

119TH CONGRESS  
1ST SESSION

# S. RES. \_\_\_\_\_

Affirming the rule of law and the legitimacy of judicial review.

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## IN THE SENATE OF THE UNITED STATES

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Mr. DURBIN (for himself, Mr. COONS, Mr. BLUMENTHAL, Mr. SCHIFF, Mr. BOOKER, Ms. KLOBUCHAR, Mr. WHITEHOUSE, Mr. KIM, Mrs. SHAHEEN, Ms. HIRONO, Ms. CORTEZ MASTO, Mr. HICKENLOOPER, Mr. HEINRICH, Ms. DUCKWORTH, Mr. WYDEN, Mr. WELCH, Mr. KELLY, Mr. PADILLA, Mr. SCHUMER, Mr. OSSOFF, and Mr. WARNOCK) submitted the following resolution; which was referred to the Committee on

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# RESOLUTION

Affirming the rule of law and the legitimacy of judicial review.

Whereas the Constitution of the United States establishes 3 separate but equal branches of Government;

Whereas Article III of the Constitution of the United States vests the “judicial Power of the United States . . . in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish”;

Whereas the Supreme Court of the United States, in *Marbury v. Madison*, established the principle of judicial review, which empowers Federal courts to hold that a leg-

islative or executive act violates the Constitution of the United States;

Whereas Vice President Vance and other prominent elected officials have made remarks suggesting the President or the executive branch may ignore the constitutional authority of the Federal Judiciary and disregard a decision of a Federal court; and

Whereas the President or the executive branch ignoring the constitutional authority of the Federal Judiciary and disregarding a decision of a Federal court would precipitate a constitutional crisis: Now, therefore, be it

1       *Resolved*, That the Senate affirms that—

2               (1) Article III of the Constitution of the United  
3       States vests the “judicial Power of the United States  
4       . . . in one supreme Court, and in such inferior  
5       Courts as the Congress may from time to time or-  
6       dain and establish”;

7               (2) as Chief Justice Marshall held in the Su-  
8       preme Court’s landmark 1803 decision *Marbury v.*  
9       *Madison*, “It is emphatically the province and duty  
10      of the judicial department to say what the law is”;  
11      and

12              (3) the Constitution of the United States and  
13      established precedent require the executive branch to  
14      comply with all Federal court rulings.