

## **The Undemocratic Court**

The Supreme Court is fundamentally undemocratic. The justices are unelected, serve for life, and cannot be held accountable to the people, to politics, or to the rest of our government. Yet despite--and perhaps because of--these undemocratic traits, the independent judiciary is nothing less than a cornerstone of our Constitutional democratic republic; exercising its judicial powers to guarantee our Constitution is upheld and adhered to.

Many scholars have viewed our Constitution as an enshrinement of democracy, one which derives all power from a majority of the people. However, as Thomas Jefferson wisely put it, "Democracy is nothing more than mob rule, where 51% of the people may take away the rights of the other 49%." So how do we solve this problem and protect the 49%?

The answer lies in our Constitution itself, for it is an exception to the rule of democratic self-government. Our Constitution reserves most powers to the people, but a select few are kept from them. Among these, the power to say what the law is and the power to deprive another of life, liberty, or property are reserved to a body above any man: a court of law. Our Constitution has numerous protections, most notably the Bill of Rights, that protect us from the tyranny of the majority. However, we rely on a faithful and independent judiciary to interpret and apply these provisions by their original textual meaning to give them force and will.

However, if the judiciary were accountable to the people, would it really have judicial power? It seems clear in that event, the power would be vested in the people--with judges as nothing more than their representatives in the judicial process. And in this case, the 51% could merely order the judges, through manner of election, to unjustly strip the rights of the 49% away. If this happens, our Constitution would have no meaning or power; we would be nothing but a dead husk of a republic controlled by the whims of the majority.

God save the independent judiciary, for in its seeming deviance from democracy, it creates a republic; a nation where the 49% is protected and made equal with the 51%. And in the end, it protects what we must hold most dear: the independence of the judiciary, the rule of Law, our inalienable rights, and above all else, our Constitution.