

STATE OF MICHIGAN LAW DAY 2006 ESSAY CONTEST
“LIBERTY UNDER LAW: SEPARATE BRANCHES, BALANCED POWERS”
Katrina Mary Gardner ~ Second Place ~ Seventh Grade
Holy Name School, Escanaba, Michigan
Teacher – Mrs. Bernson

Suppose that the United States Congress wants to be the branch of government to decide whether an existing law is constitutional. Should Congress have the power of judicial review?

Have you ever wondered how and why laws are determined to be unconstitutional? Who has the authority to say a law is unconstitutional? Currently, the United States Supreme Court has this power in the form of judicial review. Judicial review is “the power of the courts to say that the Constitution does not allow the government to do something.” The question has been raised if this is the right place for this power to be. Should the power of judicial review remain with the Supreme Court or should it be changed to Congress? I believe the power of judicial review should remain with the Supreme Court for the following reasons.

One reason I believe judicial review should remain with the Supreme Court is because the Framers, the men who wrote the Constitution and developed the core democratic values, wanted to be sure that no one group of people would have too much power. They divided the powers of the government into three branches: Judicial, Executive, and Legislative. If judicial review were given to Congress, they would then have too much power. They may end up ruling whether a law was constitutional when they passed the law to begin with. The branches would then be out of balance.

A second reason is the court case of Torcaso v. Watkins, 367 U.S. 488(1961). In this court case, the state of Maryland had a law that said anyone who wanted a job in the state government had to say that he or she believed in god. Torcaso applied for a job as a government official but was denied the job because he would not say he believed in God. Torcaso brought his case to the Supreme Court stating that the Maryland law was unconstitutional because it limited a person’s freedom of religion. The Supreme Court agreed with Torcaso. The Court said that the Maryland law was unconstitutional and could not be held any longer. The Supreme Court was using its power of judicial review over the actions of a state government.

In conclusion, I feel the power of judicial review is best left in the hands of the Supreme Court. I feel that some court cases are somewhat confusing, but I do understand the separation of powers. The separation of powers is a core democratic value that I think should continue. This means keeping the power of judicial review in the hands of the Supreme Court.