

BEYOND ROBERTS: RESTRUCTURE THE SUPREME COURT

Catholic League president William Donohue will be participating in the "Justice Sunday II" event in Nashville on Sunday. He outlines today one of the points he will be making:

"Putting strict constructionists on the Supreme Court may help thwart the forces of judicial activism, but it isn't enough. What is needed is structural reform: the Supreme Court needs to be revamped, and that is why we need a constitutional amendment.

"It should be unconstitutional for the U.S. Supreme Court to overturn an act of Congress unless it is a unanimous decision. This idea is hardly new: it was first proposed by Chief Justice John Marshall, the same John Marshall who ironically gave us the *Marbury v. Madison* decision that established judicial review. And in the early 1960s, it was seconded by Sidney Hook, the great New York University philosopher. It is time we instituted this idea.

"When judges invent rights to privacy that allow for abortion-on-demand, they are exercising extra-constitutional authority. When judges pronounce that equal protection before the law means that it is okay for two men to get married, they are exercising extra-constitutional authority. When judges declare that the concept of eminent domain means that the government has the right to grab private property so that developers can make a fast buck, they are exercising extra-constitutional authority. That is why we need to go beyond Roberts: we need to restructure the high court.

"In a letter to W.H. Torrance, Jefferson discussed the question of 'whether the judges are invested with exclusive

authority to decide on the constitutionality of a law.' His response was telling: 'Certainly there is not a word in the constitution which has given that power to them more than to the executive or legislative branches.' Jefferson was right. The time has come to restore the three branches of government as co-equals and put an end to judicial tyranny."