The idea that judicial review is undemocratic is not an academic issue of political philosophy.

The attack on judicial review as undemocratic rests on the premise that the Constitution should be allowed to grow without a judicial check.

It is a grave oversimplification to contend that no society can be democratic unless its legislature has sovereign powers.

The purpose of the Constitution is to assure the people a free and democratic society.

The Constitution provides society with a mechanism of government fully competent to its task, but by no means universal in its powers. The power to govern is parcelled out between the states and the nation and is further divided among the three main branches of all governmental units.

The power of constitutional review, to be exercised by some part of the government, is implicit in the conception of a written constitution delegating limited powers.

So far as the American Constitution is concerned, there can be little real doubt that the courts were intended from the beginning to have the power they have exercised.

The argument over the constitutionality of judicial review has long since been settled by history. The power and duty of the Supreme Court to declare statutes or executive action unconstitutional in appropriate cases is part of the living Constitution.

In the execution of this crucial but delicate function, constitutional review by the judiciary has an advantage thoroughly recognized in the theory and practice. The power of the courts, however final, can only be asserted in the course of litigation.