



Home Page for the World's Business Leaders

Free Trial Issue

U.S. EUROPE ASIA

HOME BUSINESS TECH MARKETS ENTREPRENEURS LEADERSHIP PERSONAL FINANCE FORBESLIFE LISTS OPINIONS

Autos Billionaires Energy Entertainment Logistics Media Pharma & Health SportsMoney Wall Street Washington

Business in The Beltway

a blog about Washington

Al Gore's Lawyer Slams Global Warming Suits

January 29, 2010 - 2:48 pm



Daniel Fisher [Bio](#) | [Email](#)

Daniel Fisher is a senior editor at Forbes.

Harvard Law Professor [Laurence Tribe](#) represented Al Gore in the disputed 2000 [Supreme Court case against George W. Bush](#) but that didn't stop him from attacking one of the favorite tactics of the anti-global warming crowd: Lawsuits. In [an article](#) posted today by the conservative [Washington Legal Foundation](#), Tribe argues that federal judges have committed grave error by allowing global-warming suits to proceed instead of leaving the issue of limiting carbon emissions to Congress.

"Courts squander the social and political capital they need in order to do what may be politically unpopular ...when they yield to the temptatiuon to treat lawsuits as ubiquitously useful devices for making the world a better place," write Tribe and his coauthors, Joshua D. Branson, a third-year at Harvard Law; and [Tristan L. Duncan](#), a partner at Shook, Hardy & Bacon, the Kansas City law firm perhaps best known for defending Philip Morris and other tobacco companies.

In the brief but powerfully worded article, Tribe et al argue that courts since the days of [Marbury vs. Madison](#) have recognized that some questions are inherently political and can't be decided through litigation (Marbury, of course, is the famous case where the Supreme Court decided it couldn't decide poor Marbury's case but it did have the last word on whether laws are constitutional).

Tribe takes issue with several cases, including one in which a federal court agreed to hear a dispute over whether consumers are being ripped off by gasoline sellers who fail to tell them that, in accordance with the unchanging laws of the universe, gasoline expands when it gets warmer. Lawyers decided that means consumers are getting less energy from a gallon of gas they pump in hot weather than in cold. Balderdash, says Tribe: The retailer also pays less for that equivalent energy value and passes it along so the consumer comes out equal. Oh, and the Constitution explicitly says Congress is in charge of regulating interstate commerce and weights and measures and [a federal board](#) has determined that adjusting the measure of a gallon of gas for temperature is silly.

Two federal courts also have allowed global warming suits to proceed. This is error, Tribe says, because courts are incapable of imposing a workable scheme for limiting emissions by millions of polluters around the world and determining who should get the benefits of the litigation. Giving a plaintiff relief

Search This Blog

Follow This Blog

RSS Feed

More Posts

- [Al Gore's Lawyer Slams Global Warming Suits](#)
- [Lessons From the Bernanke Vote](#)
- [State Of The Union: Live Blogging Obama's Speech](#)
- ['Despite Our Hardships, Our Union Is Strong'](#)
- [The Fed Should Have Listened To The Truckers](#)
- [Middle Class Proposals Thin on Details](#)
- [In Milwaukee, Kohl Says Health Care Takes a Back Seat to Economy](#)
- [Election Funding: What Congress Should Do](#)
- [Supreme Court Gives Corporations a Boost](#)
- [GOP Wins 41st Seat In Senate -- Brown Beats Coakley](#)

More coverage

- [Obama's Classroom Fixer](#)
- [Raytheon Earnings Pop On Security Spending](#)
- [Job No. 1 For Obama: Jobs](#)
- [Full Text: The State Of The Union](#)
- [Excerpt: The State Of The Union](#)

Categories

- [Barack Obama \(158\)](#)
- [Bill Clinton \(4\)](#)
- [Blue Dogs \(1\)](#)
- [byline=Brian Wingfield \(8\)](#)
- [Cabinet \(4\)](#)
- [Campaign Finance \(5\)](#)
- [Congress \(5\)](#)
- [Credit Crisis \(22\)](#)
- [Current Affairs \(24\)](#)
- [Debates \(104\)](#)
- [Democratic Party \(8\)](#)

Archive

- [January 2010](#)
- [October 2009](#)
- [September 2009](#)
- [August 2009](#)
- [July 2009](#)
- [June 2009](#)
- [April 2009](#)
- [March 2009](#)
- [February 2009](#)
- [January 2009](#)
- [December 2008](#)
- [November 2008](#)

Forbes .com Attaché

Channels EDIT

Fac
Ep
Co

CLICK HERE TO Add Stories By Channel

The Disgruntled Graduate

Advertisement

Recommended Stories

America's Top Selling Cars

Forbes Attaché

You Navigate. We Notice.

Recommended content based on your interests.

CLICK HERE TO Personalize Forbes.com

The Greenest Gasoline?


from rising water levels or changing coastlines "bears no genuine resemblance to identifying a responsible defendant and ordering a reduction in its emissions." Instead, such a doctrine "enables plaintiffs -- if courts let them -- to wield the hammer of federal common law against any emitter of their choosing."

Tags: Al Gore, Barack Obama, Cap and Trade, Climate Control, Global Warming, Laurence Tribe, Legal Affairs

Email Twitter Facebook Digg Buzz More

« Previous post

Lessons From the Bernanke Vote


 From
 To

[Follow](#)

Echo 0 Items

[Admin](#)

- [Democratic Primary \(73\)](#)
- [DNC Convention \(26\)](#)
- [economy \(13\)](#)
- [Electoral College \(9\)](#)
- [Energy \(4\)](#)
- [Federal Reserve \(2\)](#)
- [G-20 \(18\)](#)
- [George W. Bush \(2\)](#)
- [Haiti \(1\)](#)
- [health care \(3\)](#)
- [Hillary Clinton \(81\)](#)
- [Inauguration \(16\)](#)
- [John McCain \(71\)](#)
- [Mike Huckabee \(6\)](#)
- [Obama Administration \(7\)](#)
- [Polls \(48\)](#)
- [Ralph Nader \(2\)](#)
- [Republican primary \(11\)](#)
- [RNC Convention \(20\)](#)
- [Ron Paul \(4\)](#)
- [Sarah Palin \(6\)](#)
- [State Politics \(2\)](#)
- [Supreme Court \(1\)](#)
- [Taxes \(8\)](#)
- [Ted Stevens \(1\)](#)
- [trade \(2\)](#)
- [Uncategorized \(139\)](#)

- [October 2008](#)
- [September 2008](#)
- [August 2008](#)
- [July 2008](#)
- [June 2008](#)
- [May 2008](#)
- [April 2008](#)
- [March 2008](#)
- [February 2008](#)
- [January 2008](#)
- [December 2007](#)
- [November 2007](#)
- [October 2007](#)

More: [Select Year](#)

[SITEMAP](#) [HELP](#) [CONTACT US](#) [INVESTMENT NEWSLETTERS](#) [FORBES CONFERENCES](#) [FORBES MAGAZINES](#)

[Ad Information](#) [Forbes.com Mobile](#) [RSS](#) [Reprints/Permissions](#) [Subscriber Services](#)
[Privacy Statement](#) [Terms, Conditions and Notices](#)
 2010 Forbes.com LLC™ All Rights Reserved

Forbes Digital



Distributed By  Tested By  Market Data by  Market Data by  Market Data by  Market Data by 

Dow Jones industrial average, Nasdaq composite and S&P 500 indexes are real time and are powered by Xignite. All other indexes and commodities are delayed at least 15 minutes. All pricing is automatically refreshed every five seconds for the first two minutes the page is open, refreshed every 10 seconds for the third minute the page is open, and refreshed every 15 seconds thereafter.