

And this important
authority of judicial
review



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And words have meanings in the context of the time in which they are interpreted.

When differences of opinion arise, a duty devolves upon the judiciary to ascertain not only the true meaning of that which is expressed in the Constitution, but also that which the framers intended to express. The judges, then, draw their own conclusions. The Constitution of the United States gives to the Centre, inter alia, power over the armed forces of the country and the means of communication and transport.

The Supreme Court interpreted armed forces to mean the army, the navy and the air force. Similarly, the means of communication and transport as interpreted include rail, road, water, air, telegraphic, telephonic, television services, etc. There are innumerable other examples and almost every clause of the Constitution has been the subject of interpretation and construction.

The Constitution of the United States of America, indeed, to a large extent consists of “ addenda.” The judge- made definitions have added essential portions to the foundation work of the Constitution. Justice Frankfurter put it rather bluntly that the “ Supreme Court is the constitution.” Chief Justice Marshall’s decision in the famous case Marbury v. Madison (1803) vindicates Justice Frankfurter’s assertion. Marshall declared that the judicial power conferred by the Constitution together with the oath to uphold the Constitution, which the Justices take on the assumption of office, requires that the Courts should declare when they so believe, that the Acts of Congress are in violation of the Constitution. Since then the principle of

judicial review has been embedded in the American system of government, although there is no direct provision in the Constitution which empowers the Supreme Court to declare the constitutionality or otherwise of State or Federal Acts.

The Marbury case forms the basis of this important authority of judicial review exercised by the Supreme Court. It has brought about important changes in the United States Constitution and the Supreme Court is characterised as a “ continuous constitutional convention”, interpreting, developing and expanding the basic law.