

DOCTRINE OF JUDICIAL REVIEW (LEGISLATION)

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ABSTRACT

Judicial Review is considered to be the most essential characteristic for a successful Federation. In this paper effort is made to define and discuss the idea in its broad perspective and to discover the origin of this doctrine. Power of the highest Courts of different Federations in general and that of U.S.A. in particular, in this behalf, is analysed and illustrated at length.

“The place of Justice is a hallowed place.”¹

Every Federation requires an impartial and independent Court to act as Custodian of the Constitution and to decide all the disputes of jurisdiction between the Federation and the component units. Impartial and powerful Judiciary is one of the essential characteristics of a *successful* Federation.²

Judicial Review means the review by Courts over the acts of the Legislature and Executive Departments of the same Government. Under this doctrine the Courts, though co-ordinate parts of the Government, nevertheless, have the authority to declare actions of other two branches (Legislature and Executive) invalid as contrary to ‘Basic Law.’ That explains why this system is often referred to as one of ‘Judicial Supremacy ! It is Judicial Review in this form which Americans customarily think of when the phrase is employed, for such power is enjoyed by American Courts at both the *Federal and State levels*.

It is used to be customary to attribute the unique status of the Supreme Court of U.S.A., in comparison with the World’s other high tribunals to the Court’s power of invalidating acts of Congress. It goes without saying that in today’s world Supreme Court of U.S.A. is supreme in theory as well as in practice.

It has the final authority to declare a Law passed by Congress or State

1. Lord Francis Bacon.

2. Dicey, A. V : Introduction to the study of the Law of the Constitution ; Macmillan & Co. London. 9th Edition. P. 178, (Introduction by Wade & Philips)