

# Noted.

## NEWT AND THE NINTH CIRCUIT:

Republican presidential candidate **Newt Gingrich** says nutty things, but among the nuttiest is his proposal to destroy the **Ninth Circuit Court of Appeals**, an idea he's floated for years and reaffirmed in a recent debate. Speaking at the **Conservative Political Action Committee** conference in 2010, Gingrich invoked the **1802 Judiciary Act**, which eliminated sixteen of the thirty-five then-existing federal judgeships. "I am more cautious than Jefferson," Gingrich said. "I would only abolish the Ninth Circuit Court."

The Ninth Circuit hears about 12,000 civil, criminal, bankruptcy, immigration and other appeals each year, from **California, Arizona, Washington, Oregon, Montana, Idaho, Nevada, Alaska** and **Hawaii**, plus **Guam** and the **Northern Mariana Islands**—one of every five federal appellate filings nationwide. Although right-wing politicians decry the Ninth as a paradigm of far-left "judicial activism," the court's twenty-nine judges are politically diverse.

Why would Gingrich shutter one of the nation's most important courts? Because, he says, he is "tired of secular fanatics trying to redesign America in their image." Of special concern is a 2002 ruling that the words "under God" in the Pledge of Allegiance violate the First Amendment. That ruling was overturned by the **Supreme Court** on procedural grounds.

Aside from the separation-of-powers questions raised by Gingrich's threats to judicial independence, it's difficult to understand how he expects the West to function without a fully staffed federal appeals court—unless he also plans to stop enforcing criminal, immigration and bankruptcy laws (among others).

There is real debate over how best to ensure consistent, efficient access to justice in the West. There have long been proposals to subdivide the Ninth Circuit, as was done with the Fifth Circuit in 1981. But this debate is unrelated to the one Gingrich is instigating. Gingrich's wild talk about "anti-American," "dictatorial" judges thus offers a microcosm of the GOP

primary: the topics of discussion are serious, the substance anything but. SARA MAYEUX

**OCCUPY EDUCATION:** "Mic check! MIC CHECK! Let the puppet show begin! LET THE PUPPET SHOW BEGIN!"

The demonstrators who held the floor at a December 14 meeting at **Newtown High School** in Corona, Queens, were part of **Occupy the DOE** (Department of Education), veteran teachers, parents and **Occupy Wall Street** activists who are bringing the language and tactics of OWS to the grassroots fight against neoliberal education reform.

The **Panel on Educational Policy (PEP)**, which convened the Queens meeting, is an illegitimate, undemocratic body that replaced elected school boards when **Michael Bloomberg** established mayoral control of the school system. It is a parody of a school board: the majority of the panel's members are appointed by the mayor, and the PEP has never, in all its existence, rejected any of his proposals.

The PEP was voting that night on, among other things, a plan to open three charter schools in Brooklyn, two of which were with the **Success** network, run by **Eva Moskowitz**, a former City Councilwoman with close ties to the Bloomberg administration. Almost everyone on the Success board hails from the hedge-fund or private equity industry. The idea that the 1 percent could open schools in Brooklyn neighborhoods, despite intense opposition from the public and many of its local elected officials, has provoked fury.

It's not only in New York City that the Occupy spirit has invigorated education activists. In late November **Occupy Rochester**, along with parents and other community activists, disruptively mic-checked a school board meeting to protest an undemocratic approach to selecting a school superintendent, a process that involved a corporate search firm. In Chicago, on the same day as the Queens PEP meeting, activists shut down a school board meeting to protest charter expansion. Two days later, activists occupied the lobby of New Jersey's Education Department, protesting efforts by Governor **Chris Christie** to open more charter schools in the state.

**Leia Petty**, who has been active in OWS but especially in Occupy the DOE, said of

the education justice movement, "People have been doing this work for years, but OWS has opened new possibilities for this work. It's helped us think bolder. It feels like a whole movement, not just us."

LIZA FEATHERSTONE

## BENEFIT CORPORATIONS BLOOMING:

While Washington remains pinned under the power of mammoth banks and corporations, in the states a movement is spreading to spark economic recovery with "benefit corporations," the new enterprise that combines traditional profit-making activity with strong social and environmental agendas (see "Plan B for Corporations," June 27).

On December 12, Governor **Andrew Cuomo** signed benefit-corporations legislation, thus aligning **New York** with **Maryland, Vermont, New Jersey, California, Virginia** and **Hawaii** in seeking to promote community-rooted businesses that have social responsibility written into their DNA. Many more states will soon be taking up the idea, which is being promoted by **B-Lab**, a national network of more than 500 progressive companies determined to show America that business success does not have to come at the expense of the common good.

The New York bill, sponsored by State Senator **Daniel Squadron** and Assembly Speaker **Sheldon Silver**, passed unanimously in both houses and was hailed as an economic recovery measure. "By offering this opportunity to entrepreneurs and investors," Squadron said, "New York will bring new businesses into the state, new investors into the market and a new socially minded approach for our entrepreneurs." Silver said the new law will "strengthen and diversify our economy while ensuring that New York remains a national leader in progressive policies that help our environment, protect consumers and bolster the rights of working men and women."

At a time when **Newt Gingrich** suggests that public school janitors be replaced with schoolchildren and GOP candidates want to slash the capital gains tax to promote "job creation," reality-based Americans are desperate for practical ways to revive commerce while bolstering community. Changing state laws to provide for benefit corporations is a promising start.

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