

Understanding the Constitution and the Declaration of Independence Part 4

By Susan Snelling

I want to reiterate a statement I made towards the end of the last class, and that is that the Constitution is an instrument to restrain. Those are the exact words the Framers used. When you read through the Constitution, line by line, keep in mind the phrase “an instrument to restrain.” This is not to restrain the people but the government. This all goes back to our first class where we discussed that our laws come from God, our rights come from God, our Liberty comes from God, and the form of government that our founding fathers gave us was to protect all of that. No one can take that away because it comes from God but they can infringe on us living it in practice.

The government is to protect our rights therefore its powers were stated in the Constitution. Recall, I ended the last class with another phrase from our founding fathers and that is when the people fear the government you have tyranny, but when the government fears the people you have liberty. I think we need a shift in our thinking on the relationship of government to the people. Instead of seeing the federal government as this overarching all powerful looming behemoth, and then there’s the states, and then we the people, we the wee little people. The truth is it’s supposed to be the opposite. We the people are number one. Like the founders said the people are the king. It’s the people, the states, and then the small central government. It’s flipped around like that food triangle was for many years telling us basically the opposite of what we should be eating.

Just before the last class and I didn’t mention this then but the Director of the National Board of Education, announced that a rule for colleges having to do with due process in sexual assault cases that “carry the force of law.” Those were her words. This is an example of a bureaucracy legislating and executing the law, infringing on the powers that were given to the three branches of government, not to the bureaucratic state. This is a result of a large federal government, definitely not what the framers intended.

Something I wanted to discuss but didn’t have time for in the last class is a phrase in the preamble to the Constitution and also is mentioned in the text of the Constitution itself.

GENERAL WELFARE:

The Preamble to the Constitution says: We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our

Posterity, do ordain and establish this Constitution for the United States of America. What did the Framers mean in the Preamble when they wrote: “promote the general welfare?” It is also mentioned in Article 1 Section 8 of the Constitution. Clause 1 says “The Congress shall have power to lay and collect taxes, duties, imposts and excises, to pay the debts and provide for the common defence and general welfare of the United States; but all duties, imposts and excises shall be uniform throughout the United States;” then it goes into clauses 2-18 which give specifics.

When we go back to the original statements of the Framers we will find exactly what they did NOT mean by “welfare.” This was a point of debate back then and the concern was that people would take that phrase in the wrong way. The phrase meant the opposite of what some think it means today, and unfortunately, so do many elected officials who have control over the purse strings. James Madison said if the phrase meant what people thought that the parchment should be thrown in the fire. The Constitution would never have been ratified if they took today’s meaning to the general welfare phrase. James Madison argued that the word general welfare was a general phrase and that the specifics that followed qualified the phrase. It wasn’t an opened ended statement.

Let’s just be clear... taking care of the poor was important to the founding fathers; the means how they went about it was somewhat different than how it's generally done today. Government does have a role in taking care of the poor; it is Biblical for the government to look after the poor; it is a responsibility for both the government and the private sector. The founding fathers believed this but they didn't want the federal government involved in that because it could lead to excesses; it could lead to the Congress taxing and spending and getting way out of control; they would always find another good program or effort to use tax payer dollars on. Also, the founding fathers wanted to go about it in a way where it wasn't the redistribution of wealth. They had compassion on the poor and found a way to help the people who legitimately needed help. They wanted laws that were family friendly and business friendly with reduced regulations. They realized that too many regulations created more poor people because of the difficulty for people to have their own business to make a living.

So through outright direct care, the founding fathers also helped people through laws favorable to prosperity. This current president (in 2022) did away with regulations which was not only a stab at these bureaucracies of which many of them are unconstitutional but these regulations also opened the door for businesses to thrive and expand and for new business enterprises. This is more along the lines of the way the founding fathers went about it. But they also outright help people so they weren't going hungry, without clothing and shelter. They helped the people that really needed it and the children of the poor were provided a free education. They took care of the poor and with favorable laws that would make it easier for people to become self-sufficient.

Another important point is that the founders did not want the federal government involved in welfare programs but they believed it belonged in the states and local levels where there would

be more accountability and the leaders would have a better understanding of the people's need. The Framers believed that if those powers were given to the federal government that it would no longer be the small central government they designed and that would be bad for the Republic. The federal government was given a very small number of specifically stated powers and all the rest of powers go to the state and the people.

In a letter to James Robertson on April 20, 1831, James Madison explains what would happen if the phrase "general welfare" is taken in a wrong sense: *"With respect to the words general welfare, I have always regarded them as qualified by the detail of powers connected with them. To take them in a literal and unlimited sense would be a metamorphosis of the Constitution into a character which there is a host of proofs was not contemplated by its creators."* The Framers were against Congress using their discretion to spend their constituent's money on acts of benevolence. This would lead to big government. Thomas Jefferson said, *"Congress has not unlimited powers to provide for the general welfare, but only those specifically enumerated."* James Madison wrote to Edmund Pendleton on January 21, 1792, *"If Congress can do whatever in their discretion can be done by money... the Government is no longer a limited one, possessing enumerated powers, but an indefinite one, subject to particular exceptions."*

When an appropriation bill for French refugees came before Congress in 1794, Madison's response was, "I cannot undertake to lay my finger on that article of the Constitution which granted a right to Congress of expending, on objects of benevolence, the money of their constituents." When the government spends the peoples' money on "general welfare," in the way that phrase is misinterpreted today, we end up with big government and its nature is fundamentally changed. James Madison explains it when he says:

"If Congress can employ money indefinitely to the general welfare, and are the sole and supreme judges of the general welfare, they may take the care of religion into their own hands; they may appoint teachers in every State, county and parish and pay them out of their public treasury; they may take into their own hands the education of children, establishing in like manner schools throughout the Union; they may assume the provision of the poor; they may undertake the regulation of all roads other than post-roads; in short, every thing, from the highest object of state legislation down to the most minute object of police, would be thrown under the power of Congress.... Were the power of Congress to be established in the latitude contended for, it would subvert the very foundations, and transmute the very nature of the limited Government established by the people of America."

Freedom of Speech

There are several unalienable rights specifically mentioned in the First Amendment that I wanted to touch on today. First is the freedom of speech. Historian and philosopher, Voltaire, said: *“To learn who rules over you, simply find out who you are not allowed to criticize.”* The First Amendment to the Constitution says there can be no abridging the freedom of speech, or of the press. In addressing the importance of freedom of speech, Benjamin Franklin said: *“Without freedom of thought there can be no such thing as Wisdom; and no such thing as public liberty, without freedom of speech.”*

Can the concerned citizen today publically disagree with the government and its activities and policies without fear of reprisal, punishment, fines, censorship, vilification, and a host of other retaliations meant to silence? Can citizens speak out against cultural movements or governmental abuses of power? Can citizens express a different viewpoint without lawsuits, threats, and other means of silencing? What about criticism of political leaders without the threat of punishment? What about criticizing the president or speaking against their policies? Shouldn't the people support the president no matter what?

Theodore Roosevelt said: *“To announce that there must be no criticism of the President, or that we are to stand by the President, right or wrong, is not only unpatriotic and servile, but is morally treasonable to the American public.”* Without the freedom of speech there is no liberty. The first amendment to the Constitution declares that every citizen has freedom of speech. The assault on this freedom is a real threat to liberty. Constricting free speech is an essential step to destroying liberty. Benjamin Franklin wrote: *“Whoever would overthrow the liberty of a nation must begin by subduing the freeness of speech.”*

Without freedom of speech, the people are at the will of the rulers. George Washington said in an address to the officers of the army on March 5, 1783, that without freedom of speech we will be led away to our own destruction. He wrote: *“For if men are to be precluded from offering their sentiments on a matter which may involve the most serious and alarming consequences, that can invite the consideration of Mankind, reason is of no use to us; the freedom of speech may be taken away, and, dumb and silent we may be led, like sheep, to the slaughter.”*

Who are you not allowed to criticize without punishment, threats, and retaliation? What political figures, governmental and other agencies, groups, or worldviews are the American citizens hushed by the government from criticizing? On the other hand, who is allowed to criticize and even retaliate against others without impunity? Harry S. Truman said in a special message to the Congress on the Internal Security of the United States on August 8, 1950: *“Once a government is committed to the principle of silencing the voice of opposition, it has only one way to go, and that is down the path of increasingly repressive measures, until it becomes a source of terror to all its citizens and creates a country where everyone lives in fear.”* As Voltaire famously said, and this was a hallmark of the Founding Fathers, and should be of every citizen: *“I do not agree with what you have to say, but I'll defend to the death your right to say it.”*

PRESS:

Another unalienable right is freedom of the press. The First Amendment to the Constitution says there can be no abridging the freedom of the press. Early in America's history, the press held an important place. John Adams said, *"By none of the means of information are more sacred, or have been more cherished with more tenderness and care by the settlers of America, than the press."* The Founding Fathers realized that a free press played a key role in the success of America. John Adams remarked: *"The liberty of the press is essential to the security of the state."* In a letter to Dr. J. Currie, in 1786, Thomas Jefferson noted: *"Our liberty depends on the freedom of the press, and that cannot be limited without being lost."*

Thomas Jefferson said that if given the choice between a government without newspapers or newspapers without government, that he would prefer the latter. Why is the press so important to liberty and security? It is because the press acts as a censor of the government. The press needs the freedom to criticize the government and its officials, to expose corruption and abuses, to disseminate the information to the people. What if the mainstream press would refuse to criticize the government or to report the truth or wrongdoing because they share the same ideology as those in power? In that case, the press acts as an arm of the government.

Besides to promote *"the advancement of truth, science, morality, and arts in general"* as was stated during the Constitutional Convention, the purpose of the press is to keep on top of public officials, to be a guardian. The reporting is to shame people in positions of power and authority into more honorable behavior. When the press abrogates this responsibility and refuses to report bad behavior and wrongdoing by their favorite officials, they become complicit in their crimes. The press works for the American people, not the government. When the press refuses to report corruption and wrongdoing by officials because they hold their same ideology or report only in a way that serves their own agenda, they have ignored their duties in a free society. They have become a spokesman for the government.

When a press goes out of bounds, it is up to the states to do something about it. The Constitution allows for the states to control the freedom of the press but not the national Congress. It has to do with the power of the press to slander people. The press is controlled by state legislatures to control this abuse. Thomas Jefferson wrote in a letter to Abigail Adams in 1804: *"The power to [restrain slander] is fully possessed by the several State Legislatures. It was reserved to them, and was denied to the General Government, by the Constitution, according to our construction of it. While we deny that Congress have a right to control the freedom of the press, we have ever the right to control the freedom of the press, we have ever asserted the right of the States, and their exclusive right to do so."*

When the press works for a particular ideology and reports selectively for what supports their own political agenda and worldview, and when they no longer report the truth and honestly divulge the facts, and become silent about despotism, then citizens need to look to other sources, as they do with alternative news venues. It is not just the mainstream press that is protected

under the freedom of the press clause in the First Amendment, but all those who disperse information. And remember, they all serve us, the people.

BEAR ARMS:

Another unalienable right is mentioned in the Second Amendment. This right has to do with unalienable right of self-preservation in the Declaration of Independence. This right of defense or preservation was not given to us in the Second Amendment, a concoction of man, but is a right from God, or The Laws of Nature and of Nature's God. It is a right based on the laws of creation and the laws of revelation. In other words, it's in the bible. The founding fathers may have read a lot of philosophers and jurists and were influenced by many of them but their primary source is the bible; that was their first source and reference and their ideas had to agree with that. The Founding Fathers understood the importance of the right of the people to keep and bear arms. Alexander Hamilton said: *"The best we can hope for concerning the people at large is that they be properly armed."* Who is to be armed? Patrick Henry tells us, *"The great object is that every man be armed. Everyone who is able may have a gun."*

The Framers believed in a militia which was the average American, armed and trained to defend themselves, their neighbors and their country at a moment's notice. They even had to bring their weapons to church services. What the founders were careful about were what they called standing armies. These were government soldiers who were waiting to be sent to battle when such a threat arises. The founders were concerned that if a despot were to be at the helm of government that the government soldiers could be turned against the people so it was important for the average citizen to be armed as well.

Alexander Hamilton believed that the only ones who can be trusted with arms are the people. He wrote: "Are we at last brought to such humiliating and debasing degradation that we cannot be trusted with arms for our defense? Where is the difference between having our arms in possession and under our direction, and having them under the management of Congress? If our defense be the real object of having those arms, in whose hands can they be trusted with more propriety, or equal safety to us, as in our own hands?" Thomas Jefferson proposed in the Virginia Constitution in 1776, "No free man shall ever be debarred the use of arms."

The Founders were not ambiguous on this matter. The only people who benefit from a ban on guns are the criminals. In 1764, Thomas Jefferson quoted Cesare Beccaria, a criminologist of that time who made it clear what happens when the people are forbidden to bear arms: *"Laws that forbid the carrying of arms... disarm only those who are neither inclined nor determined to commit crimes... Such laws make things worse for the assaulted and better for the assailants; they serve rather to encourage than to prevent homicides, for an unarmed man may be attacked with greater confidence than an armed man."* Samuel Adams said, *"The Constitution shall never be construed to prevent the people of the United States, who are peaceable citizens from keeping their own arms . . ."* When a government wishes to enslave the people they have to confiscate

the arms. This is what Great Britain attempted to do to the colonists. If the colonists had acquiesced and not fought this infringement of their liberties, there would not be an America.

The American people should be so educated on the Constitution and the original intent that they instantly resist any laws which appear to them to be oppressive. In his book, *An Examination of the Leading Principles of the Federal Constitution*, Noah Webster wrote: *"Before a standing army can rule, the people must be disarmed; as they are in almost every kingdom in Europe. The supreme power in America cannot enforce unjust laws by the sword; because the whole body of the people are armed, and constitute a force superior to any band of regular troops that can be, on any pretence, raised in the United States. A military force, at the command of Congress, can execute no laws, but such as the people perceive to be just and constitutional; for they will possess the power, and jealousy will instantly inspire the inclination, to resist the execution of a law which appears to them unjust and oppressive."*

One of the candidates on the Democrat side during the presidential primaries said in remark to Americans owning guns... that basically they were no match for a military armed with tanks and missiles. A threat to Americans who thought they could use their arms to fight off an oppressive government. This was from someone who wanted to get guns away from the people so evidently the average American owning a gun was some kind of deterrent to a tyrannical government, if not for their own protection. That said, founding father and Representative Elbridge Gerry of Massachusetts said, *"To preserve liberty, it is essential that the whole body of people always possess arms..."* When the people have firearms, those who plan evil to the American people, would think twice. George Washington understood this when he said: *"The very atmosphere of firearms anywhere and everywhere restrains evil interference...they deserve a place of honor with all that is good."*

A STRONG DEFENSE:

A nation needs a strong military to ensure national security and protection from foreign ambition, and the Framers of the Constitution allowed for that. Americans are proud of their men and women in the military and the sacrifices they have made from America's beginning to the present. Without their sacrifice and service there would not be the freedom that Americans have had the privilege of experiencing. But no matter how many soldiers America has or how able they are in their skills, if the American people are not united, the soldiers are limited in what they can do to intimidate foreign ambition against America. James Madison wrote in *The Federalist* paper No. 14: *America united with a handful of troops, or without a single soldier, exhibits a more forbidding posture to foreign ambition than America disunited, with a hundred thousand veterans ready for combat.*

The best defense America can have is unity. According to James Madison, a unified people will do more to dissuade foreign ambition against America than a large military with a people that are not united. If we want America protected from foreign attacks of any kind then they need to see

that the people are united; united as a people with or without the soldiers. A united people with a few or no soldiers send a more powerful message than a large military and no unity. So why do some in political office or in the media or in academia and other arenas of influence, seek to divide the people along financial, racial, and other lines? This leaves an open door for foreign ambition to seek a way to undermine America or destroy her utterly. James Madison wrote in The Federalist paper No. 46: *Every man who loves peace, every man who loves his country, every man who loves liberty, ought to have it ever before his eyes, that he may cherish in his heart a due attachment to the Union of America, and be able to set a due value on the means of preserving it.*

It is incumbent upon every citizen to resist forces that seek to divide for the survival of America. And for every immigrant, to assimilate into American life and culture so as to be one with the American people. Madison believed, and other Founders taught, that every liberty loving American would have an affinity for America and unity as their goal. Every citizen should have as his duty, the preservation of unity. Madison also wrote in The Federalist paper No. 46 when mentioned the problems that Europe was experiencing: *This picture of the consequences of disunion cannot be too highly coloured, or too often exhibited.*

History is an excellent teacher. History is full of examples of what happens when a people are not united. Madison believed that the consequences of disunion cannot be presented or talked about too often. These examples should always be before us to remind us of why the Founding Fathers were so concerned about unity in America. It is even in the full name of this country. It is the *United States* of America. Unity is vital to liberty, to America as the Founders envisioned.

Americans must be unified when it comes to doing good and right, to defending and protecting the Constitution as it was originally intended. Unity is America's best defense, against foreign invasion and ambition, and might I add, those who would subvert America from within. Madison and the other Founders expected that unity would be within the context of that which is outlined in the Constitution and what they planned as to what constitutes America. This is why the American government requires a virtuous and moral people. Any other kind of people united in any other vein will bring deterioration, destruction, and the end of liberty.

An Enemy of the Founding Beliefs:

The Founding Fathers were clear on where they stood, and the Framers expressed it succinctly in the Constitution. Some of those beliefs are the right to life, liberty, and the pursuit of happiness in the First Amendment; the right to bear arms in the Second Amendment; limited national government with the majority of power with the states in the Tenth Amendment; basically, they limited the power of the government to interfere in the lives of the people. The founding principles, which are the foundation of the US Constitution, are based in the belief in Divine Providence and the Sovereignty of God.

Has America become an enemy of its founding principles? Turning our backs on those beliefs will not bode well for America. The principles in the Constitution hold the country together. To violate those freedoms and protections placed in this great document is to dismantle what has protected this nation from becoming like other failed nations of the earth, where tyranny and despotism and behaviors inconsistent with what makes for a free people leads to its downfall. The Constitution is a safeguard *for* freedom and *from* tyranny.

How can America become an enemy of its founding principles? In a statement that can apply to all evils but specifically addresses that of abortion, Archbishop Chaput wrote in a letter to his congregation in 2012: *Evil talks about tolerance only when it's weak. When it gains the upper hand, its vanity always requires the destruction of the good and the innocent, because the example of good and innocent lives is an ongoing witness against it. So it always has been. So it always will be. And America has no special immunity to becoming an enemy of its own founding beliefs about human freedom, human dignity, the limited power of the state and the sovereignty of God.*

Archbishop Chaput has it right when he talks about how evil works. People who violate America's founding beliefs demand tolerance for every behavior they choose, yet they are in turn intolerant of those with opposing beliefs. When the factions are weak they talk tolerance but when they gain power they follow the way of evil, which is death and destruction; whether it's the death of freedom of others or of those innocent lives that have been robbed of life, liberty, and the pursuit of happiness. People become suppressed through an oppressive and powerful state. Tyranny, which the founding fathers fought against and framed the Constitution to protect us from, becomes the kind of government we end up with.

As the Archbishop states, America is not immune to becoming an enemy of its founding beliefs about human freedom, human dignity, and the limited power of the state and the sovereignty of God. Only by a virtuous people who educate themselves on the founding principles of this nation and become active in promoting those principles, can America be protected from its demise. Adhering to its founding principles is how America can survive, but evil will not have it. An Enemy of the Founding Beliefs preaches tolerance and then turns on the people to destroy everything good, everything innocent, everything pure. Educating oneself on the original intent of the Framers and the beliefs of the Founding Fathers, and then getting involved in the duties of a citizen to hold elected officials accountable to those founding beliefs, can help to secure America as it was intended and keep tyranny from turning it into something else.

VIRTUE

Virtue was of the utmost importance to the Founding Fathers. Any nation that forgets the importance of virtue will no longer be great. George Washington said, *"Religion and morality are the essential pillars of civil society."* Without those pillars strong and center the structure will crumble. Religion and morality are constantly under attack in America. The pillars are

chipped away at until they can no longer support. The Founding Fathers did not say that the economy is the supportive system for America, but religion and morality. Yet, so many choose to ignore these pillars and focus almost entirely on the economy. What is a good economy with a morally bankrupt nation, and what makes us think an immoral people will receive the blessings of a sound economy anyway? The famed general Douglas MacArthur noted what follows moral decay: *"History fails to record a single precedent in which nations subject to moral decay have not passed into political and economic decline. There has been either a spiritual awakening to overcome the moral lapse, or a progressive deterioration leading to ultimate national disaster."*

A representative republic is only for a moral people. As the pillars of morality and religion become weaker, the country becomes weaker. Lack of virtue in the people where the economy is first can lead to a lack of virtue in economic matters and eventually to a downfall as public debt mounts. As Americans accept loss of freedoms for governmental help, the more they risk losing any personal financial security they thought they had. Without freedom as protected by our Constitution, Americans will have nothing.

In 1941 British writer Somerset Maugham stated this danger: *"If a nation values anything more than freedom, it will lose its freedom; and the irony of it is that if it is comfort or money that it values more, it will lose that too."* Samuel Adams saw placing money over virtue as the most serious threat to our Republic and that the best patriot does what he or she can to restrain this evil: *"I am afraid the cry of too many [is] 'Get money, money still. And let virtue follow it if she will!' The inordinate love of gain, will make a shameful alteration in the character of those who have heretofore sacrificed every enjoyment to the love of their country. He is the best patriot who stems the torrent of vice, because that is the most destructive enemy of his country."* Again, Samuel Adams was more concerned about unchecked vice in America than what could come from all of our "other": *"We shall succeed if we are virtuous. I am infinitely more apprehensive of the contagion of vice than the power of all other enemies. It is the disgrace of human nature that in most countries the people are so debauched as to be utterly unable to defend or enjoy their liberty."*

What will future generations say about this time in America? That the people fell for 'hope and change' and got an exchange of freedom for serfdom? They placed promises of personal security over virtue, liberty, over personal accountability, and their hope turned to despair and the change is one that is far removed from the America we have known and loved. Remember the words of Sir Edmund Gibbons, a famed author who lived during the time of the Founding Fathers and wrote "The History of the Rise and Fall of the Roman Empire:" *"In the end, more than they wanted freedom, they wanted security. They wanted a comfortable life, and they lost it all -- security, comfort, and freedom. When ... the freedom they wished for was freedom from responsibility, then Athens ceased to be free."* America has to take a strong stance on moral issues in order to abate decay. The economy will get us only so far. If we place the economy above morality and religion we have a nation that sits on shifting sand and a house of cards that

eventually collapses in on itself. It's not the economy but it is the virtue of the people and their ability to select moral leaders to represent them.

We the People:

The Preamble to the Constitution begins with We the People. Those are powerful words. ***We the People of the United States***...This means every single American citizen and not just an elite few or the highly educated or the wealthy and powerful. We the People, from all walks of life are united in this effort. The power of the government comes from the people. We decide who serves us. Elected officials serve us. They are our voice. If they don't serve us well, then we vote them out of office. There is not one individual who ordains and establishes the Constitution, but it is all the people.

The American citizens have been entrusted with the Republic from the Creator, who endows them with those inalienable rights. James Madison wrote, "*The citizens of the U.S. are responsible for the greatest trust ever confided to a political society.*" It is up to us to keep an eye on the government and if it becomes tyrannical, then it is on us to address the problem. It is our duty as citizens. Alexander Hamilton wrote: "*If the federal government should overpass the just bounds of its authority and make a tyrannical use of its powers, the people, whose creature it is, must appeal to the standard they have formed, and take such measures to redress the injury done to the Constitution as the exigency may suggest and prudence justify.*" As Jefferson says: "*Let the eye of vigilance never be closed.*"

We are responsible for choosing leaders who will uphold the Constitution in its original intent, however there is one branch where those leaders are appointed, and that is the members of the Supreme Court.

JUDICIAL TYRANNY:

The role of the judicial branch of government is described in Article 3 of the Constitution. Of the powers given to the judicial branch, judicial review was not expressly stated as one of them. In an 1803 landmark case, Marbury v. Madison, Chief Justice Marshall decided that the power of judicial review was inherent in the Constitution even though not specifically stated. This power was given to the judiciary by the judiciary at that time. Judicial review is where the Judicial branch reviews actions taken by the executive and the legislative branch of the government, and deciding the constitutionality of the other branches actions. This is a power that was not given to the Judiciary in the Constitution.

Thomas Jefferson disagreed with Marshall's belief. He said: "*[T]he 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.*" In Federalist No. 78 Alexander Hamilton wrote: "*[The*

Judicial Branch] may truly be said to have neither FORCE nor WILL, but merely judgment; and must ultimately depend up/on the aid of the executive arm even for the efficacy of its judgments."

The Supreme Court issues judgments on cases that come before it within the boundaries of their duties as designated in the Constitution. It cannot force its judgments on the people. The judiciary does not make or enforce laws. It is the executive branch that has the duty to enforce laws. The Framers of the Constitution devised the government in such a way that the Judiciary is the weakest branch so that it could not harm the people. Giving more power to the Judiciary than what is enumerated in the Constitution creates a situation for judicial tyranny. This was a problem that presented itself early in America's history.

Thomas Jefferson wrote, in 1823: *"At the establishment of our constitution, 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."*

The quote by Thomas Jefferson that says, "I know of no safe depository of the ultimate powers of the society, but the people themselves," is taken from a larger statement of his regarding the judiciary. In 1820, Jefferson wrote in a letter to William Jarvis: *"You seem to consider the judges the ultimate arbiters of all constitutional questions; a very dangerous doctrine indeed, and one which would place us under the despotism of an oligarchy... The Constitution has erected no such single tribunal, knowing that to whatever hands confided, with the corruptions of time and party, its members would become despots... I know of no safe depository of the ultimate powers of the society, but the people themselves..."* Regardless of what practices are in place today and allowed to occur, the truth is that the power of review resides ultimately with the people, represented in their state legislatures.