

Judicial Independence Quotes from Key Columns

**Assembled by the ABA Division for Media Relations and Communication Services
April 2005**

THEODORE B. OLSON

“...it is time to take a deep breath, step back, and inject a little perspective into the recent heated rhetoric about judges and the courts.

“We might start by getting a firm grip on the reality that our independent judiciary is the most respected branch of our government, and the envy of the world....

“...[I]n this country we accept the decisions of judges, even when we disagree on the merits, because the process itself is vastly more important than any individual decision. Our courts are essential to an orderly, lawful society. And a robust and productive economy depends upon a consistent, predictable, evenhanded, and respected rule of law. That requires respected judges. Americans understand that no system is perfect and no judge immune from error, but also that our society would crumble if we did not respect the judicial process and the judges who make it work....

“...Violence and intimidation aimed at judges is plainly intolerable; all of us can, and should, be unequivocally unified on the proposition that judges must be protected from aggrieved litigants and acts of terrorism. The wall between the rule of law and anarchy is fragile; if it is penetrated, freedom, property and liberty cannot long endure....

“...[A]bsent lawlessness or corruption in the judiciary, which is astonishingly rare in this country, impeaching judges who render decisions we do not like is not the answer. Nor is the wholesale removal of jurisdiction from federal courts over such matters as prayer, abortion, or flag-burning... [R]estricting the jurisdiction of courts in response to unpopular decisions is an overreaction that ill-serves the long-term interests of the nation....

“We expect dignity, wisdom, decency, civility, integrity and restraint from our judges. It is time to exercise those same characteristics in our dealings with, and commentary on, those same judges -- from their appointment and confirmation, to their decision-making once they take office.”

Excerpted from “Law Off Our Judiciary,” Wall Street Journal, April 21, 2005; Page A16

COKIE ROBERTS and STEVEN V. ROBERTS

“The Radical Right is trying to car-bomb the cornerstone of the American political system, an independent judiciary. It's time for genuine conservatives to step forward and oppose them...”

“An independent judiciary is a critical guardian of our most precious liberties. Tampering with that independence is in no sense conservative; it represents a frightening break with tradition.

Conservatives won the last election, so they get to run the country. If they can persuade the public that their course is wise, and overcome the obstacles deliberately erected by the Founding Fathers to slow down the legislative process, much of their program will come to pass. Fair enough.

But the Radical Right wants to go beyond winning legislative battles - it wants to change the basic rules of the game. That would destroy the vital essence of democracy: public confidence that the system is fair....

“But when it comes to basic rights and liberties, judges play a different role. Sometimes they feel compelled to oppose "political decisions," even wildly popular ones. Sometimes they have to defend the rights of the most obnoxious and outrageous folks around, like flag burners or suspected terrorists.

That's why federal judges are appointed for life, so that they can be insulated from the political passions of the moment and stand up for immutable principles.”

Excerpted from “Popular or not, independence of judges must be protected”, Biloxi Sun Herald, April 14, 2005

CHARLES KRAUTHAMMER

“Provocation is no excuse for derangement. And there has been plenty of provocation: decades of an imperial judiciary unilaterally legislating radical social change on the flimsiest of constitutional pretexts. But while that may explain, it does not justify the flailing, sometimes delirious attacks on the judiciary mounted by House Majority Leader Tom DeLay and others in the wake of the Terri Schiavo case....

“Let us have a bit of sanity here. One of the glories of American democracy is the independence of the judiciary. The deference and reverence it enjoys are priceless assets. The Supreme Court is the only institution that could have ended the Bush-Gore fiasco of 2000 with the immediacy, finality and, yes, legitimacy that it did. (True, liberals, who for half a century employed judicial fiat to enact their political agenda, have been whining for five years about this particular judicial exercise. But the critical point is that, whine or not, the ruling was accepted as law.) Moreover, and more generally, judicial independence and supremacy are necessary checks on the tyranny of popular majorities.

“Have that independence and supremacy been abused? Grossly...

“...For decades [judges] have been creating law, citing emanations from penumbras of the Constitution visible only to their holinesses.

“This is all true and deeply depressing. But the answer is not to assault the separation of powers. Certainly not to empower Congress to regulate judicial decision-making by retroactively removing lifetime appointees. The non-deranged way to correct the problem is to appoint a new generation of judges committed to judicial modesty.”

Excerpted from: “Judicial Insanity”, Washington Post, April 22, 2005; Page A17