

POLITICS & GOVERNMENT

The Elusive Conservative Majority

THE SOURCE: “After the Wave” by Henry Olsen, in *National Affairs*, Winter 2011.

REPUBLICANS MAY HAVE trounced the Democrats in the 2010 midterm elections, but if history is any indication, their big gains will be fleeting. The GOP failed to cement electoral wins in 1966, 1980, and 1994 into a permanent governing majority. Henry Olsen, a vice president of the conservative American Enterprise Institute, says Republicans need to face some facts about the voters who are the decisive swing bloc: the white working class.

Many conservatives have long believed that as a whole, the American electorate tilts center-right. In surveys, self-described conservatives outnumber liberals by as much as two to one. Well over half the voting public says it favors smaller government. But those same polls also find strong support for large government programs such as Social Security and Medicare, and other surveys show high levels of backing for education spending. When Republicans come to power and try to reverse liberal policies, voters respond by voting Democratic in the next election cycle.

“Voters,” Olsen says, “may hate the house of government, but

[they] love the bricks used to build it.” It’s this paradox that has pushed many Republican governors—as it did President George W. Bush—to drastically expand government spending under their watch.

Many Republican-leaning voters are not conservatives at all. They are antiliberal: They prefer low taxes and balanced budgets, but fearing they could lose everything they’ve worked for, they also support state-sponsored welfare and retirement benefits. They are patriotic and support the armed forces but are suspicious of anything “big,” whether it be the military, business, or government. This piece of the puzzle—the fear of anything “big”—“gets to the heart of working-class identity,” Olsen says.

“Conservatives need to persuade working-class voters that their efforts to reform key safety-net programs are intended not to shred those safety nets but, rather, to save them,” Olsen argues. He endorses efforts like the one conservatives made in pursuit of welfare reform in the mid-1990s. It was framed as a question of encouraging welfare recipients to be more independent, not as a chance to save money and take away from those in need. In New York City, crime is down and police budgets are shrinking years after Mayor Rudolph Giuliani

launched a vigorous reform effort based on the notion that maintaining public order is part of the social safety net.

Olsen contends that reform, rather than wholesale dismantling, is not at odds with the conservative project. Indeed, he argues, certain safety-net programs are essential if free-market capitalism is to flourish.

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Oyez! Oyez! Oyez!

THE SOURCE: “In Front of the Burgundy Curtain: The Top Ten Lessons I’ve Learned About Advocacy Before the Nation’s Highest Court” by Lisa S. Blatt, in *Green Bag*, Autumn 2010.

IN HER TWO DECADES OF PRACTICING law, Lisa S. Blatt has argued 30 cases before the nation’s highest court, more than any other woman in the country. Her up-close-and-personal vantage point has taught her a few things about life at the Supreme Court.

At oral argument, each side’s lawyer has 30 minutes to “present” her case, which really means that she will be peppered by tough questions from nine of the smartest people in America. Well, just eight in practice, since Justice Clarence Thomas hasn’t spoken at oral argument in more than five years. In Blatt’s opinion, that is “a blessing.” Eight justices are plenty!

The justices, particularly Antonin Scalia and Stephen Breyer, purposely ask outlandish questions in order to reveal the limits of each party’s legal reasoning. In one case involving a government property



Lisa S. Blatt in her natural habitat. She has argued 30 cases before the nation's highest court.

seizure, Justice Breyer asked the government's lawyer whether his argument implied "that the Constitution would permit, in your view, the Taj Mahal, for example, to be forfeited if it was once used to sell a teaspoonful of marijuana." Blatt says she half-expected the lawyer to respond, "Justice Breyer, are you crazy?" But he didn't take the bait, and instead outlined under what circumstances that would indeed be the case.

Nevertheless, there are times you should *not* carry your argument to its logical conclusion: "Whatever you do, don't say, 'The government can ban books.'" This is essentially the mistake government lawyers made during the 2008 oral argument concerning corporate campaign expenditures in *Citizens United v. Federal Election Commis-*

sion. The justices wondered whether the government's logic in defending limits on corporations' spending in political campaigns could lead public libraries to ban a 500-page biography published by a corporation that ended with the sentence, "So vote for person X." The lawyer's answer was yes, and the government subsequently lost the case 5–4. In such instances, Blatt recommends either "tossing logic and consistency entirely out the window" or rethinking your argument altogether.

Blatt also makes some clear-eyed observations about the Court's role in American law. "Constitutional change is inevitable," she says. Judges often espouse restraint, but the truth is that Supreme Court cases are a zero-sum game: Each decision expands the

rights of either individuals or the government. When it comes to which cases the Court hears, "coordinated and strategic movements" and amicus curiae briefs (those submitted by interested parties) have gained influence in recent years.

Each year, only one percent of petitions filed are heard by the Court, about 70 in all. With so few cases heard, it's a rare privilege to stand in front of the Court's burgundy curtain—rarer yet if you're a woman. "The courtroom is a battlefield," Blatt says. Prepare to fight.

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Where Are the Female Politicians?

THE SOURCE: "Gendered Perceptions and Political Candidacies: A Central Barrier to Women's Equality in Electoral Politics" by Richard L. Fox and Jennifer L. Lawless, in *American Journal of Political Science*, Jan. 2011.

IT WASN'T VERY LONG AGO THAT almost no women were elected to major political offices. In the 1970s there were two female governors, and it was only in 1978 that the first woman whose husband had never served in Congress was elected to the Senate for a full term. Today, many more women hold elected office—there are 17 female senators—but the gains have slowed since 2000.

Scholars offer several explanations: overt discrimination, "situational" factors (e.g., not enough women in the feeder fields of law and business), structural barriers (e.g., the large number of incum-