The Unconstitutional History of "Guardianship"

https://www.michbar.org/journal/details/Guardianship-Reform?articleid=162

It is a supremely mysterious question that keeps coming to my mind when I see temporarily-seated "public functionaries" exceed their constitutionally "delegated authority" in practically all that they do on a daily basis in these temporary seats that they are occupying. It is as if they think that The People granted them constitutionally-sanctioned authority to behave as mini-tyrants, lording over the day to day lives of The People. We did not.

In fact, they are acting as "usurpers" when they exceed, contort or mangle their "delegated authority" (See Norton v Shelby County, TN: 118 US 425 (1886).
https://supreme.justia.com/cases/federal/us/118/425/

Now in the hot topic of GUARDIANSHIP, it was "*In the 1970's that* ***courts*** *all over the country* ***began*** *ordering community-based services and* ***concerning themselves with the enhancement of dignity, self-determination, and the protection*** *of basic civil and human rights* ***of individuals with disabilities***."

I found that above statement in the State Bar of Michigan Journal under a commentary called GUARDIANSHIP REFORM. You can find that commentary by going to
https://www.michbar.org/journal/details/Guardianship-Reform?articleid=162

I ask you, under what AUTHORITY did the Judicial Department of the federal and/or state governments concern themselves with special protections for special classes of human beings? It's not a matter of compassion (we all feel sorry for disabled people); its a matter of fidelity to our Constitution(s).

What is the proper constitutionally-supported role of the Judiciary?

According to Article III, Section 2, of the United States Constitution, the Judicial Department was established as follows:
"*The* ***judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution****, the Laws of the United States, and Treaties made, or which shall be made, under their Authority;—to all Cases affecting Ambassadors, other public Ministers and Consuls;—to all Cases of admiralty and maritime Jurisdiction;—to Controversies to which the United States shall be a Party;—to*

Controversies between two or more States;—between a State and Citizens of another State,—between Citizens of different States,—between Citizens of the same State claiming Lands under Grants of different States, and between a State, or the Citizens thereof, and foreign States, Citizens or Subjects."

Let me remind everyone that Article VI, Clause 2, of the United States Constitution demands that all laws must be made ***in pursuance of*** the US Constitution.
https://constitution.congress.gov/constitution/article-6/

In the common language of our time that means that Legislative "public functionaries" cannot go around willy-nilly making so-called LAWS that don't have any constitutional basis (or worse yet that contradict the Constitution in substance or in form), the Executive Department cannot dream up so-called Orders and call them LAWS (and expect The People to follow them), and the Judicial Department cannot adjudicate newly discovered meanings into the plain language of the US Constitution and/or State Constitution(s) if these newly discovered meanings are not written in accordance with the US Constitution.

And so, again, I ask you: "Where is the Constitutionally-supported AUTHORITY for any of these three departments in our republican form of government to concern themselves with the *dignity* of a special class of persons? I don't see it in the US Constitution. Please enlighten me.

You might wish (at this point) to rush to the Michigan Constitution of 1963, Article VII, Section 15, that reads:

§ 15 Probate courts; districts, jurisdiction. *In each county organized for judicial purposes there shall be a probate court. The legislature may create or alter probate court districts of more than one county if approved in each affected county by a majority of the electors voting on the question. The legislature may provide for the combination of the office of probate judge with any judicial office of limited jurisdiction within a county with supplemental salary as provided by law. The jurisdiction, powers and duties of the probate court and of the judges thereof shall be provided by law. They shall have original jurisdiction in all cases of juvenile delinquents and dependents, except as otherwise provided by law.* History: Const. 1963, Art. VI, § 15, Eff. Jan. 1, 1964. Former constitution: See **Const. 1908, Art. VII, § 13**.

https://www.legislature.mi.gov/(S(0klr1r0cz2vesmb1echhjf5s))/documents/mcl/pdf/mcl-Constitution-VI.pdf

I would ask you to also take the time to read the Michigan Constitution of 1908 Article VII, Section 13, that is referenced above under the History citation of Article VII, Section 15, which reads:

Election; vacancies; justices in cities. Sec. 15.*There shall be elected in each organized township not to exceed 4 justices of the peace, each of whom shall hold the office for 4 years and until his successor is elected and qualified. At the first election in any township they shall be classified as shall be prescribed by law. A justice elected to fill a vacancy shall hold the office for the residue of the unexpired term. The legislature may provide by law for justices in cities.*
https://www.legislature.mi.gov/documents/historical/miconstitution1908.htm

It is a fact that the *Probate Court* was never mentioned in the 1908 Michigan Constitution, but instead first appeared in the 1963 Michigan Constitution. At this point, I would like to inform everyone that the Michigan Constitution of 1963 was passed by a 50 percent plus **0.23 percent** majority of The People who even bothered to vote in that election of April 01, 1963.
https://www.legislature.mi.gov/documents/publications/Constitution.pdf

When less than one quarter of one percent of the votes cast pushes a vote of consent to a brand new State Constitution that affects 100 percent of the Michigan citizenry, that is not a republican form of government as guaranteed to every State of this Union as codified in the United States Constitution, Article IV, Section 4.

In fact, that is runaway weaponized democracy in action.

According to Pacific States Telephone and Telegraph v Oregon, 223 US 118, decided by the US Supreme Court on February 19, 1912, "*(L)aws must emanate from the law-making power, and in a constitutional republic* (which America is) *that power can only be a representative legislature created in accordance with the organic law" and so the Referendum and Initiative, which are democratic in nature are "subversive of the principles upon which (this) republic is founded.*"

These justices in this case went on to say that "***(T)he power of the majority of the people to impose upon a State a democratic form of government or to adopt institutions violating the republican form of government is one of the powers that was never intended to be exercised by anyone but to be wholly annihilated.***"

Their words, not mine.
https://supreme.justia.com/cases/federal/us/223/118/

Prior to that US Supreme Court decision in 1912, now comes a unanimous 9-0 US Supreme Court case called Norton v Shelby County, TN decided in 1886 (118 US 425) that constitutionally codified the fact that "*An unconstitutional act is not a law; it confers no rights; it imposes no duties; it affords no protection; it creates no office; it is, in legal contemplation, as inoperative as though it had never been passed*."
https://supreme.justia.com/cases/federal/us/118/425/

So, in effect all of the myriad Guardianship boards, and departments, and rules, and regulations and mandates, "de facto offices" and "de facto officers" that are embedded in the ever growing labyrinth of so-called "*rights, and duties and protections, and offices*" than began in 1973 under the unconstitutional Rehabilitation Act must be declared of no effect, null and void, … "*as inoperative as though it had never been passed*."
https://www.eeoc.gov/history/rehabilitation-act-1973

Let's not forget that, as an axiom of law in a Republic, all laws exist in the same space, at the same time, all the time.

It would behoove The People to become educated on the principles of the American Republic; and it starts with the "public functionaries" who wish to operate as "de jure officers" occupying "de jure offices" who risk violating their Oaths of Office when they do not stay within the confines of their "delegated authority."

Respectfully yours,

Janice L. Daniels