. PO Box 1182 Brighton, MI 48116