

# Opinion

editorials, letters, commentary and perspective

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## letters to the editor

### No citizen's wallet is safe

On Jan. 20, 2004, Nevadans asked the U.S. Supreme Court to fix Nevada constitution problems by overturning the Nevada Supreme Court's decision to ignore the two-thirds legislative majority vote requirement to raise taxes passed by over 70 percent of Nevada's citizens in two elections. The Assembly budget panel chairman (D) said of the tax increases, "Just vote Yes, and we'll worry about the consequences later." The consequences have raised taxes for everyone in Nevada and tossed our constitution into the trash bin of irrelevance.

Assemblywoman Barbara Buckley (D) remarked regarding the U.S. Supreme Court petition, "It's a waste of time and resources." The \$150,000 in legal costs is being raised through private citizen donations without spending a dime of public money. Dr. John Eastman, Director of the Claremont Institute Center for Constitutional Jurisprudence, and former Attorney General Ed Meese representing Nevada in the U.S. Supreme Court are charging violations of federal constitutional rights, including: (1) Nevada legislators' votes were diluted (the vote of a member of the State Assembly

1/15 to defeat a tax increase is now diluted to 1/21); (2) overnight the Nevada Supreme court nullified every vote of 78 percent of Nevada citizens on the 2/3 majority initiative; and (3) voiding the citizens right to determine the laws that govern their state. "The decision stands as unvarnished usurpation of the authority of the Nevada Constitution, a shameful violation of the judicial oath, and a repudiation of the principle that Nevada's is a government of laws rather than men," Eastman wrote.

Rob Natelson, a University of Montana law professor said, "It points the way for gutting the initiative [process] permanently."

"We at the ACLU are troubled by the decision, the reasoning used to reach it, and the precedent it might set," said Gary Peck, Nevada executive director.

*The Reno Gazette Journal* on Jan. 22 recognized, "It's also likely that the ruling would someday be used as a precedent to overturn the two-thirds rule again, despite the court's argument that the decision was unique to the circumstances. The possibility of court-imposed mischief in the future is great."

"Voters are in no mood to tolerate those who embrace the notion that constitutional limitations may be suspended when deemed inconvenient,"

wrote *The Las Vegas Review Journal* on July 13, 2003.

UCLA law professor Eugene Volokh wrote: "If the court is willing to nullify 'general procedural rules' so that it can order the legislature to fund education, why stop at the two-thirds supermajority?"

The stage is set for tax increases in 2005 without mentioning cutting wasteful government spending. Assemblywoman and government employee, Sheila Leslie (D), admitting there was a valid constitutional issue, said she was focused on "getting sufficient funding for education." School trustees are considering a bill draft request for the Nevada Legislature to establish new tax sources to help fund school construction, according to *The Reno Gazette Journal* on Feb. 1. Eastman, quoting a 1944 Supreme Court, said the decision "lies about like a loaded weapon ready for the hand of any authority that can bring forth a plausible claim of urgent need." So long as the Nevada Supreme Court decision remains unchallenged, no constitutional provision or citizen's wallet is safe.

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