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Humes 103

10/27/25

William Brennan's rhetorical and linguistic choices when repetitively addressing and explaining legitimacy of the Supreme Court and community perspective ultimately support his larger argument of modern interpretation of the Constitution through the lens of feelings of both appreciation and skepticism in the reader.

William Brennan delves into the concept of the 'counter-majoritarian difficulty,' as explained by professor Alexander Bickel, by explaining the phenomenon of unelected Justices trumping the decisions of those voted into the government. Instead of relying on blind faith, Brennan sustains that Justices alike recognize the density of the Constitution, and the responsibility that comes with interpreting it. To follow up, it bestows governance over values the legislature can not produce. The term 'counter-majoritarian difficulty' is a challenging concept when it comes with the foundation of who has the executive decision. It comes off as a prodding for who has the authority to make legal decisions, and it overarches into the main argument Brennan tries to make in the speech. He focuses on debating on how to read the text, and that it stems from more than just old values. Brennan proposes a more modern form of interpretation, and emphasizes that the decisions of the court have to have a reasoning in order to be legitimate behind every judicial decision. Legitimacy draws from the moral authority of the Justices and the public acceptance behind the court's decisions. This legitimacy factor is earned through engaging with modern moral questions of the present, and progressing from the dead hand of the older meanings of the Constitution. This claim is backed up in the text when Brennan

remarks that Justices are not supreme leaders made to inflict their “personal moral predilections,” instead be influenced through laws and governance. The wording is used to contrast those who believe the Constitution should be read the same way as it was read when it was founded, as Brennan’s particular word choice is made to imply that his way of interpretation is the way the Constitution should be interpreted. The basic notion in the excerpt is that the natural job of a Justice is to observe the Constitution in a way that affirms dignity. After, to reaffirm their work through written opinions. It comes off as opinionated, although the typical meaning of legitimacy is objective. This ties into feelings of doubt, as Brennan outlines his personal belief of how the Constitution should be interpreted, all the while only incorporating his beliefs. He questions the grounds, yet sets up his own personal grounds.

The quality Brennan possesses of prioritizing human dignity finds its practical and rhetorical expression in Brennan's powerful appeal to the ‘community.’ As he speaks about his beliefs on certain topics, words like ‘dignity’ evoke a personal connection to the crowd. The speech was public, and he appeals to the community by emphasizing how important it is for Justices to seek out their community’s interpretation. ‘Community’ in this aspect are the people Brennan, or other Justices in this sense, believe are ‘morally correct.’ As it is his personal community, statements like this are supposed to invite connection and respect for the individuals that resonate with his reasons. He calls for a change in interpretation, all the while centered on ‘public’ voice. I connect the word ‘advocacy’ with Brennan’s platform, given to him through a speech. Not only is this a tactic to appease the individuals, but it calls for a silent agreement to accept Brennan’s power as a Justice. As noted earlier, he questions the meaning of legitimacy in judicial decisions, and now the public can be assured the ‘counter-majoritarian difficulty’ is balanced through respect and

the consensus of the people that support the Justices the most. I believe this speech is a powerful rhetorical act to build public consensus and re-affirm the Court's legitimacy in a democracy. When Brennan lists his three caveats to relate to the Constitution, he intentionally provokes thought for readers and the public alike to sympathize with government officials and assert their reliability to have power. Obligatory in this context does not mean forced - instead a *duty* Brennan feels as a Justice is needed and respected. As a potential consequentialist, he considers the impact on society, and molds his views on cases as such. These guidelines can convince readers to validate his stance. It is an opinion of Brennan's that reflects on the movement of human dignity, often appreciated. By combining words like 'consciousness' and 'moral', Brennan's argument is provided to be more concerned with the mentality behind being a fair Justice. Moreover, Brennan emphasizes the importance of individuality, something unachievable with an inadequate Justice. Although authority is given to the Supreme Court, in a way it must be given back to the people. A form of a social contract, though Brennan does claim Justices do not reciprocate this to the contemporary majority.

Though a short excerpt, this snippet of William Brennan's speech illuminates the importance of progressive ideals. These beliefs are a direct and insightful response to the core issue of a Justice's role in this democracy. Different phrases provide discerning judgement and an action proposal, given by a modern Justice wanting to progress modern society. Brennan uses the language of community and dignity to resolve the very legitimacy crisis he creates with his subjective interpretation. He is able to redefine words like "legitimacy" away from objective law and toward public moral consensus, and also provoke discussion in surrounding communities about the restorative power. The counter-majoritarian difficulty emphasizes Brennan's real

struggle with the Justices and their modified approaches towards society, and piecing together such important terms resolves a general point made.

On my honor, I have neither given nor received unauthorized information regarding this work, I have followed and will continue to observe all regulations regarding it, and I am unaware of any violation of the Honor Code by others.

Works Cited

Brennan, William. "'THE CONSTITUTION OF THE UNITED STATES: CONTEMPORARY RATIFICATION.'" *Google Drive*, Google, drive.google.com/file/d/13Ih_zXbM4Yg4DE3IvJBlahBvzOnIfRl3/view. Accessed 26 Oct. 2025.