

Thomas Jefferson on Judicial Tyranny

“Nothing in the Constitution has given them [the federal judges] a right to decide for the Executive, more than to the Executive to decide for them. . . . The opinion which gives to the judges the right to decide what laws are constitutional and what not, not only for themselves, in their own sphere of action, but for the Legislature and Executive also in their spheres, would make the Judiciary a despotic branch.” (Letter to Abigail Adams, September 11, 1804)

“The original error [was in] establishing a judiciary independent of the nation, and which, from the citadel of the law, can turn its guns on those they were meant to defend, and control and fashion their proceedings to its own will.” (Letter to John Wayles Eppes, 1807)

“Our Constitution . . . intending to establish three departments, co-ordinate and independent that they might check and balance one another, it has given—according to this opinion to one of them alone the right to prescribe rules for the government of others; and to that one, too, which is unelected by and independent of the nation. . . . The Constitution, on this hypothesis, is a mere thing of wax in the hands of the judiciary, which they may twist and shape into any form they please.” (Letter to Judge Spencer Roane, Sept. 6, 1819)

“You seem . . . to consider the judges as the ultimate arbiters of all constitutional questions; a very dangerous doctrine indeed, and one which would place us under the despotism of an oligarchy. Our judges are as honest as other men, and not more so . . . and their power [is] the more dangerous, as they are in office for life and not responsible, as the other functionaries are, to the elective control. The Constitution has erected no such single tribunal, knowing that to whatever hands confided, with corruptions of time and party, its members would become despots.” (Letter to William Jarvis, Sept. 28, 1820)

“The judiciary of the United States is the subtle corps of sappers and miners constantly working under ground to undermine the foundations of our confederated fabric. They are construing our constitution from a co-ordination of a general and special government to a general and supreme one alone. This will lay all things at their feet, and they are too well versed in English law to forget the maxim, ‘boni judicis est ampliare jurisdictionem’ [good judges have ample jurisdiction]. . . . A judiciary independent of a king or executive alone, is a good thing; but independence of the will of the nation is a solecism, at least in a republican government.” (Letter to Thomas Ritchie, Dec. 25, 1820)

“The germ of dissolution of our federal government is in the constitution of the federal Judiciary; an irresponsible body (for impeachment is scarcely a scare-crow) working like gravity by night and by day, gaining a little today and a little tomorrow, and advancing its noiseless step like a thief, over the field of jurisdiction, until all shall be usurped.” (Letter to Charles Hammond, August 18, 1821)

“The great object of my fear is the Federal Judiciary. That body, like gravity, ever acting with noiseless foot and unalarming advance, gaining ground step by step and holding what it gains, is engulfing insidiously the special governments into the jaws of that which feeds them.” (Letter to Judge Spencer Roane, 1821)

“At the establishment of our constitutions, the judiciary bodies were supposed to be the most helpless and harmless members of the government. Experience, however, soon showed in what way they were to become the most dangerous; that the insufficiency of the means provided for their removal gave them a freehold and irresponsibility in office; that their decisions, seeming to concern individual suitors only, pass silent and unheeded by the public at large; that these decisions, nevertheless, become law by precedent, sapping, by little and little, the foundations of the constitution, and working its change by construction, before any one has perceived that that invisible and helpless worm has been busily employed in consuming its substance. In truth, man is not made to be trusted for life if secured against all liability to account.” (Letter to A. Coray, October 31, 1823)

“One single object... [will merit] the endless gratitude of the society: that of restraining the judges from usurping legislation.” (Letter to Edward Livingston, March 25, 1825)

The following is taken from Abraham Lincoln’s first inaugural address:

“...The candid citizen must confess that if the policy of the government, upon vital questions, affecting the whole people, is to be irrevocably fixed by decisions of the Supreme Court, the instant they are made, in ordinary litigation between parties, in personal actions, the people will have ceased to be their own rulers, having, to that extent, practically resigned their government into the hands of that eminent tribunal.”

