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The Constitutionality of Section 5

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The Constitutionality of Section 5

Abstract

Section 5 of the Voting Rights Act serves as the constitutional response to the sins of voting discrimination perpetrated against minorities. The Founders of the Fifteenth Amendment envisioned the extinction of voting discrimination towards minorities and the prosperity of a government that is responsive to all Americans. Unfortunately, some states in the Union continued to block minorities from participating in elections through legal, political, and social means.

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After the American Civil War, the Republican Congress proposed three amendments to the States concerning the rights of minorities. The Fifteenth Amendment (ratified in 1870) focused on prohibiting discrimination in voting rights on account of race. For years the federal government had trouble enforcing federal legislation addressing the Fifteenth Amendment due to some States either implementing a different discriminatory voting requirement, using the courts to delay its enforcement, or strictly ignoring the courts' judgment. Therefore, in 1965 the Democratic Congress passed the Voting Rights Act to prevent states from bypassing federal laws through Section 5, which permitted the District Court of D.C. to review all State voting laws before they are enforced. Section Five's constitutionality comes from Congress' ethical obligation to eliminate voting discrimination through "appropriate legislation" under the Fifteenth Amendment.

Section 5 of the Voting Rights Act serves as the constitutional response to the sins of voting discrimination perpetrated against minorities. The Founders of the Fifteenth Amendment envisioned the extinction of voting discrimination towards minorities and the prosperity of a government that is responsive to all Americans. Unfortunately, some states in the Union continued to block minorities from participating in elections through legal, political, and social means. After the lengthy litigation in Dallas County and the little effect it had on giving minorities the right to vote, Representatives of the House Committee on the Judiciary were shocked. They declared that "the damage to our national conscience is too great not to adopt

more effective measures than exist today” (Warren, 1965). These Representatives, directly elected by the people, consider their status not only as individuals representing the people’s interests but also their ethical duty to keep the spirit of the constitution alive. They used Section 2 of the Fifteenth Amendment to pass a more appropriate procedure of prohibiting voting discrimination from taking effect, such as permitting the District Court of D.C. to review them before they are implemented and among other things. Chief Justice Warren saw this as, “Congress [feeling] itself confronted by an insidious and pervasive evil [that acted] through unremitting and ingenious defiance of the Constitution” (1965). In order to support and defend the constitution, these Congressmen were bound to defend the constitution in all of its values, including minorities’ right to vote, whatever it is appropriate.

The constitution comprises many American values, one of them guaranteeing a “Republican Form of Government” (Article IV Section 4). This principle ensures that the national government, residing in a faraway place, does not inhibit too many rights of the people and neglect their interest. The states are more capable of responding to the needs of their constituents more effectively than the federal government. The District Court of the District of Columbia, who are unelected, are welcome to hold a trial to determine if a state’s law violates federal law. However, there must exist a challenge before reviewing the case. As Chief Justice Warren admits, “Judicial review of [unchallenged sections of the act] must await subsequent litigation” (1965). Those justices, permitted under Section 5 of the VRA, do not understand the wishes, the interests, nor the values of the people of any state, and should not be permitted to undermine the rights of the states to carry out their state and local elections. As Justice Black articulated in his dissent, having an adequately challenged trial would “treat the States with the

dignity to which they should be entitled as constituent members of our Federal Union” (Warren, 1965). All of the states entered this Union, believing that all of them will work in the national interest, while at the same time working on their people’s interests. This founding principle of the American Constitution should not be compromised to exercise another value, but rather work together.

Although the constitution recognizes the States’ autonomy within the Union, it does not recognize the right for States to discriminate against their own citizens’ right to vote. The States have every right to exercise their power for their state interests, but it does not permit the States to use its power as “an instrument for circumventing a federally protected right” (Warren, 1965). The Union formed from the principle that every American citizen receives equal and fair treatment under the constitution. Sadly, some States have done whatever means to prevent minorities from exercising their right to participate in elections. When the Union’s democratic principles are exposed to the evils of discrimination, Congress took extraordinary measures to address them. Although they are as unusual as delegating to the inferior courts the power to review state laws before they are enforced, the Court recognized the legislation permitted under the Fifteenth Amendment that “to secure to all persons ... the equal protection of the laws against State denial or invasion ... is brought within the domain of congressional power” (Warren, 1965). The Courts previously commented that any legislation that ensures all Americans the right to vote is appropriately under the discretion of the U.S. Congress. However, as Justice Marshall mentioned in *McCulloch vs. Maryland (1819)*, “Let the end be legitimate ... and all means ... which are plainly adapted to that end ... consist with the letter and spirit of the constitution, are constitutional” (Warren, 1965). Once Section 4(b) does not apply to any

political subdivision in the United States, then the evil of discrimination is gone, and Section 5 has reached its end.

Work Cited

Warren, E. & Supreme Court Of The United States. (1965) U.S. Reports: South Carolina v. Katzenbach, 383 U.S. 301 (pp. 307-362). [Periodical] Retrieved from the Library of Congress, <https://www.loc.gov/item/usrep383301/>.