

came out of the United States, I understand, by a U.S.-based reporter, is accurate as far as it goes, but it doesn't go far enough.

If we want to understand the implications of what Justice Antonin Scalia represents, and his role in the current intervention into the election process, we have to compare him, and his cothinkers, to a fellow called Carl Schmitt, a famous romantic professor of law, and an official of the German government, in the 1920s and early 1930s. It was Carl Schmitt, with his emergency law provision, which was used, with Schmitt's personal approval, to bring Hitler into consolidated dictatorial power in Germany.

Now, Schmitt was a follower of a fellow called Savigny, but Schmitt was unique, in the sense that he believed, along with others of that century, that his faction in history, makes revolutions, then creates a state based on the revolution, and that law is merely the dictate imposed upon society by the state controlled by those revolutionaries. In that sense, Carl Schmitt argued that it is not the law, such as constitutional law, or the principle of natural law, such as the general welfare, which should determine what the state should become.

Remember, our Constitution, as expressed in the first three paragraphs of the Declaration of Independence, was a declaration of a new type of nation, but based on a principle of European civilization called the general welfare. That is, that no government has the authority to rule, except as it is efficiently committed to promote the general welfare of all the population, and its posterity.

That's a government based on law, and our Constitution was framed, very carefully, by some very thoughtful people,

to give us a form of government, in which the law would conform to that principle of the general welfare.

Now, Scalia is a fellow who rejects the idea of the general welfare. I was just reading the other day, a speech he gave to Catholic University in Washington, D.C., on the subject, in 1996, in which he explicitly outlaws the fundamental principle of the U.S. Constitution, the principle of the general welfare. And read the first three paragraphs of the Declaration of Independence. Compare that with the Preamble of the Constitution. Compare that with the arguments, and discussions, which filled it out, of the forming of the Constitution. Look at the Revolution which carried out this general welfare principle, the Civil War, led by Lincoln. Think of the revolution that Roosevelt made, to get us out of the Depression, and through World War II, and to lay the foundations for an economic recovery in the United States and Western Europe, over the period 1945-1965.

This was a government based on a principle of law called the general welfare. The function of government, is to recognize that every person is sacred, as made in the image of the Creator, and therefore government must treat *all its people* accordingly, to develop them, to nurture them, to ensure their rights, to ensure that they have a posterity of that quality. *That's our law.* And our notion of government is based on that principle of law, the principle of the general welfare, or what is otherwise called the common good.

Scalia rejects that. The so-called conservative majority, present majority, of the Supreme Court, has repeatedly rejected that.

There is the danger. When a government accepts the phi-

Scalia Repudiates Intent Of Founding Fathers

U.S. Supreme Court Associate Justice Antonin Scalia boasted that he doesn't care about the intent of the Framers of the U.S. Constitution, during a speech at Catholic University of America in October 1996.

In his speech, entitled "A Theory of Constitution Interpretation," Scalia described himself as belonging to "a small but hardy school, called 'textualists' or 'originalists.'"

"If you are a textualist, you don't care about the intent," Scalia declared, "and I don't care if the framers of the Constitution had some secret meaning in mind when they adopted its words.

"I do the same with statutes, by the way, which is why I don't use legislative history. The words are the law. . . .

We are not bound by the intent of our legislators, but by the laws which they enacted, which are set forth in words, of course."

On this basis, among other things, Scalia argued that the death penalty is constitutional, because it is mentioned in the Constitution ("No person shall be deprived of life, liberty, or property without due process") and because, he says, it was constitutional at the time of the adoption of the Constitution.

Scalia also scoffed at the notion of natural law, asking: "What does a judge consult, if not the original understanding of the text?" Any external standard applied by the judge, beyond the words, is simply prejudice, Scalia argued. "What is the standard? . . . I have never heard another one that has a chance of being adopted by more than two people? What are you going to use? The philosophy of Plato? Natural law? That's handy," he said sarcastically. "That will tell judges what to do." His conclusion: If you don't adopt his standard, of the words, then, as to another standard, "there isn't any."