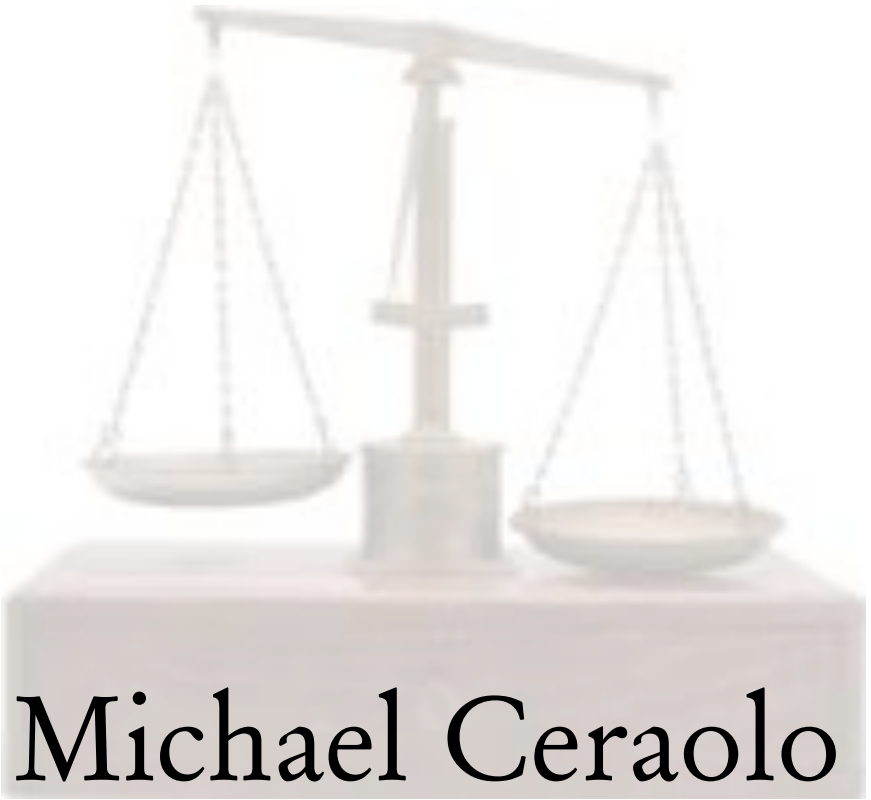
# The Top Ten Worst Decisions by a Body of Nine of Our Leaders



Michael Ceraolo

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From the home office of freedom
we bring you tonight
the Top Ten Worst Supreme Court Decisions:

10. Santa Clara County v. Southern Pacific Railroad (1886)

Needlessly, but purposely, obscure,
so obscure that probably not even
Alex Trebek's crack research staff
could tell you the details of the case
Its significant ignominy lies
in Chief Justice Waite's making explicit
what had been implicit for several years,
something that has pervaded and perverted
the polity to the present day:
"The court does not wish to hear argument
on the question whether the provision
in the Fourteenth Amendment to the Constitution,
which forbids a State to deny any person
within its jurisdiction the equal protection of the laws,
applies to corporations
We are all of the opinion that it does"
Hey, all together now:
Corporations are people, too

9. Schenck v. United States (1919)

Oliver Wendell Holmes,
son of The Autocrat of the Breakfast Table,
often (mistakenly) called The Great Dissenter,
in reality more accurately called
The King of the Weak Analogy:
"The most stringent protection of free speech
would not protect a man
in falsely shouting fire in a theater
and causing a panic"
Of course
the man who said
"man's destiny is to fight"
failed to say what was false
and
also failed to say what was shouting fire
in signing a petition,
and
urging other to also sign,
for the repeal of the draft

8. Minersville School Board v. Gobitis (1940)

A clerical error,
in addition to the judicial one
Lillian and William Gobitas,
as Jehovah's Witnesses,
had refused to salute the flag
and recite the Pledge of Allegiance
and were thus expelled from school
"Religious belief does not relieve the citizen
from the discharge of political responsibilities"
"We live by symbols"
"National unity is the basis of national security"
The government could cram down children's throats,
with impunity, beliefs,
"contrary to those implanted by the parent"
With eight of the nine justices agreeing
to such recruiting poster jurisprudence,
it was open season on the Witnesses
The horrors their German brethren
had experienced under Hitler
were unleashed on them:
their Halls were burned down;
they were publicly humiliated;
they were kidnapped;
they were beaten;
they were even castrated,
though
the line was drawn at placing them
in American concentration camps
That 'honor' would be bestowed on others

7. Bowers v. Hardwick (1986)

Big Brother was peeping in the bedrooms
of members of Georgia's gay community
One of the homophobic heat had earlier
ticketed Michael Hardwick
for having an open beer bottle outside
And
even though Hardwick had paid the fine,
the cop was somehow able
to get an arrest warrant
for failure to pay the fine,
legal harassment we should be free from
The cop pushed open the bedroom door
and saw Hardwick engaged in
what the law defined as sodomy
Hardwick was convicted,
and
the case made its way to the Court
The majority voted to uphold the conviction,
and Whizzer White,
who must have played his football without a helmet,
cited "the belief of a majority of the electorate in Georgia
that homosexual sodomy is immoral and unacceptable"
and that "the law is constantly based
on notions of morality"
The lawyer representing Georgia admitted
that no heterosexual would ever be prosecuted
under that same law,
and
even after that admission
equal protection under the law
was conspicuous by its absence
One of the majority justices
repented a few years later
(after his retirement),
and
people are still being killed
for being who they are

6. Buck v. Bell (1927)

The King of the Weak Analogy strikes again
"It is better for all the world,
if instead of waiting to execute
degenerate offspring for crime,
or
let them starve for their imbecility,
society can prevent those
who are manifestly unfit
from continuing their kind"
Of course neither Carrie Buck
nor the daughter she had borne
before her forced sterilization
according to Virginia law
were anything remotely resembling imbeciles
The 'eminent' man showed once again
that a strong opinion and an intelligent opinion
weren't necessarily synonymous

5. Loewe v. Lawlor (1908)

In this case
The Great Dissenter was just another sheep
unanimously following Fuller's lead
The United Hatters of North America
were calling for a boycott
of the Danbury Hat Company,
whom they were striking against
in hopes of winning union recognition
Dietrich Loewe of the hat company
sued Martin Lawlor of the union
for damages under the Sherman Anti-trust Act
The rhetoric of Social Darwinism
(never uttered by Darwin himself)
was ascendant in America at the time,
and
the experience of work,
in general,
and
the dangers of mercury poisoning
that led them to be called mad hatters,
in particular,
were far removed from Fuller's flock
"Any combination whatever"
in restraint of trade was illegal,
at least
when allegedly done by a labor union,
and
the justices' economic prejudices
were thus enshrined as the nation's law

4. United States v. Cruikshank (1876)

Morrison (Light) Waite strikes again
To celebrate the centennial of America
the Chief Justice and his co-conspirators
considered the case of one William Cruikshank,
who had taken part in the Colfax, Louisiana massacre
and had been convicted, along with two others,
of depriving Levi Nelson and Alexander Tillman,
two black men who had defended the Colfax courthouse
against the marauding mob of whites,
of life and liberty without due process of law,
and
of preventing the two men from exercising
their right to peacably assemble,
permanently
Louisiana had not prosecuted Cruikshank for murder,
forcing the Federal government to prosecute him
for depriving the two men of their rights
It was
"no more the duty or within
the power of the United States"
to protect its citizens
when a state failed to do so,
and
thus was created a literal and figurative
no-man's land,
actually
a no-black-man's land,
land
first fenced off forty years earlier

3. Korematsu v. United States (1944)

The 'honor' denied the Witnesses
was bestowed on Fred Korematsu
and a hundred thousand others
"Hardships are a part of war
and
war is an aggregation of hardships"
sounded like more recruiting poster jurisprudence,
and
the government's aggregate lies about the 'dangers' posed
by American citizens of Japanese ancestry
imposed the hardships of the concentration camp
"The legalization of racism" ,
in the words of one dissenter,
dressed in the clothes of 'military necessity'
"lies about like a loaded weapon
ready for the hand of any authority
that can bring forward a plausible claim of urgent need"
(in the words of another dissenter)
Fred Korematsu and the others
received and apology and some small compensation
nearly forty years after being so shot at
The gun is still lying around

2. Plessy v. Ferguson (1896)

Nearly forty years after the Dred Scott debacle,
and
thirty years after the Civil War was fought
and
the Reconstruction Amendments adopted
to correct that egregious error,
the Eight Dwarfs decided,
with
only John Marshall Harlan dissenting,
"We consider the underlying fallacy of the plaintiff's argument
to consist in the assumption
that the enforced separation of the two races
stamps the colored race with a badge of inferiority
If this be so,
it is not by reason
of anything found in the act,
but
solely because the colored race
chooses to put that construction upon it",
saying that inequality was not inequality,
previewing Orwellian doublespeak fifty years early,
and
thus ensuring that yet another American revolution
would one day be necessary

1. Dred Scott v. Sandford (1857)

The grandaddy of 'em all
The Court achieved a perverse perfection,
managing
to get everything wrong in this case,
from
yet another clerical error
that misspelled the defendant's name,
to
the important matters of law
A black was not three-fifths of a person,
as
the Constitution said in its original imperfection;
blacks were
"regarded as beings of an inferior order
and
altogether unfit to associate with the white race,
either in social or political relations;
and
so far inferior that they had no rights
that the white man was bound to respect"
Old Hickory's henchmen had had their say,
and
the great genocidal General Jackson was gleeful in his grave,
where he would very soon be joined
by several hundred thousand of his countrymen

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