

**Judges must know their limits. They must have modesty and humility, and not behave like emperors. The legislature, the executive and the judiciary all have their own broad spheres of operation. It is not proper for any of these three organs of the State to encroach upon the domain of another, otherwise the delicate balance in the Constitution will be upset, and there will be a reaction.**

*Held*

“19. Under our Constitution, the legislature, the executive and the judiciary all have their own broad spheres of operation. Ordinarily it is not proper for any of these three organs of the State to encroach upon the domain of another, otherwise the delicate balance in the Constitution will be upset, and there will be a reaction.

20. ....

21. Judges must know their limits and must not try to run the Government. They must have modesty and humility, and not behave like emperors. There is broad separation of powers under the Constitution and each organ of the State— the legislature, the executive and the judiciary—must have respect for the other and must not encroach into each other’s domains.

22. The theory of separation of powers first propounded by the French thinker Montesquieu (in his book *The Spirit of Laws*) broadly holds the field in India too. In Chapter XI of his book *The Spirit of Laws* Montesquieu writes:

“When the legislative and executive powers are united in the same person, or in the same body of Magistrates, there can be no liberty; because apprehensions may arise, lest the same monarch or senate should enact tyrannical laws, to execute them in a tyrannical manner.

*Again, there is no liberty, if the judicial power be not separated from the legislative and executive. Were it joined with the legislative, the life and liberty of the subject would be exposed to arbitrary control; for the judge would be then the legislator. Were it joined to the executive power, the judge might behave with violence and oppression.*

There would be an end of everything, were the same man or the same body, whether of the nobles or of the people, to exercise those three powers, that of enacting laws, that of executing the public resolutions, and of trying the causes of individuals.”(emphasis supplied)

[ARAVALI GOLF CLUB v. CHANDER HASS - 2007 SCeJ 004](#)