91 S.Ct. 260
Supreme Court of the United States

State of OREGON, Plaintiff,
v.
John N. MITCHELL, Attorney General of the United States.
State of TEXAS, Plaintiff,
v.
John N. MITCHELL, Attorney General of the United States.
UNITED STATES, Plaintiff,
v.
State of ARIZONA.
UNITED STATES, Plaintiff,
v.
State of IDAHO.

Nos. 43, 44, 46, 47 Orig.
|
Argued Oct. 19, 1970.
|
Decided Dec. 21, 1970.

Synopsis
Original actions to determine constitutionality of certain 1970 amendments of Voting Rights Act. The Supreme Court held that amendments enfranchising 18-year-olds in federal elections, abolishing literacy tests as requisite to vote, and abolishing state durational residency requirements in presidential elections were within power of Congress to enact, but that amendment enfranchising 18-year-olds in state and local elections was beyond power of Congress to enact.

Judgment accordingly.

Mr. Justice Douglas filed opinion dissenting from judgment that Congress could not enfranchise 18-year-olds in state and local elections and concurring in other judgments; Mr. Justice Brennan filed opinion dissenting from same judgment and concurring in other judgments, in which Mr. Justice White and Mr. Justice Marshall joined.

Mr. Justice Harlan filed opinion dissenting from judgment that Congress could enfranchise 18-year-olds in federal elections and from judgment that Congress could establish residency requirements for presidential elections and concurring in other judgments.

Mr. Justice Stewart filed opinion dissenting from judgment that Congress could enfranchise 18-year-olds in federal elections and concurring in other judgments, in which The Chief Justice and Mr. Justice Blackmun joined.

West Headnotes (4)

[1] **Constitutional Law** Civil rights legislation in general
Election Law Age
92 Constitutional Law
92XXVIII Enforcement of Fourteenth Amendment
92XXVIII(B) Particular Issues and Applications
92k4865 Civil rights legislation in general
142T Election Law
142TIII Voters
142TIII(B) Qualifications
142Tk68 Age
(Formerly 144k18 Elections)
1970 amendment of Voting Rights Act authorizing 18-year-olds to vote in federal elections was within power of Congress to enact, one judge being of the opinion that power was conferred by constitutional provision relating to power of Congress to regulate national elections, and four justices being of the opinion that power was conferred by enforcement clause of Fourteenth Amendment. Voting Rights Act of 1965, § 302 as amended 42 U.S.C.A. § 1973bb–1; U.S.C.A.Const. art. 1, § 4; Amend. 14.
52 Cases that cite this headnote

[2] **States** Public officers and employees; elections
360 States
360I Political Status and Relations
360I(B) Federal Supremacy; Preemption
360k18.71 Public officers and employees; elections

(Formerly 360k4.17)

1970 amendment of Voting Rights Act authorizing 18-year-olds to vote in state and local elections was beyond power of Congress to enact. Voting Rights Act of 1965, § 302 as amended 42 U.S.C.A. § 1973bb–1.

49 Cases that cite this headnote

[3] **Constitutional Law** Fifteenth Amendment

Constitutional Law Civil rights legislation in general

Election Law Literacy tests

92 Constitutional Law
92XVII Political Rights and Discrimination
92k1482 Fifteenth Amendment
92 Constitutional Law
92XXVIII Enforcement of Fourteenth Amendment
92XXVIII(B) Particular Issues and Applications
92k4865 Civil rights legislation in general
142T Election Law
142TVIII Discrimination; Voting Rights Act
142Tk605 Voting Prerequisites; Tests and Devices
142Tk608 Literacy tests

(Formerly 144k18 Elections)

1970 amendment of Voting Rights Act prohibiting use of literacy tests and other discriminatory tests and devices in federal and state elections was within power of Congress to enact, eight justices being of the opinion that power was conferred by enforcement clause of Fifteenth Amendment and one justice being of the opinion that power was conferred by enforcement clause of Fourteenth Amendment. Voting Rights Act of 1965, § 201 as amended 42 U.S.C.A. § 1973aa; U.S.C.A.Const. Amends. 14, 15.

91 Cases that cite this headnote

[4] **Constitutional Law** Civil rights legislation in general

Election Law Duration of residency

Election Law Absentee Ballots

Election Law In general; power to prohibit discrimination

92 Constitutional Law
92XXVIII Enforcement of Fourteenth Amendment
92XXVIII(B) Particular Issues and Applications
92k4865 Civil rights legislation in general
142T Election Law
142TIII Voters
142TIII(B) Qualifications
142Tk74 Residence
142Tk77 Duration of residency

(Formerly 144k18 Elections)

142T Election Law
142TVII Conduct of Election
142TVII(D) Time, Place, and Manner of Voting
142Tk398 Absentee Ballots
142Tk399 In general

(Formerly 144k18 Elections)

142T Election Law
142TVIII Discrimination; Voting Rights Act
142Tk594 Constitutional and Statutory Provisions
142Tk595 In general; power to prohibit discrimination

(Formerly 144k21 Elections)

1970 amendment of Voting Rights Act abolishing state durational residency requirements and providing for absentee balloting in presidential elections was within power of Congress to enact, one justice being of the opinion that power was conferred by constitutional provision relating to power of Congress to regulate national elections, four justices being of the opinion that power was conferred by enforcement clause of Fourteenth Amendment, and three justices being of the opinion that enactment was within authority of Congress to protect right to travel. Voting Rights Act of 1965, § 202 as amended 42 U.S.C.A. § 1973aa–1; U.S.C.A.Const. art. 1, § 4; Amend. 14.

107 Cases that cite this headnote

Attorneys and Law Firms

****261** ***115** Lee Johnson, Salem, Or., for plaintiff State of Oregon.

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John M. McGowan II, and Gary K. Nelson, Phoenix, Ariz., for defendant State of Arizona.

Robert M. Robson, Boise, Idaho, for defendant State of Idaho.

Opinion

***117** Mr. Justice BLACK, announcing the judgments of the Court in an opinion expressing his own view of the cases.

In these suits certain States resist compliance with the Voting Rights Act Amendments of 1970, Pub.L. 91—285, 84 Stat. 314, because they believe that the Act takes away from them powers reserved to the States by the Constitution to control their own elections.[1] By its terms the Act does three things. First: It lowers the minimum age of voters in both state and federal elections from 21 to 18. Second: Based upon a finding by Congress that literacy tests have been used to discriminate against voters on account of their color, the Act enforces the Fourteenth and Fifteenth Amendments by barring the use of such tests in all elections, state and national, for a five-year period. Third: The Act forbids States from disqualifying voters in national elections for presidential and vice-presidential electors because they have not met state residency requirements.

[1] **[2]** For the reasons set out in Part I of this opinion, I believe Congress can fix the age of voters in national elections, such as congressional, senatorial, vice-presidential ***118** and presidential elections, but cannot set the voting age in state and local elections. For reasons expressed in separate opinions, my Brothers DOUGLAS, BRENNAN, WHITE, and MARSHALL join me in concluding that Congress can enfranchise 18-year-old citizens in national elections, but dissent from the judgment that Congress cannot extend the franchise to 18-year-old citizens in state and local elections. For reasons expressed in separate opinions, my Brothers THE CHIEF JUSTICE, HARLAN, STEWART, and BLACKMUN join me in concluding that Congress cannot interfere with the age for voters set by the States for state and local elections. They, however, dissent from the judgment that Congress can control voter qualifications in federal elections. In summary, it is the judgment of the Court that the 18-year-old vote provisions of the Voting Rights Act Amendments of 1970 are constitutional and enforceable insofar as they pertain to federal elections and unconstitutional and unenforceable insofar as they pertain to state and local elections.

[3] For the reasons set out in Part II of this opinion, I believe that Congress, ****262** in the exercise of its power to enforce the Fourteenth and Fifteenth Amendments, can prohibit the use of literacy tests or other devices used to discriminate against voters on account of their race in both state and federal elections. For reasons expressed in separate opinions, all of my Brethren join me in this judgment. Therefore the literacy-test provisions of the Act are upheld.

[4] For the reasons set out in Part III of this opinion, I believe Congress can set residency requirements and provide for absentee balloting in elections for presidential and vice-presidential electors. For reasons expressed in separate opinions, my Brothers THE CHIEF JUSTICE, DOUGLAS, BRENNAN, STEWART, WHITE, MARSHALL, and BLACKMUN concur in this judgment. My Brother ***119** HARLAN, for the reasons stated in his separate opinion, considers that the residency provisions of the statute are unconstitutional. Therefore the residency and absentee balloting provisions of the Act are upheld.

Let judgments be entered accordingly.

I

The Framers of our Constitution provided in Art. I, s 2, that members of the House of Representatives should be elected by the people and that the voters for Representatives should have 'the Qualifications requisite for Electors of the most numerous Branch of the State Legislature.' Senators were originally to be elected by the state legislatures, but under the Seventeenth Amendment Senators are also elected by the people, and voters for Senators have the same qualifications as voters for Representatives. In the very beginning the responsibility of the States for setting the qualifications of voters in congressional elections was made subject to the power of Congress to make or alter such regulations, if it deemed it advisable to do so.[2] This was done in Art. I, s 4, of the Constitution which provides:

'The Times, Places and Manner of holding Elections for Senators and ****263** Representatives, shall be ***120** prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Places of chusing Senators.' (Emphasis supplied.)

Moreover, the power of Congress to make election regulations in national elections is augmented by the Necessary and Proper Clause. See McCulloch v. Maryland, 4 Wheat. 316, 4 L.Ed. 579 (1819). In United States v. Classic, 313 U.S. 299, 61 S.Ct. 1031, 85 L.Ed. 1368 (1941), where the Court

upheld congressional power to regulate party primaries, Mr. Justice Stone speaking ***121** for the Court construed the interrelation of these clauses of the Constitution, stating:
'While, in a loose sense, the right to vote for representatives in Congress is sometimes spoken of as a right derived from the states * * * this statement is true only in the sense that the states are authorized by the Constitution, to legislate on the subject as provided by s 2 of Art. I, to the extent that Congress has not restricted state action by the exercise of its powers to regulate elections under s 4 and its more general power under Article I, s 8, clause 18 of the Constitution 'To make all laws which shall be necessary and proper for carrying into execution the foregoing powers.'' 313 U.S., at 315, 61 S.Ct., at 1037.

See also Ex parte Siebold, 100 U.S. 371, 25 L.Ed. 717 (1880); Ex parte Yarbrough, 110 U.S. 651, 4 S.Ct. 152, 28 L.Ed. 274 (1884); Swafford v. Templeton, 185 U.S. 487, 22 S.Ct. 783, 46 L.Ed. 1005 (1902); Wiley v. Sinkler, 179 U.S. 58, 21 S.Ct. 17, 45 L.Ed. 84 (1900).

The breadth of power granted to Congress to make or alter election regulations in national elections, including the qualifications of voters, is demonstrated by the fact that the Framers of the Constitution and the state legislatures which ratified it intended to grant to Congress the power to lay out or alter the boundaries of the congressional districts. In the ratifying conventions speakers 'argued that the power given Congress in Art. I, s 4, was meant to be used to vindicate the people's right to equality of representation in the House,' Wesberry v. Sanders, 376 U.S. 1, 16, 84 S.Ct. 526, 534, 11 L.Ed.2d 481 (1964), and that Congress would 'most probably * * * lay the state off into districts.' And in Colegrove v. Green, 328 U.S. 549, 66 S.Ct. 1198, 90 L.Ed. 1432 (1946), no Justice of this Court doubted Congress' power to rearrange the congressional districts according to population; the fight in that case revolved about the judicial power to compel redistricting.

***122** Surely no voter qualification was more important to the Framers than the geographical qualification embodied in the concept of congressional districts. The Framers expected Congress to use this power to eradicate 'rotten boroughs,'[3] and Congress has in fact used its power to prevent States from electing all Congressmen at large.[4] There can be no doubt that the power to alter congressional district lines is vastly more significant in its effect than the power to permit 18-year-old citizens to go to the polls and vote in all federal elections.

Any doubt about the powers of Congress to regulate congressional elections, including the age and other qualifications of the voters, should be dispelled by the opinion of this Court in Smiley v. Holm, 285 U.S. 355, 52 S.Ct. 397, 76 L.Ed. 795 (1932). There, Chief Justice Hughes writing for a unanimous Court discussed the scope of congressional power under s 4 at some length. He said:
'The subject matter is the 'times, places and manner of holding elections for senators and representatives.' It cannot be doubted that these comprehensive words embrace authority to provide a complete code for congressional elections, not only as to times and places, but in relation to notices, registration, supervision of voting, protection of voters, prevention of ****264** fraud and corrupt practices, counting of votes, duties of inspectors and canvassers, and making and publication of election returns; in short, to enact the numerous requirements as to procedure and safeguards which experience shows are necessary in order to enforce the fundamental right involved. * * *

'This view is confirmed by the second clause of Article I, s 4, which provides that 'the Congress ***123** may at any time by law make or alter such regulations,' with the single exception stated. The phrase 'such regulations' plainly refers to regulations of the same general character that the legislature of the State is authorized to prescribe with respect to congressional elections. In exercising this power, the Congress may supplement these state regulations or may substitute its own. * * * It 'has a general supervisory power over the whole subject.'' Id., at 366—367, 52 S.Ct., at 399.

In short, the Constitution allotted to the States the power to make laws regarding national elections, but provided that if Congress became dissatisfied with the state laws, Congress could alter them.[5] A newly created national government could hardly have been expected to survive without the ultimate power to rule itself and to fill its offices under its own laws. The Voting Rights Act Amendments of 1970 now before this Court ***124** evidence dissatisfaction of Congress with the voting age set by many of the States for national elections. I would hold, as have a long line of decisions in this Court, that Congress has ultimate supervisory power over congressional elections.[6] Similarly, it is the prerogative of Congress to oversee the conduct of presidential and vice-presidential elections and to set the qualifications for voters for electors for those offices. It cannot be seriously contended

that Congress has less power over the conduct of presidential elections than it has over congressional elections.[7]

**265 On the other hand, the Constitution was also intended to preserve to the States the power that even the Colonies had to establish and maintain their own separate and independent governments, except insofar as the Constitution itself commands otherwise. My Brother HARLAN has persuasively demonstrated that the Framers of the Constitution intended the States to keep for themselves, *125 as provided in the Tenth Amendment,[8] the power to regulate elections. My major disagreement with my Brother HARLAN is that, while I agree as to the States' power to regulate the elections of their own officials, I believe, contrary to his view, that Congress has the final authority over federal elections. No function is more essential to the separate and independent existence of the States and their governments than the power to determine within the limits of the Constitution the qualifications of their own voters for state, county, and municipal offices and the nature of their own machinery for filling local public offices. Pope v. Williams, 193 U.S. 621, 24 S.Ct. 573, 48 L.Ed. 817 (1904); Minor v. Happersett, 21 Wall. 162, 22 L.Ed. 627 (1875). Moreover, Art. I, s 2,[9] is a clear indication that the Framers intended the States to determine the qualifications of their own voters for state offices, because those qualifications were adopted for federal offices unless Congress directs otherwise under Art. I, s 4. It is a plain fact of history that the Framers never imagined that the national Congress would set the qualifications for voters in every election from President to local constable or village alderman. It is obvious that the whole Constitution reserves to the States the power to set voter qualifications in state and local elections, except to the limited extent that the people through constitutional amendments have specifically narrowed the powers of the States. Amendments Fourteen, Fifteen, Nineteen, and Twenty-four, each of which has assumed that the States had general supervisory power *126 over state elections, are examples of express limitations on the power of the States to govern themselves. And the Equal Protection Clause of the Fourteenth Amendment was never intended to destroy the States' power to govern themselves, making the Nineteenth and Twenty-fourth Amendments superfluous. My brother BRENNAN's opinion, if carried to its logical conclusion, would, under the guise of insuring equal protection, blot out all state power, leaving the 50 States as little more than impotent figureheads. In interpreting what the Fourteenth Amendment means, the Equal Protection Clause should not be stretched to nullify the States' powers over elections which they had before the Constitution was adopted and which they have retained throughout our history.

Of course, the original design of the Founding Fathers was altered by the Civil War Amendments and various other amendments to the Constitution. The Thirteenth, Fourteenth, Fifteenth, and Nineteenth Amendments have expressly authorized Congress to 'enforce' the limited prohibitions of those amendments by 'appropriate legislation.' The Solicitor General contends in these cases that Congress can set the age qualifications for voters in state elections under its power to enforce the Equal Protection Clause of the Fourteenth Amendment.

Above all else, the framers of the Civil War Amendments intended to deny to the States the power to discriminate **266 against persons on account of their race. Loving v. Virginia, 388 U.S. 1, 87 S.Ct. 1817, 18 L.Ed.2d 1010 (1967); Gomillion v. Lightfoot, 364 U.S. 339, 81 S.Ct. 125, 5 L.Ed.2d 110 (1960); Brown v. Board of Education, 347 U.S. 483, 74 S.Ct. 686, 98 L.Ed. 873 (1954); Slaughter-House Cases, 16 Wall. 36, 71—72, 21 L.Ed. 394 (1873). While this Court has recognized that the Equal Protection Clause of the Fourteenth Amendment in some instances protects against discriminations *127 other than those on account of race,[10] see Reynolds v. Sims, 377 U.S. 533, 84 S.Ct. 1362, 12 L.Ed.2d 506 (1964); Hadley v. Junior College District, 397 U.S. 50, 90 S.Ct. 791, 25 L.Ed.2d 45 (1970); see also Kotch v. Board of River Port Pilot, 330 U.S. 552, 67 S.Ct. 910, 91 L.Ed. 1093 (1947), and cases cited therein, it cannot be successfully argued that the Fourteenth Amendment was intended to strip the States of their power, carefully preserved in the original Constitution, to govern themselves. The Fourteenth Amendment was surely not intended to make every discrimination between groups of people a constitutional denial of equal protection. Nor was the Enforcement Clause of the Fourteenth Amendment intended to permit Congress to prohibit every discrimination between groups of people. On the other hand, the Civil War Amendments were unquestionably designed to condemn and forbid every distinction, however trifling, on account of race.

To fulfill their goal of ending racial discrimination and to prevent direct or indirect state legislative encroachment on the rights guaranteed by the amendments, the Framers gave Congress power to enforce each of the Civil War Amendments. These enforcement powers are broad. In Jones v. Alfred H. Mayer Co., 392 U.S. 409, 439, 88 S.Ct. 2186, 2203, 20 L.Ed.2d 1189 (1968), the Court held that s 2 of the Thirteenth *128 Amendment 'clothed 'Congress with power

to pass all laws necessary and proper for abolishing all badges and incidents of slavery in the United States.'' In construing s 5 of the Fourteenth Amendment, the Court has stated:
'It is not said the judicial power of the general government shall extend to enforcing the prohibitions and to protecting the rights and immunities guaranteed. It is not said that branch of the government shall be authorized to declare void any action of a State in violation of the prohibitions. It is the power of Congress which has been enlarged.' Ex parte Virginia, 100 U.S. 339, 345, 25 L.Ed. 676 (1880). (Emphasis added in part.)

And in South Carolina v. Katzenbach, 383 U.S. 301, 86 S.Ct. 803, 15 L.Ed.2d 769 (1966) (Mr. Justice Black dissenting on other grounds), the Court upheld the literacy test ban of the Voting Rights Act of 1965, 79 Stat. 437, under Congress' Fifteenth Amendment enforcement power.

As broad as the congressional enforcement power is, it is not unlimited. Specifically, there are at least three limitations upon Congress' power to enforce the guarantees of the Civil War Amendments. First, Congress may not by legislation repeal other provisions of the Constitution. Second, the power granted to Congress was not intended to strip the States of their power to govern themselves or to convert our national government of enumerated powers into a central ****267** government of unrestrained authority over every inch of the whole Nation. Third, Congress may only 'enforce' the provisions of the amendments and may do so only by 'appropriate legislation.' Congress has no power under the enforcement sections to undercut the amendments' guarantees of personal equality and freedom from discrimination, see Katzenbach v. Morgan, 384 U.S. 641, 651 n. 10, 86 S.Ct. 1717, 1723, 16 L.Ed.2d 828 (1966), ***129** or to undermine those protections of the Bill of Rights which we have held the Fourteenth Amendment made applicable to the States.[11]

Of course, we have upheld congressional legislation under the Enforcement Clauses in some cases where Congress has interfered with state regulation of the local electoral process. In Katzenbach v. Morgan, supra, the Court upheld a statute which outlawed New York's requirement of literacy in English as a prerequisite to voting as this requirement was applied to Puerto Ricans with certain educational qualifications. The New York statute overriden by Congress applied to all elections. And in South Carolina v. Katzenbach, supra (Black, J., dissenting on other grounds), the Court upheld the literacy test ban of the Voting Rights Act of 1965. That Act proscribed the use of the literacy test in all elections in certain areas. But division of power between state and national governments, like every provision of the Constitution, was expressly qualified by the Civil War Amendments' ban on racial discrimination. Where Congress attempts to remedy racial discrimination under its enforcement powers, its authority is enhanced by the avowed intention of the framers of the Thirteenth, Fourteenth, and Fifteenth Amendments. Cf. Harper v. Virginia State Board of Elections, 383 U.S. 663, 670, 86 S.Ct. 1079, 1083, 16 L.Ed.2d 169 (1966) (Black, J., dissenting).

***130** In enacting the 18-year-old vote provisions of the Act now before the Court, Congress made no legislative findings that the 21-year-old vote requirement was used by the States to disenfranchise voters on account of race. I seriously doubt that such a finding, if made, could be supported by substantial evidence. Since Congress has attempted to invade an area preserved to the States by the Constitution without a foundation for enforcing the Civil War Amendments' ban on racial discrimination, I would hold that Congress has exceeded its powers in attempting to lower the voting age in state and local elections. On the other hand, where Congress legislates in a domain not exclusively reserved by the Constitution to the States, its enforcement power need not be tied so closely to the goal of eliminating discrimination on account of race.

To invalidate part of the Voting Rights Act Amendments of 1970, however, does not mean that the entire Act must fall or that the constitutional part of the 18-year-old vote provision cannot be given effect. In passing the Voting Rights Act Amendments of 1970, Congress recognized that the limits of its power under the Enforcement Clauses ****268** were largely undetermined, and therefore included a broad severability provision:
'If any provision of this Act or the application of any provision thereof to any person or circumstance is judicially determined to be invalid, the remainder of this Act or the application of such provision to other persons or circumstances shall not be affected by such determination.' 84 Stat. 318.

In this case, it is the judgment of the Court that Title III, lowering the voting age to 18, is invalid as applied to voters in state and local elections. It is also the judgment of the Court that Title III is valid with respect to national elections. We would fail to follow the ***131** express will of Congress in interpreting its own statute if we refused to sever these two distinct aspects of Title III. Moreover, it is a longstanding canon of statutory construction that legislative enactments are to be enforced to the extent that they are not inconsistent with the Constitution, particularly where the valid portion of

the statute does not depend upon the invalid part. See, e.g., Watson v. Buck, 313 U.S. 387, 61 S.Ct. 962, 85 L.Ed. 1416 (1941); Marsh v. Buck, 313 U.S. 406, 61 S.Ct. 969, 85 L.Ed. 1426 (1941). Here, of course, the enforcement of the 18-year-old vote in national elections is in no way dependent upon its enforcement in state and local elections.

II

It Title I of the Voting Rights Act Amendments of 1970 Congress extended the provisions of the Voting Rights Act of 1965 which ban the use of literacy tests in certain States upon the finding of certain conditions by the United States Attorney General. The Court upheld the provisions of the 1965 Act over my partial dissent in South Carolina v. Katzenbach, supra, and Gaston County v. United States, 395 U.S. 285, 89 S.Ct. 1720, 23 L.Ed.2d 309 (1969). The constitutionality of Title I is not raised by any of the parties to these suits.[12]

In Title II of the Amendments Congress prohibited until August 6, 1975, the use of any test or device resembling a literacy test in any national, state, or local election ***132** in any area of the United States where such test is not already proscribed by the Voting Rights Act of 1965. The State of Arizona maintains that Title II cannot be enforced to the extent that it is inconsistent with Arizona's literacy test requirement, Ariz.Rev.Stat.Ann. ss 16—101, subsec. A, par. 4, 16—101, subsec. A, par. 5 (1956). I would hold that the literacy test ban of the 1970 Amendments is constitutional under the Enforcement Clause of the Fifteenth Amendment and that it supersedes Arizona's conflicting statutes under the Supremacy Clause of the Federal Constitution.

In enacting the literacy test ban of Title II Congress had before it a long history of the discriminatory use of literacy tests to disfranchise voters on account of their race. Congress could have found that as late as the summer of 1968, the percentage registration of nonwhite voters in seven Southern States was substantially below the percentage registration of white voters.[13] Moreover, Congress had before it striking evidence to show that the provisions of the 1965 Act had had in the span of four years a remarkable impact on minority group voter ****269** registration.[14] Congress also had evidence to show that voter registration in areas with large Spanish-American populations was consistently below the state and national averages. In Arizona, for example, only two counties out of eight with Spanish surname populations in excess of 15% showed a voter registration equal to the state-wide average.[15] Arizona also has a serious problem of deficient voter registration among Indians. Congressional ***133** concern over the use of a literacy test to disfranchise Puerto Ricans in New York State is already a matter of record in this Court. Katzenbach v. Morgan, supra. And as to the Nation as a whole, Congress had before it statistics which demonstrate that voter registration and voter participation are consistently greater in States without literacy tests.[16]

Congress also had before it this country's history of discriminatory educational opportunities in both the North and the South. The children who were denied an equivalent education by the 'separate but equal' rule of Plessy v. Ferguson, 163 U.S. 537, 16 S.Ct. 1138, 41 L.Ed. 256 (1896), overruled in Brown v. Board of Education, 347 U.S. 483, 74 S.Ct. 686, 98 L.Ed. 873 (1954), are now old enough to vote. There is substantial, if not overwhelming, evidence from which Congress could have concluded that it is a denial of equal protection to condition the political participation of children educated in a dual school system upon their educational achievement. Moreover, the history of this legislation suggests that concern with educational inequality was perhaps uppermost in the minds of the congressmen who sponsored the Act. The hearings are filled with references to educational inequality. Faced with this and other evidence that literacy tests reduce voter participation in a discriminatory manner not only in the South but throughout the Nation, Congress was supported by substantial evidence in concluding that a nationwide ban on literacy tests was appropriate to enforce the Civil War amendments.

Finally, there is yet another reason for upholding the literacy test provisions of this Act. In imposing a nationwide ban on literacy tests, Congress has recognized a national problem for what it is—a serious national dilemma that touches every corner of our land. ***134** In this legislation Congress has recognized that discrimination on account of color and racial origin is not confined to the South, but exists in various parts of the country. Congress has decided that the way to solve the problems of racial discrimination is to deal with nationwide discrimination with nationwide legislation. Compare South Carolina v. Katzenbach, supra, and Gaston County v. United States, supra.

III

In Title II of the Voting Rights Act Amendments Congress also provided that in presidential and vice-presidential elections, no voter could be denied his right to cast a ballot because he had not lived in the jurisdiction long

enough to meet its residency requirements. Furthermore, Congress provided uniform national rules for absentee voting in presidential and vice-presidential elections. In enacting these regulations Congress was attempting to insure a fully effective voice to all citizens in national elections. What I said in Part I of this opinion applies with equal force here. Acting under its broad authority to create and maintain a national government, Congress unquestionably has power under the Constitution to regulate federal elections. The Framers of our Constitution were vitally concerned with setting up a national government that could survive. Essential to the survival and to the growth of our national government ****270** is its power to fill its elective offices and to insure that the officials who fill those offices are as responsive as possible to the will of the people whom they represent.

IV

Our judgments today give the Federal Government the power the Framers conferred upon it, that is, the final control of the elections of its own officers. Our judgments also save for the States the power to control state and ***135** local elections which the Constitution originally reserved to them and which no subsequent amendment has taken from them.[17] The generalities of the Equal Protection Clause of the Fourteenth Amendment were not designed or adopted to render the States impotent to set voter qualifications in elections for their own local officials and agents in the absence of some specific constitutional limitations.

Mr. Justice DOUGLAS.

I dissent from the judgments of the from the judgments of the Court insofar as they declare s 302 of the Voting Rights Act, 84 Stat. 318, unconstitutional as applied to state elections and concur in the judgments as they affect federal elections, but for different reasons. I rely on the Equal Protection Clause and on the Privileges and Immunities Clause of the Fourteenth Amendment.

I

The grant of the franchise to 18-year-olds by Congress is in my view valid across the board.

***136** I suppose that in 1920, when the Nineteenth Amendment was ratified giving women the right to vote, it was assumed by most constitutional experts that there was no relief by way of the Equal Protection Clause of the Fourteenth Amendment. In Minor v. Happersett, 21 Wall. 162, 22 L.Ed. 627, the Court held in the 1874 Term that a State could constitutionally restrict the franchise to men. While the Fourteenth Amendment was relied upon, the thrust of the opinion was directed at the Privileges and Immunities Clause with a subsidiary reference to the Due Process Clause. It was much later, indeed not until the 1961 Term—nearly a century after the Fourteenth Amendment was adopted—that discrimination against voters on grounds other than race was struck down.

The first case in which this Court struck down a statute under the Equal Protection Clause of the Fourteenth Amendment was Strauder v. West Virginia, 100 U.S. 303, 25 L.Ed. 664, decided in the 1879 Term.[1] In the 1961 Term we squarely held that the manner of apportionment ****271** of members of a state legislature raised a justiciable question under the Equal Protection Clause, Baker v. Carr, 369 U.S. 186, 82 S.Ct. 691, 7 L.Ed.2d 663. That case was followed by numerous others, e.g.: that one person could not be given twice or 10 times the voting power of another person in a statewide election merely because he lived in a rural area or ***137** in the smallest rural county;[2] that the principle of equality applied to both Houses of a bicameral legislature;[3] that political parties receive protection under the Equal Protection Clause just as voters do.[4]

The reapportionment cases, however, are not quite in point here, though they are the target of my Brother HARLAN'S dissent. His painstaking review of the history of the Equal Protection Clause leads him to conclude that 'political' rights are not protected though 'civil' rights are protected. The problem of what questions are 'political' has been a recurring issue in this Court from the beginning, and we recently reviewed them all in Baker v. Carr, supra, and in Powell v. McCormack, 395 U.S. 486, 89 S.Ct. 1944, 23 L.Ed.2d 491. Baker v. Carr was a reapportionment case and Powell v. McCormack involved the exclusion from the House of Representatives of a Congressman. The issue of 'political' question versus 'justiciable' question was argued pro and con in those cases; and my Brother Harlan stated in Baker v. Carr, 369 U.S., at 330, 82 S.Ct., at 771 et seq., and on related occasions (Gray v. Sanders, 372 U.S. 368, 382, 83 S.Ct. 801, 809, 9 L.Ed.2d 821; Wesberry v. Sanders, 376 U.S. 1, 20, 84 S.Ct. 526, 536, 11 L.Ed.2d 481; Reynolds v. Sims, 377 U.S. 533, 589, 84 S.Ct. 1362, 1395—1396, 12 L.Ed.2d 506) ***138** his views on the constitutional dimensions of the 'political' question in the setting of the reapportionment problem.

Those cases involved the question whether legislatures must be so structured as to reflect with approximate equality the voice of every voter. The ultimate question was whether, absent a proper apportionment by the legislature, a federal court could itself make an apportionment. That kind of problem raised issues irrelevant here. Reapportionment, as our experience shows, presented a tangle of partisan politics in which geography, economics, urban life, rural constituencies, and numerous other nonlegal factors play varying roles. The competency of courts to deal with them was challenged. Yet we held the issues were justiciable. None of those so-called 'political' questions are involved here.

This case, so far as equal protection is concerned, is no whit different from a controversy over a state law that disqualifies women from certain types of ****272** employment, Goesaert v. Cleary, 335 U.S. 464, 69 S.Ct. 198, 93 L.Ed. 163, or that imposes a heavier punishment on one class of offender than on another whose crime is not intrinsically different. Skinner v. Oklahoma, 316 U.S. 535, 62 S.Ct. 1110, 86 L.Ed. 1655. The right to vote is, of course, different in one respect from the other rights in the economic, social, or political field which, as indicated in the Appendix to this opinion, are under the Equal Protection Clause. The right to vote is a civil right deeply embedded in the Constitution. Article I, s 2, provides that the House is composed of members 'chosen * * * by the People' and the electors 'shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature.' The Seventeenth Amendment states that Senators shall be 'elected by the people.' The Fifteenth Amendment speaks of the 'right of citizens of the United States to vote'—not only in federal ***139** but in state elections. The Court in Ex parte Yarbrough, 110 U.S. 651, 665, 4 S.Ct. 152, 159, 28 L.Ed. 274, stated:
'This new constitutional right was mainly designed for citizens of African descent. The principle, however, that the protection of the exercise of this right is within the power of congress, is as necessary to the right of other citizens to vote as to the colored citizen, and to the right to vote in general as to the right to be protected against discrimination.'

It was in that tradition that we said in Reynolds v. Sims, supra, 377 U.S., at 555, 84 S.Ct., at 1378, 'The right to vote freely for the candidate of one's choice is of the essence of a democratic society, and any restrictions on that right strike at the heart of representative government.'

This 'right to choose, secured by the Constitution,' United States v. Classic, 313 U.S. 299, 315, 61 S.Ct. 1031, 1037, 85 L.Ed. 1368, is a civil right of the highest order. Voting concerns 'political' matters; but the right is not 'political' in the constitutional sense. Interference with it has given rise to a long and consistent line of decisions by the Court; and the claim has always been upheld as justiciable.[5] Whatever distinction may have been made, following the Civil War, between 'civil' and 'political' rights, has passed into history. In Harper v. Virginia State Board of Elections, 383 U.S. 663, 669, 86 S.Ct. 1079, 1083, 16 L.Ed.2d 169, we stated: 'Notions of what constitutes equal treatment for purposes of the Equal Protection Clause do change.' That statement is in harmony with my view of the Fourteenth Amendment, as expressed by my Brother BRENNAN: 'We must therefore conclude that its framers understood their Amendment to be a broadly worded injunction capable of being interpreted ***140** by future generations in accordance with the vision and needs of those generations.' Post, at 341. Hence the history of the Fourteenth Amendment tendered by my Brother HARLAN is irrelevant to the present problem.

Since the right is civil and not 'political,' it is protected by the Equal Protection Clause of the Fourteenth Amendment which in turn, by s 5 of that Amendment, can be 'enforced' by Congress.

In Carrington v. Rash, 380 U.S. 89, 85 S.Ct. 775, 13 L.Ed.2d 675, we held that Texas could not bar a person, otherwise qualified, from voting merely because he was a member of the armed services. Occupation, we held, when used to bar a person from voting, was that invidious discrimination which the Equal Protection Clause condemns. In Evans v. Cornman, 398 U.S . 419, 90 S.Ct. 1752, 26 L.Ed.2d 370, we held that a State could not deny the vote to residents of a federal ****273** enclave when it treated them as residents for many other purposes. In Harper v. Virginia State Board of Elections, 383 U.S., at 666, 86 S.Ct., at 1081, we held a State could not in harmony with the Equal Protection Clause keep a person from voting in state elections because of 'the affluence of the voter or payment of any fee.' In Kramer v. Union Free School District, 395 U.S. 621, 89 S.Ct. 1886, 23 L.Ed.2d 583, we held that a person could not be barred from voting in school board elections merely because he was a bachelor. So far as the Equal Protection Clause was concerned, we said that the line between those qualified to vote and those not qualified turns on whether those excluded have 'a distinct and direct interest in the school meeting decisions.' Id., at 632, 89 S.Ct., at 1892. In Cipriano v. City of Houma, 395

U.S. 701, 89 S.Ct. 1897, 23 L.Ed.2d 647, we held that a state law which gave only 'property taxpayers' the right to vote on the issuance of revenue bonds of a municipal utility system violated equal protection as 'the benefits and burdens of the bond issue fall indiscriminately on property owner and nonproperty owner alike.' Id., at 705, 89 S.Ct., at 1900. And only on June 23, 1970, we held in Phoenix v. Kolodziejski, 399 U.S. 204, 90 S.Ct. 1990, 26 L.Ed.2d 523, that ***141** it violates equal protection to restrict those who may vote on general obligation bonds to real property taxpayers. We looked to see if there was any 'compelling state interest' in the voting restrictions. We held that 'nonproperty owners' are not 'substantially less interested in the issuance of these securities than are property owners,' id., at 212, 90 S.Ct., at 1996, and that presumptively 'when all citizens are affected in important ways by a governmental decision subject to a referendum, the Constitution does not permit weighted voting or the exclusion of otherwise qualified citizens from the franchise.'[6] Id., at 209, 90 S.Ct., at 1994. And as recently as November 9, 1970, we summarily affirmed a district court decision (310 F.Supp. 1172) on the basis of Kolodziejski. Parish School Board of St. Charles v. Stewart, 400 U.S. 884, 91 S.Ct. 136, 27 L.Ed.2d 129, where Louisiana gave a vote on municipal bond issues only to 'property taxpayers.'

The powers granted Congress by s 5 of the Fourteenth Amendment to 'enforce' the Equal Protection Clause are 'the same broad powers expressed in the Necessary and Proper Clause, Art. I, s 8, cl. 18.' Katzenbach v. Morgan, 384 U.S. 641, 650, 86 S.Ct. 1717, 1723, 16 L.Ed.2d 828. As we stated in that case, 'Correctly viewed, s 5 is a positive grant of legislative power authorizing Congress to exercise its discretion in determining whether and what legislation is needed to secure the guarantees of the Fourteenth Amendment.' Id., at 651, 86 S.Ct., at 1723.

Congress might well conclude that a reduction in the voting age from 21 to 18 was needed in the interest of equal protection. The Act itself brands the denial of ***142** the franchise to 18-year-olds as 'a particularly unfair treatment of such citizens in view of the national defense responsibilities imposed' on them. s 301(a)(1), Voting Rights Act, 84 Stat. 318. The fact that only males are drafted while the vote extends to females as well is not relevant, for the female component of these families or prospective families is also caught up in war and hit hard by it. Congress might well believe that men and women alike should share the fateful decision.

It is said, why draw the line at 18? Why not 17? Congress can draw lines and I see no reason why it cannot conclude that 18-year-olds have that degree of maturity which entitles them to the franchise. They are 'generally considered ****274** by American law to be mature enough to contract, to marry, to drive an automobile, to own a gun, and to be responsible for criminal behavior as an adult.'[7] Moreover, we are advised that under state laws, mandatory school attendance does not, as a matter of practice, extend beyond the age of 18. On any of these items the States, of course, have leeway to raise or lower the age requirements. But voting is 'a fundamental matter in a free and democratic society,' Reynolds v. Sims, 377 U.S. 533, 561—562, 84 S.Ct. 1362, 1381, 12 L.Ed.2d 506. Where 'fundamental rights and liberties are asserted under the Equal Protection Clause, classifications which might invade or restrain them must be closely scrutinized and carefully confined.' Harper v. Virginia State Board of Elections, 383 U.S. 663, 670, 86 S.Ct. 1079, 1083, 16 L.Ed.2d 169. There we were speaking of state restrictions on those rights. Here we are dealing with the right of Congress to 'enforce' the principles of equality enshrined in the Fourteenth Amendment. The right to 'enforce' granted by s 5 of that Amendment is, as noted, parallel with the Necessary and Proper Clause whose reach Chief Justice Marshall described in ***143** McCulloch v. Maryland, 4 Wheat. 316, 421, 4 L.Ed. 579: 'Let the end be legitimate, let it be within the scope of the constitution, and all means which are appropriate, which are plainly adapted to that end, which are not prohibited, but consist with the letter and spirit of the constitution, are constitutional.'

Equality of voting by all who are deemed mature enough to vote is certainly consistent 'with the letter and spirit of the constitution.' Much is made of the fact that Art. I, s 4, of the Constitution[8] gave Congress only the power to regulate the 'Manner of holding Elections,' not the power to fix qualifications for voting in elections. But the Civil War Amendments—the Thirteenth, Fourteenth, and Fifteenth—made vast in-roads on the power of the States Equal protection became a standard for state action and Congress was given authority to 'enforce' it. See Katzenbach v. Morgan, 384 U.S. 641, 647, 86 S.Ct. 1717, 1721, 16 L.Ed.2d 828. The manner of enforcement involves discretion; but that discretion is largely entrusted to the Congress, not to the courts. If racial discrimination were the only concern of the Equal Protection Clause, then across-the-board voting regulations set by the States would be of no concern to Congress. But it is much too late in history to make that claim, as the cases listed in the Appendix to this opinion show. Moreover, election

inequalities created by state laws and based on factors other than race may violate the Equal Protection Clause, as we have held over and over again. The reach of s 5 to 'enforce' equal protection by eliminating election inequalities would seem quite broad. Certainly there is ***144** not a word of limitation in s 5 which would restrict its applicability to matters of race alone. And if, as stated in McCulloch v. Maryland, the measure of the power of Congress is whether the remedy is consistent 'with the letter and spirit of the constitution,' we should have no difficulty here. We said in Gray v. Sanders, 372 U.S. 368, 381, 83 S.Ct. 801, 809, 9 L.Ed.2d 821: 'The conception of political equality from the Declaration of Independence, to Lincoln's Gettysburg Address, to the Fifteenth, Seventeenth, and Nineteenth Amendments can mean only one thing—one person, one vote.'

****275** It is a reasoned judgment that those who have such a large 'stake' in modern elections as 18-year-olds, whether in times of war or peace, should have political equality. As was made plain in the dissent in Colegrove v. Green, 328 U.S. 549, 566, 66 S.Ct. 1198, 90 L.Ed. 1432 (whose reasoning was approved in Gray v. Sanders, 372 U.S. 368, 379, 83 S.Ct. 801, 808, 9 L.Ed.2d 821), the Equal Protection Clause does service to protect the right to vote in federal as well as in state elections.

I would sustain the choice which Congress has made.

II

I likewise find the objections that Arizona and Idaho make to the literacy and residence requirements of the 1970 Act to be insubstantial.

Literacy. We held in Lassiter v. Northhampton Election Board, 360 U.S. 45, 79 S.Ct. 985, 3 L.Ed.2d 1072, that a State could apply a literacy test in selecting qualified voters provided the test is not 'discriminatory' and does not contravene 'any restriction that Congress, acting pursuant to its constitutional powers, has imposed.' Id., at 51, 79 S.Ct., at 990. The question in these cases is whether Congress has the power under s 5 of the Fourteenth Amendment to bar literacy tests in all federal, state, or local elections.

Section 201 bars a State from denying the right to vote in any federal, state, or local election because of 'any ***145** test or device' which is defined, inter alia, to include literacy.[9] We traveled most of the distance needed to sustain this Act in Katzenbach v. Morgan, 384 U.S. 641, 86 S.Ct. 1717, 16 L.Ed.2d 828, where we upheld the constitutionality of an earlier Act which prohibited the application of English literacy tests to persons educated in Puerto Rico. The power of Congress in s 5 to 'enforce' the Equal Protection Clause was sufficiently broad, we held, to enable it to abolish voting requirements which might pass muster under the Equal Protection Clause, absent an Act of Congress. Id., at 648—651, 86 S.Ct., at 1722—1724.

The question, we said, was whether the Act of Congress was 'appropriate legislation to enforce the Equal Protection Clause':

'It was well within congressional authority to say that this need of the Puerto Rican minority for the vote warranted federal intrusion upon any state interests served by the English literacy requirement. It was for Congress, as the branch that made this judgment, to assess and weigh the various conflicting considerations—the risk or pervasiveness of the discrimination in governmental services, the effectiveness of eliminating the state restriction on the right to vote as a means of dealing with the evil, the adequacy or availability of alternative remedies, and the nature and significance of the state interests that would be affected by the nullification of the English literacy requirement as applied to residents who have successfully completed ***146** the sixth grade in a Puerto Rican school. It is not for us to review the congressional resolution of these factors. It is enough that we be able to perceive a basis upon which the Congress might resolve the conflict as it did.' Id., at 653, 86 S.Ct., at 1724.

We also held that the Act might be sustained as an attack on the English language test as a device to discriminate. Id., at 654, 86 S.Ct., at 1725. And we went on to say that Congress might have concluded that 'as a means of furthering the intelligent exercise of the franchise, an ability to read or understand Spanish is as effective as ability to read English for those to whom Spanish-language ****276** newspapers and Spanish-language radio and television programs are available to inform them of election issues and governmental affairs.' Id., at 655, 86 S.Ct., at 1726.

We took a further step toward sustaining the present type of law in Gaston County v. United States, 395 U.S. 285, 89 S.Ct. 1720, 23 L.Ed.2d 309. That decision involved a provision of the Voting Rights Act of 1965 which suspended the use of any 'test or device,' including literacy, as a prerequisite to registration in a State which was found by the Attorney General and the Director of the Census to have used it in any election on November 1, 1964, and in which less than 50% of the residents of voting age were registered or had

voted.[10] Gaston County, North Carolina, was so classified and its literacy test was thereupon suspended. In a suit to remove the ban we sustained it. We noted that Congress had concluded that 'the County deprived its black residents of equal educational opportunities, which in turn deprived them of an equal chance to pass the literacy test.' Id., at 291, 89 S.Ct., at 1723. Congress, it was argued, should have employed a formula based on educational disparities between the races or one based on ***147** literacy rates. Id., at 292, 89 S.Ct., at 1723—1724. But the choice of appropriate remedies is for Congress and the range of available ones is wide. It was not a defect in the formula that some literate Negroes would be turned out by Negro schools.

'It is only reasonable to infer that among black children compelled to endure a segregated and inferior education, fewer will achieve any given degree of literacy than will their better-educated white contemporaries. And on the Government's showing, it was certainly proper to infer that Gaston County's inferior Negro schools provided many of its Negro residents with a subliterate education, and gave many others little inducement to enter or remain in school.' Id., at 295—296, 89 S.Ct., at 1725.

By like reasoning Congress in the present legislation need not make findings as to the incidence of literacy. It can rely on the fact that most States do not have literacy tests; that the tests have been used at times as a discriminatory weapon against some minorities, not only Negroes but Americans of Mexican ancestry, and American Indians; that radio and television have made it possible for a person to be well informed even though he may not be able to read and write. We know from the legislative history that these and other desiderata influenced Congress in the choice it made in the present legislation; and we certainly cannot say that the means used were inappropriate.

Residence. The residency requirements of s 202 relate only to elections for President and Vice President. Section 202 abolishes durational residency[11] and ****277** provides ***148** for absentee voting provided that registration may be required 30 days prior to the election. The effect of s 202 is to reduce all state durational residency requirements to 30 days.

In presidential elections no parochial interests of the State, county, or city are involved. Congress found that a durational residency requirement 'in some instances has the impermissible purpose or effect of denying citizens the right to vote.' s 202(a)(4). It found in s 202(a)(3) that a durational residency requirement denies citizens their privileges and immunities.[12]

The Seventeenth Amendment states that Senators shall be 'elected by the people.' Article I, s 2, provides ***149** that the House shall be chosen 'by the People of the several States.' The right to vote for national officers is a privilege and immunity of national citizenship. Ex parte Yarbrough, 110 U.S. 651, 4 S.Ct. 152, 28 L.Ed. 274; In re Quarles, 158 U.S. 532, 534, 15 S.Ct. 959, 960, 39 L.Ed. 1080; Twining v. New Jersey, 211 U.S. 78, 97, 29 S.Ct. 14, 18—19, 53 L.Ed. 97; Burroughs v. United States, 290 U.S. 534, 54 S.Ct. 287, 78 L.Ed. 484; United States v. Classic, 313 U.S. 299, 315, 61 S.Ct. 1031, 1037—1038, 85 L.Ed. 1368.[13]

****278** ***150** The Fourteenth Amendment provides that: 'No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States.' Durational residency laws of the States had such effect, says Congress. The 'choice of means' to protect such a privilege presents 'a question primarily addressed to the judgment of Congress.' Burroughs v. United States, supra, 290 U.S., at 547, 54 S.Ct., at 291. The relevance of the means which Congress adopts to the condition sought to be remedied, the degree of their necessity, and the extent of their efficacy are all matters for Congress. Id., at 548, 54 S.Ct., at 291.

The judgment which Congress has made respecting the ban of durational residency in presidential elections is plainly a permissible one in its efforts under s 5 to 'enforce' the Fourteenth Amendment.

APPENDIX TO OPINION OF MR. JUSTICE DOUGLAS

Cases which have struck down state statutes under the Equal Protection Clause other than statutes which discriminate on the basis of race.

STATUTES WHICH DISCRIMINATED AGAINST CERTAIN BUSINESSES

Gulf, C. & S.F.R. Co. v. Ellis, 165 U.S. 150, 17 S.Ct. 255, 41 L.Ed. 666; Atchison, T. & S.F.R. Co. v. Vosburg, 238 U.S. 56, 35 S.Ct. 675, 59 L.Ed. 1119 (railroad must pay attorney fees if it loses suit, but other businesses need not). Kentucky Finance Corp. v. Paramount Auto Exchange, 262 U.S. 544, 43 S.Ct. 636, 67 L.Ed. 1112; Power Mfg. Co. v. Saunders, 274 U.S. 490, 47 S.Ct. 678, 71 L.Ed. 1165 (burdens placed upon out-of-state corporations in litigation).

STATUTES WHICH FAVORED CERTAIN BUSINESSES

Connolly v. Union Sewer Pipe Co., 184 U.S. 540, 22 S.Ct. 431, 46 L.Ed. 679 (exemption from state antitrust law for agricultural goods); Smith v. Cahoon, 283 U.S. 553, 51 S.Ct. 582, 75 L.Ed. 1264 (act exempting certain motor vehicles from insurance requirements); ***151** Mayflower Farms v. Ten Eyck, 297 U.S. 266, 56 S.Ct. 457, 80 L.Ed. 675 (act allowing certain milk dealers to sell at lower than the regulated price); Hartford Steam Boiler Inspection & Ins. Co. v. Harrison, 301 U.S. 459, 57 S.Ct. 838, 81 L.Ed. 1223 (statute permitting mutual, but not stock, insurance companies to act through salaried representatives), and Morey v. Dowd, 354 U.S. 457, 77 S.Ct. 1344, 1 L.Ed.2d 1485 (American Express exempted from licensing requirements applied to 'currency exchanges').

TAXING STATUTES STRUCK DOWN

Concordia Fire Ins. Co. v. Illinois, 292 U.S. 535, 54 S.Ct. 830, 78 L.Ed. 1411; Iowa-Des Moines Bank v. Bennett, 284 U.S. 239, 52 S.Ct. 133, 76 L.Ed. 265; Cumberland Coal Co. v. Board of Revision, 284 U.S. 23, 52 S.Ct. 48, 76 L.Ed. 146; Quaker City Cab Co. v. Pennsylvania, 277 U.S. 389, 48 S.Ct. 553, 72 L.Ed. 927; Louisville Gas Co. v. Coleman, 277 U.S. 32, 48 S.Ct. 423, 72 L.Ed. 770; Hanover Fire Ins. Co. v. Harding, 272 U.S. 494, 47 S.Ct. 179, 71 L.Ed. 372; Schlesinger v. Wisconsin, 270 U.S. 230, 46 S.Ct. 260, 70 L.Ed. 557; Sioux City Bridge Co. v. Dakota County, 260 U.S. 441, 43 S.Ct. 190, 67 L.Ed. 340; F. S. Royster Guano Co. v. Virginia, 253 U.S. 412, 40 S.Ct. 560, 64 L.Ed. 989; and Southern R. Co. v. Greene, 216 U.S. 400, 30 S.Ct. 287, 54 L.Ed. 536.

TREATMENT OF CONVICTED CRIMINALS

Rinaldi v. Yeager, 384 U.S. 305, 86 S.Ct. 1497, 16 L.Ed.2d 577 (statute requiring unsuccessful criminal appellants who were in jail to pay cost of trial transcript); Baxstrom v. Herold, 383 U.S. 107, 86 S.Ct. 760, 15 L.Ed.2d 620 (statute denying convict a sanity hearing before a jury prior to civil commitment); and ****279** Skinner v. Oklahoma, 316 U.S. 535, 62 S.Ct. 1110, 86 L.Ed. 1655 (sterilization of some convicts).

INDIGENTS

Douglas v. California, 372 U.S. 353, 83 S.Ct. 814, 9 L.Ed.2d 811 (Rule of Criminal Procedure which did not provide counsel for appeal to indigents); and Shapiro v. Thompson, 394 U.S. 618, 89 S.Ct. 1322, 22 L.Ed.2d 600 (denial of welfare benefits based on residency requirement).

LEGITIMACY

Glona v. American Guarantee Co., 391 U.S. 73, 88 S.Ct. 1515, 20 L.Ed.2d 441 (mother denied right to sue for wrongful death of illegitimate ***152** child); and Levy v. Louisiana, 391 U.S. 68, 88 S.Ct. 1509, 20 L.Ed.2d 436 (illegitimate children denied recovery for wrongful death of mother).

ALIENS

Truax v. Raich, 239 U.S. 33, 36 S.Ct. 7, 60 L.Ed. 131 (statute limiting the number of aliens that could be employed to 20%); and Takahashi v. Fish & Game Commission, 334 U.S. 410, 68 S.Ct. 1138, 92 L.Ed. 1478 (denial of fishing rights to aliens ineligible for citizenship).

Mr. Justice HARLAN, concurring in part and dissenting in part.

From the standpoint of this Court's decisions during an era of judicial constitutional revision in the field of the suffrage, ushered in eight years ago by Baker v. Carr, 369 U.S. 186, 82 S.Ct. 691, 7 L.Ed.2d 663 (1962), I would find it difficult not to sustain all three aspects of the Voting Rights Act Amendments of 1970, Pub.L. 91—285, 84 Stat. 314, here challenged. From the standpoint of the bedrock of the constitutional structure of this Nation, these cases bring us to a crossroad that is marked with a formidable 'Stop' sign. That sign compels us to pause before we allow those decisions to carry us to the point of sanctioning Congress' decision to alter state-determined voter qualifications by simple legislation, and to consider whether sound doctrine does not in truth require us to hold that one or more of the changes which Congress has thus sought to make can be accomplished only by constitutional amendment.

The four cases require determination of the validity of the Voting Rights Act Amendments in three respects. In Nos. 43, Orig., and 44, Orig., Oregon and Texas have sought to enjoin the enforcement of s 302 of the Act as applied to lower the voting age in those States from 21 to 18.[1]

***153** In Nos. 46, Orig., and 47, Orig., the United States seeks a declaration of the validity of the Act and an injunction requiring Arizona and Idaho to conform their laws to it. The Act would lower the voting age in each State from 21 to 18. It would suspend until August 6, 1975, the Arizona literacy test, which requires that applicants for registration be able to read the United States Constitution in English and write their names. It would require Idaho to make several changes in its laws governing residency, registration, and absentee voting in presidential elections. Among the more substantial changes, Idaho's present 60-day state residency requirement will in effect be lowered to 30 days; its 30-day county residency requirement for intrastate migrants will be abolished; Idaho will have to permit voting by citizens of other States formerly domiciled in Idaho who emigrated too recently to register in their new homes; and it must permit absentee registration and voting by persons who have lived in Idaho for less than six months. The relevant provisions of the Act and of the constitutions ****280** and laws of the four States are set out in an Appendix to this opinion.

Each of the States contests the power of Congress to enact the provisions of the Act involved in its suit.[2] The Government places primary reliance on the power of Congress under s 5 of the Fourteenth Amendment to enforce the provisions of that Amendment by appropriate ***154** legislation. For reasons to follow, I am of the opinion that the Fourteenth Amendment was never intended to restrict the authority of the States to allocate their political power as they see fit and therefore that it does not authorize Congress to set voter qualifications, in either state or federal elections. I find no other source of congressional power to lower the voting age as fixed by state laws, or to alter state laws on residency, registration, and absentee voting, with respect to either state or federal elections. The suspension of Arizona's literacy requirement, however, can be deemed an appropriate means of enforcing the Fifteenth Amendment, and I would sustain it on that basis.

I

It is fitting to begin with a quotation from one of the leading members of the 39th Congress, which proposed the Fourteenth Amendment to the States in 1866:
'Every Constitution embodies the principles of its framers. It is a transcript of their minds. If its meaning in any place is open to doubt, or if words are used which seem to have no fixed signification, we cannot err if we turn to the framers; and their authority increases in proportion to the evidence which they have left on the question.' Cong. Globe, 39th Cong., 1st Sess., 677 (1866) (Sen. Sumner).

Believing this view to be undoubtedly sound, I turn to the circumstances in which the Fourteenth Amendment was adopted for enlightenment on the intended reach of its provisions. This, for me, necessary undertaking has unavoidably led to an opinion of more than ordinary length. Except for those who are willing to close their eyes to constitutional history in making constitutional interpretations or who read such history with a preconceived determination to attain a particular constitutional ***155** goal, I think that the history of the Fourteenth Amendment makes it clear beyond any reasonable doubt that no part of the legislation now under review can be upheld as a legitimate exercise of congressional power under that Amendment.

A. Historical Setting[3]

The point of departure for considering the purpose and effect of the Fourteenth Amendment with respect to the suffrage should be, I think, the pre-existing provisions of the Constitution. Article I, s 2, provided that in determining the number of Representatives to which a State was entitled, only three-fifths of the slave population should be counted.[4] The section also provided that the qualifications of voters for such Representatives should be the same as those established by the States for electors of ****281** the most numerous branch of their respective legislatures. Article I, s 4, provided that, subject to congressional veto, the States might prescribe the times, places, and manner of holding elections for Representatives. Article II, s 1, provided that the States might direct the manner of choosing electors for President and Vice President, except that Congress might fix a uniform time for the choice.[5] Nothing in the original ***156** Constitution controlled the way States might allocate their political power except for the guarantee of a Republican Form of Government, which appears in Art. IV, s 4.[6] No relevant changes in the constitutional structure were made until after the Civil War.

At the close of that war, there were some four million freed slaves in the South, none of whom were permitted to vote. The white population of the Confederacy had been overwhelmingly sympathetic with the rebellion. Since there was only a comparative handful of persons in these States who were neither former slaves nor Confederate sympathizers, the place where the political power should be lodged was

a most vexing question. In a series of proclamations in the summer of 1865, President Andrew Johnson had laid the groundwork for the States to be controlled by the white populations which had held power before the war, eliminating only the leading rebels and those unwilling to sign a loyalty oath.[7] The Radicals, on the other hand, were ardently in favor of Negro suffrage as essential to prevent resurgent rebellion, requisite to protect the freedmen, and necessary to ensure continued Radical control of the government. This ardor cooled as it ran into northern racial prejudice. At that time, only six States—Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, and New York—permitted Negroes to vote, and New York imposed special property and residency requirements on Negro voters.[8] In referenda late that year, enfranchising proposals ***157** were roundly beaten in Connecticut, Wisconsin, Minnesota, the Territory of Colorado, and the District of Columbia. Gillette, supra, n. 3, at 25—26. Such popular rebuffs led the Radicals to pull in their horns and hope for a protracted process of reconstruction during which the North could be educated to the advisability of Negro suffrage, at least for the South. In the meantime, of course, it would be essential to bar southern representation in Congress lest a combination of southerners and Democrats obtain control of the government and frustrate Radical goals.

The problem of congressional representation was acute. With the freeing of the slaves, the Three-Fifths Compromise ceased to have any effect. While predictions of the precise effect of the change varied with the person doing the calculating, the consensus was that the South would be entitled to at least 15 new members of Congress, and, of course, a like number of new presidential electors. The Radicals had other rallying cries which they kept before the public in the summer of 1865, but one author gives this description of the mood as Congress convened:[9]

'Of all the movements influencing the Fourteenth Amendment which developed ****282** prior to the first session of the Thirty-ninth Congress, that for Negro suffrage was the most outstanding. The volume of private and public comment indicates that it was viewed as an issue of prime importance. The cry for a changed basis of representation was, in reality, subsidiary to this, and was meant by Radicals to secure in another way what Negro suffrage might accomplish for them: removal of the danger of Democratic dominance as a consequence of Southern restoration. The danger of possible repudiation of the national obligations, and assumption of the rebel ***158** debt, was invariably presented to show the need for Negro suffrage or a new basis of representation. Sentiment for disqualification of ex-Confederates, though a natural growth, well suited such purposes. The movement to guarantee civil rights, sponsored originally by the more conservative Republicans, received emphasis from Radicals only when state elections indicated that suffrage would not serve as a party platform.'

When Congress met, the Radicals, led by Thaddeus Stevens, were successful in obtaining agreement for a Joint Committee on Reconstruction, composed of 15 members, to 'inquire into the condition of the States which formed the so-called confederate States of America, and report whether they, or any of them, are entitled to be represented in either House of Congress * * *.' Cong. Globe, 39th Cong., 1st Sess., 30, 46 (1865) (hereafter Globe).

All papers relating to representation of the Southern States were to be referred to the Committee of Fifteen without debate. The result, which many had not foreseen, was to assert congressional control over Reconstruction and at the same time to put the congressional power in the hands of a largely Radical secret committee.

The Joint Committee began work with the beginning of 1866, and in due course reported a joint resolution. H.R. 51, to amend the Constitution. The proposal would have based representation and direct taxes on population, with a proviso that

'whenever the elective franchise shall be denied or abridged in any State on account of race or color, all persons of such race or color shall be excluded from the basis of representation.' Globe 351.

The result, if the Southern States did not provide for Negro suffrage, would be a decrease in southern representation ***159** in Congress and the electoral college by some 24 seats from their pre-war position instead of an increase of 15. The House, although somewhat balky, approved the measure after lengthy debate. Globe 538. The Senate proved more intractable. An odd combination of Democrats, moderate Republicans, and extreme Radicals combined to defeat the measure, with the Radicals basing their opposition largely on the fear that the proviso would be read to authorize racial voter qualifications and thus prevent Congress from enfranchising the freedmen under powers assertedly granted by other clauses of the Constitution. See, e.g., Globe 673—687 (Sen. Sumner).

At about this same time the Civil Rights Bill and the Second Freedmen's Bureau Bill were being debated. Both

bills provided a list of rights secured, not including voting.[10] Senator Trumbull, who reported the Civil Rights Bill on behalf of the Senate Judiciary Committee, stated: 'I do not want to bring up the question of negro suffrage in the bill.' Globe 606. His House counterpart exhibited the same reluctance. Globe 1162 (Cong. Wilson of Iowa). Despite considerable uncertainty as to the constitutionality of the measures, both ultimately passed. In the midst of the Senate debates on the bases of representation, President Johnson vetoed the Freedmen's Bureau Bill, primarily on constitutional grounds. This veto, which was narrowly **283 sustained, was followed shortly by the President's bitter attack on Radical Reconstruction in his Washington's Birthday speech. These two actions, which were followed a month later by the veto of the Civil Rights Bill, removed any lingering hopes among the Radicals that Johnson would support them in a thoroughgoing plan of reconstruction. By the same token they increased the Radicals' need for an *160 articulated plan of their own to be put before the country in the upcoming elections as an alternative to the course the President was taking.

The second major product of the Reconstruction Committee, before the resolution which became the Fourteenth Amendment, was a proposal to add an equal rights provision to the Constitution. This measure, H.R. 63, which foreshadowed s 1 of the Fourteenth Amendment, read as follows:
'The Congress shall have power to make all laws which shall be necessary and proper to secure to the citizens of each State all privileges and immunities of citizens in the several States, and to all persons in the several States equal protection in the rights of life, liberty, and property.' Globe 1034.

It was reported by Congressman Bingham of Ohio, who later opposed the Civil Rights Bill because he believed it unconstitutional. Globe 1292—1293. The amendment immediately ran into serious opposition in the House and the subject was dropped.[11]

Such was the background of the Fourteenth Amendment. Congress, at loggerheads with the President over Reconstruction, had not come up with a plan of its own after six months of deliberations; both friends and foes prodded it to develop an alternative. The Reconstruction Committee had been unable to produce anything which could even get through Congress, much less obtain the adherence of three-fourths of the States. The Radicals, committed to Negro suffrage, were confronted with widespread public opposition to that goal and the necessity for a reconstruction plan that could do service as a party platform in the elections that fall. The language *161 of the Fourteenth Amendment must be read with awareness that it was designed in response to this situation.

B. The Language of the Amendment and Reconstruction Measures

Sections 1 and 2 of the Fourteenth Amendment as originally reported read as follows:[12]
'Sec. 1. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property without due process of law; nor deny to any person within its jurisdiction **284 the equal protection of the laws.
'Sec. 2. Representatives shall be apportioned among the several States which may be included within this Union, according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But whenever, *162 in any State, the elective franchise shall be denied to any portion of its male citizens not less than twenty-one years of age, or in any way abridged except for participation in rebellion or other crime, the basis of representation in such State shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens not less than twenty-one years of age.' Globe 2286.

In the historical context, no one could have understood this language as anything other than an abandonment of the principle of Negro suffrage, for which the Radicals had been so eager. By the same token, the language could hardly have been understood as affecting the provisions of the Constitution placing voting qualifications in the hands of the States. Section 1 must have been seen as little more than a constitutionalization of the 1866 Civil Rights Act, concededly one of the primary goals of that portion of the Amendment.[13]

While these conclusions may, I think, be confidently asserted, it is not so easy to explain just how contemporary observers would have construed the three clauses of s 1 to reach this result.[14] No doubt in the case of *163 many congressmen it simply never occurred to them that the States' longstanding plenary control over voter qualifications would be affected without explicit language to that effect. And since no speaker during the debates on the Fourteenth Amendment pursued

the contention that s 1 would be construed to include the franchise, those who took the opposite view rarely explained how they arrived at their conclusions.

In attempting to unravel what was seldom articulated, the appropriate starting point is the fact that the framers of the Amendment expected the most significant portion of s 1 to be the clause prohibiting state laws 'which shall abridge the privileges or immunities of citizens of the United States.' These privileges were no doubt understood to include the ones set out in the first section of the Civil Rights Act. To be prohibited by law from enjoying these rights would hardly be consistent with full membership in a civil society.

The same is not necessarily true with respect to prohibitions on participation in the political process. Many members of Congress accepted the jurisprudence of the day, in which the rights of man fell into three categories: natural, civil, and political. The privileges of citizens, being 'civil' rights, were distinct from the rights arising from governmental organization, which were political in character. **285 [15] Others no doubt relied on *164 the experience under the similar language of Art. IV, s 2, which had never been held to guarantee the right to vote. The remarks of Senator Howard of Michigan, who as spokesman for the Joint Committee explained in greater detail than most why the Amendment did not reach the suffrage, contain something of each view. See Globe 2766, quoted infra, at 296; nn. 56 and 57, infra; cf. Blake v. McClung, 172 U.S. 239, 256, 19 S.Ct. 165, 172, 43 L.Ed. 432 (1898) (dictum).

Since the Privileges and Immunities Clause was expected to be the primary source of substantive protection, the Equal Protection and Due Process Clauses were relegated to a secondary role, as the debates and other contemporary materials make clear.[16] Those clauses, which appear on their face to correspond with the latter portion of s 1 of the Civil Rights Act, see n. 13, supra, and to be primarily concerned with person and property, would not have been expected to enfranchise the freedmen if the Privileges and Immunities Clause did not.

Other members of Congress no doubt saw s 2 of the proposed Amendment as the Committee's resolution of the related problems of suffrage and representation. Since that section did not provide for enfranchisement, but simply reduced representation for disfranchisement, any doubts about the effect of the broad language of s 1 were removed. Congressman Bingham, who was primarily responsible for the language of s 1, *165 stated this view. Globe 2542, quoted infra, at 295. Finally, characterization of the Amendment by such figures as Stevens and Bingham in the House and Howard in the Senate, not contested by the Democrats except in passing remarks, was no doubt simply accepted by many members of Congress; they, repeating it, gave further force to the interpretation, with the result that, as will appear below, not one speaker in the debates on the Fourteenth Amendment unambiguously stated that it would affect state voter qualifications, and only three, all opponents of the measure, can fairly be characterized as raising the possibility.[17] Further evidence of this original understanding can be found in later events.

The 39th Congress, which proposed the Fourteenth Amendment, also enacted the first Reconstruction Act, c. 153, 14 Stat. 428 (1867). This Act required, as a condition precedent to readmission of the Southern States, that they adopt constitutions providing that the elective franchise should be enjoyed by all male citizens over the age of 21 who had been residents for more than one year and were not disfranchised for treason or common-law felony; even so, no State would be readmitted until a legislature elected under the new Constitution had ratified the proposed Fourteenth Amendment and that Amendment had become part of the Constitution.

The next development came when the ratification drive in the North stalled. After a year had passed during which only one Northern State had ratified the **286 proposed Fourteenth Amendment, Arkansas was readmitted to the Union by the Act of June 22, 1868, 15 Stat. 72. *166 This readmission was based on the 'fundamental condition' that the state constitution should not be amended to restrict the franchise, except with reference to residency requirements. Three days later the Act of June 25, 1868, 15 Stat. 73, held out a promise of similar treatment to North Carolina, South Carolina, Louisiana, Georgia, Alabama, and Florida if they would ratify the Fourteenth Amendment. By happy coincidence, the assent of those six States was just sufficient to complete the ratification process. It can hardly be suggested, therefore, that the 'fundamental condition' was exacted from them as a measure of caution lest the Fourteenth Amendment fail of ratification.

The 40th Congress, not content with enfranchisement in the South, proposed the Fifteenth Amendment to extend the suffrage to northern Negroes. See Gillette, supra, n. 3, at 46. This fact alone is evidence that they did not understand the Fourteenth Amendment to have accomplished such a result. Less well known is the fact that the 40th

Congress considered and very nearly adopted a proposed amendment which would have expressly prohibited not only discriminatory voter qualifications but discriminatory qualifications for office as well. Each House passed such a measure by the required two-thirds margin. Cong. Globe, 40th Cong., 3d Sess., 1318, 1428 (1869). A conference committee, composed of Senators Stewart and Conkling and Representatives Boutwell, Bingham, and Logan, struck out the office holding provision, id., at 1563, 1593, and with Inauguration Day only a week away, both Houses accepted the conference report. Id., at 1564, 1641. See generally Gillette 58—77. While the reasons for these actions are unclear, it is unlikely that they were provoked by the idea that the Fourteenth Amendment covered the field; such a rationale seemingly would have made the enfranchising provision itself unnecessary.

***167** The 41st Congress readmitted the remaining three States of the Confederacy. The admitting act in each case recited good-faith ratification of the Fourteenth and Fifteenth Amendments, and imposed the fundamental conditions that the States should not restrict the elective franchise[18] and '(t)hat it shall never be lawful for the said State to deprive any citizen of the United States, on account of his race, color, or previous condition of servitude, of the right to hold office under the constitution and laws of said State.' Act of Jan. 26, 1870, c. 10, 16 Stat. 62, 63 (Virginia); Act of Feb. 23, 1870, c. 19, 16 Stat. 67, 68 (Mississippi); Act of Mar. 30, 1870, c. 39, 16 Stat. 80, 81 (Texas).

These materials demonstrate not only that s 1 of the Fourteenth Amendment is susceptible of an interpretation that it does not reach suffrage qualifications, but that this is the interpretation given by the immediately succeeding Congresses. Such an interpretation is the most reasonable reading of the section in view of the background against which it was proposed and adopted, particularly the doubts about the constitutionality of the Civil Rights Act, the prejudice in the North against any recognition of the principle of Negro suffrage, and the basic constitutional structure of leaving suffrage qualifications with the States.[19] ****287** If any further clarification were ***168** needed, one would have thought it provided by the second section of the same Amendment, which specifically contemplated that the right to vote would be denied or abridged by the States on racial or other grounds. As a unanimous Court once asked, 'Why this, if it was not in the power of the (state) legislature to deny the right of suffrage to some male inhabitants?' Minor v. Happersett, 21 Wall. 162, 174, 22 L.Ed. 627 (1875).

The Government suggests that the list of protected qualifications in s 2 is 'no more than descriptive of voting laws as they then stood.' Brief for the United States, Nos. 46, Orig., and 47, Orig., 75. This is wholly inaccurate. Aside from racial restrictions, all States had residency requirements and many had literacy, property, or taxation qualifications. On the other hand, several of the Western States permitted aliens to vote if they had satisfied certain residency requirements and had declared ***169** their intention to become citizens.[20] It hardly seems necessary to observe that the politicians who framed the Fourteenth Amendment were familiar with the makeup of the electorate. In any event, the congressional debates contain such proof in ample measure.[21]

Assuming, then, that s 2 represents a deliberate selection of the voting qualifications to be penalized, what is the point of it? The Government notes that 'it was intended —although it has never been used—to provide a remedy against exclusion of the newly freed slaves from the vote.' Brief for the Defendant, Nos. 43, Orig., and 44, Orig., 20. Undoubtedly this was the primary purpose. But the framers of the Amendment, with their attention thus focused on racial voting qualifications, could hardly have been unaware of s 1. If they understood that section to forbid such qualifications, the simple means of penalizing this conduct would have been to impose a reduction of representation for voting discrimination in violation of s 1. Their adoption instead of the awkward phrasing of s 2 is therefore significant.

To be sure, one might argue that s 2 is simply a rhetorical flourish, and that the qualifications listed there are merely the ones which the framers deemed to be consistent with the alleged prohibition of s 1. This argument is not only unreasonable on its face and untenable in light of the historical record; it is fatal to the validity of the reduction of the voting age in s 302 of the Act before us.

The only sensible explanation of s 2, therefore, is that the racial voter qualifications it was designed to penalize ***170** were understood to be permitted by s 1 of the Fourteenth Amendment. The Amendment was a halfway measure, adopted to ****288** deprive the South of representation until it should enfranchise the freedmen, but to have no practical effect in the North. It was politically acceptable precisely because of its regional consequences and its avoidance of an explicit recognition of the principle of Negro suffrage. As my Brother BLACK states: '(I)t cannot be successfully argued that the Fourteenth Amendment was intended to strip the States of their power, carefully preserved in the

original Constitution, to govern themselves.' Ante, at 266. The detailed historical materials make this unmistakably clear.

C. The Joint Committee

The first place to look for the understanding of the framers of the Fourteenth Amendment is the Journal of the Joint Committee on Reconstruction.[22] The exact sequence of the actions of this Committee presumably had little or no effect on the members of Congress who were not on the Committee, for the Committee attempted to keep its deliberations secret,[23] and the Journal itself was lost for nearly 20 years.[24] Nevertheless the Journal, although only a record of proposals and votes, illustrates the thoughts of those leading figures of Congress who were members and participated in the drafting of the Amendment.

Two features emerge from such a review with startling clarity. First, the Committee regularly rejected explicitly ***171** enfranchising proposals in favor of plans which would postpone enfranchisement, leave it to congressional discretion, or abandon it altogether. Second, the abandonment of Negro suffrage as a goal exactly corresponded with the adoption of provisions to reduce representation for discriminatory restrictions on the ballot.

This correspondence was present from the start. Five plans were proposed to deal with representation. One would have prohibited racial qualifications for voters and based representation on the whole number of citizens in the State; the other four proposals contained no enfranchising provision but in various ways would have reduced representation for States where the vote was racially restricted. Kendrick 41—44. A subcommittee reduced the five proposals to two, one prohibiting discrimination and the other reducing representation where it was present. On Stevens' motion the latter alternative was accepted by a vote of 11 to 3, Kendrick 51; with minor changes it was subsequently reported as H.R. 51.

The subcommittee also proposed that whichever provision on the basis of representation was adopted, the Congress should be empowered to legislate to secure all citizens 'the same political rights and privileges' and also 'equal protection in the enjoyment of life, liberty and property.' Kendrick 51. After the Committee reported H.R. 51, it turned to consideration of this proposal. At a meeting attended by only 10 members, a motion to strike out the clause authorizing Congress to legislate for equal political rights and privileges lost by a vote of six to four. Kendrick 57. At a subsequent meeting, however, Bingham had the subcommittee proposal replaced with another which did not mention political rights and privileges, but was otherwise quite similar. Kendrick 61; see the opinion of Mr. Justice BRENNAN, Mr. Justice WHITE, and Mr. Justice ***172** MARSHALL, post, at 332, for the text of the two provisions. The Committee reported the substitute as H.R. 63. In the House so much concern was expressed ****289** over the centralization of power the amendment would work—a few said it would even authorize Congress to regulate the suffrage—that the matter was dropped. Post, at 332.

The Fourteenth Amendment had as its most direct antecedent a proposal drafted by Robert Dale Owen, who was not a member of Congress, and presented to the Joint Committee by Stevens.[25] Originally the plan provided for mandatory enfranchisement in 1876 and for reduction of representation until that date. Kendrick 82—84. However, Stevens was pressured by various congressional delegations who wanted nothing to do with Negro suffrage, even at a remove of 10 years.[26] He therefore successfully moved to strike out the enfranchising provision and correspondingly to abolish the 10-year limitation on reduction of representation for racial discrimination. The motion carried by a vote of 12 to 2 Kendrick 101.

Bingham was then successful in replacing s 1 of Owen's proposal, which read:
'No discrimination shall be made by any State or by the United States, as to the civil rights of persons, because of race, color, or previous condition of servitude'

with the following now-familiar language:
'No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive ***173** any person of life, liberty, or property, without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.' Kendrick 106.

The summary style of the Journal leaves unclear the reasons for the change. However, Bingham himself had rather consistently voted against proposals for direct and immediate enfranchisement,[27] and on the face of things it seems unlikely that the other members of the Joint Committee understood his provision to be an enfranchising proposal.[28] That they

**290 did not so understand is *174 demonstrated by the speeches in the debates on the floor.[29]

Before I examine those debates, a word of explanation is in order. For obvious reasons, the discussions of voter qualifications in the 39th Congress and among the public were cast primarily in terms of racial disqualifications. This does not detract from their utility as guides to interpretation. When an individual speaker said that the Amendment would not result in the enfranchisement of Negroes, he must have taken one of two views: either the Amendment did not reach voter qualifications at all; or it set standards limiting state restrictions on the ballot, but those standards did not prohibit racial discrimination. I have already set out some of the reasons which lead me to conclude that the former interpretation is correct, and that it is the understanding *175 shared by the framers of the Amendment, as well as by almost all of the opponents. The mere statement of the latter position appears to me to be a complete refutation of it. Even on its wholly unsupportable assumptions (1) that certain framers of the Amendment contemplated that the privileges and immunities of citizens include the vote, (2) that they intended to permit state laws to abridge the privileges and immunities of citizens whenever it was rational to do so, and (3) that they agreed on the rationality of prohibiting the freed slaves from voting, this remarkable theory still fails to explain why they understood the Amendment to permit racial voting qualifications in the free States of the North.

D. In Congress

On May 8, 1866, Thaddeus Stevens led off debate on H.R. 127, the Joint Resolution proposing the Fourteenth Amendment. After explaining the delay of the Joint Committee in coming up with a plan of reconstruction, he apologized for his proposal in advance:
'This proposition is not all that the committee desired. It falls far short of my wishes, but it fulfills my hopes. I believe it is all that can be obtained in the present state of public opinion. Not only Congress but the several States are to be consulted. Upon a careful survey of the whole ground, we did not believe that nineteen of the loyal States could be induced to ratify any proposition mire stringent than this.' Globe 2459.

In the climate of the times, Stevens could hardly have been understood as referring to anything other than the failure of the measure to make some provision for the enfranchisement of the freedmen. However, lest any mistake be made, he recounted the history of the Committee's prior effort in the field of representation and suffrage, *176 H.R. 51, which 'would surely have secured the enfranchisement of every citizen at no distant period.' That measure was dead, 'slaughtered by a puerile and pedantic criticism,' and 'unless this (less efficient, I admit) shall pass, its death has postponed the protection of the colored race perhaps for ages.' Ibid.

With this explanation made, Stevens turned to a section-by-section study of **291 the proposed resolution. The results to be achieved by s 1, at he saw it, would be equal punishment for crime, equal entitlement to the benefits of '(w)hatever law protects the white man,' equal means of redress, and equal competence to testify. Ibid. If he thought the section provided equal access to the polls, despite his immediately preceding apology for the fact that it did not, his failure to mention that application is remarkable.[30]

Turning then to s 2, Stevens again discussed racial qualifications for voting. He explained the section as follows: 'If any State shall exclude any of her adult male citizens from the elective franchise, or abridge that right, she shall forfeit her right to representation in the same proportion. The effect of this provision will be either to compel the States to grant universal suffrage or so to shear them of their power as to keep them forever in a hopeless minority in the national Government, both legislative and executive.' Ibid.

Stevens recognized that it might take several years for the coercive effect of the Amendment to result in Negro suffrage, but since this would give time for education and enlightenment of the freedmen, 'That short delay would *177 not be injurious.' Ibid. He did not indicate that he believed it would be unconstitutional. He admitted that s 2 was not so good as the proposal which had been defeated in the Senate, for that, by reducing representation by all the members of a race if any one was discriminated against, would have hastened full enfranchisement. Section 2 allowed proportional credit. 'But it is a short step forward. The large stride which we in vain proposed is dead * * *.' Globe 2460.

I have dealt at length with Stevens' remarks because of his prominent position in the House and in the Joint Committee. The remaining remarks, except for Bingham's summation, can be treated in more summary fashion. Of the supporters of the Amendment, Garfield of Ohio,[31] Kelley of Pennsylvania,[32] Boutwell of Massachusetts (a member of the Joint Committee),[33] *178 Eliot of Massachusetts,[34] Beaman **292 of Michigan,[35] and Farnsworth of Illinois,[36]

expressed their regret that the Amendment did not prohibit restrictions on the franchise. As the quotations set out in the margin indicate, the absence of such a prohibition was generally attributed to prejudice in the Congress, in the States, or both to such an extent that an enfranchising amendment could not pass. This corresponds with the first part of Stevens' introductory speech.

***179** Other supporters of the Amendment obviously based their remarks on their understanding that it did not affect state laws imposing discriminatory voting qualifications, but did not indicate that the omission was a drawback in their view. In this group were Thayer of Pennsylvania,[37] Broomall of Pennsylvania,[38] Raymond of New York,[39] McKee of ****293** Kentucky,[40] Miller of Pennsylvania,[41] ***180** Banks of Massachusetts,[42] and Eckley of Ohio.[43]

The remaining members of the House who supported the Fourteenth Amendment either did not speak at all or did not address themselves to the suffrage issue in any very clear terms. Those in the latter group who gave speeches on the proposed Amendment included ***181** Spalding of Ohio,[44] Longyear of Michigan,[45] and Shellabarger of Ohio.[46] The remaining Republican members of the Joint Committee—Washburne of Illinois, Morrill of Vermont, Conkling of New York, and Blow of Missouri—-did not participate in the debates over the Amendment.

In the opposition to the Amendment were only the handful of Democrats. Even they, with one seeming exception, did not assert that the Amendment was applicable to suffrage, although they would have been expected to do so if they thought such a reading plausible. Finck of Ohio and Shanklin of Kentucky did not even ***182** mention Negro suffrage in their attacks on the Amendment, although Finck discussed the reasons why the Southern States could not be expected to ratify it, Globe 2460—2462, and Shanklin characterized the Amendment as 'tyrannical and oppressive.' Globe 2501. Eldridge of Wisconsin[47] and Randall of ****294** Pennsylvania[48] affirmatively indicated their understanding that with the Amendment the Radicals had at least temporarily abandoned their crusade for Negro suffrage, as did Finck when the measure returned from the Senate with amendments.[49]

The other two Democrats to participate in the three days of debate on H.R. No. 127, Boyer of Pennsylvania and Rogers of New Jersey, have been a source of great comfort to those who set out to prove that the history of the Fourteenth Amendment is inconclusive on this issue. Each, in the course of a lengthy speech, included a sentence which, taken out of context, can be read to indicate a fear that s 1 might prohibit racial restrictions on the ballot. Boyer said, 'The first section embodies the principles of the civil rights bill, and is intended to secure ultimately, and to some extent indirectly, ***183** the political equality of the negro race.' Globe 2467. Rogers, commenting on the uncertain scope of the Privileges and Immunities Clause, observed: 'The right to vote is a privilege.' Globe 2538.

While these two statements are perhaps innocuous enough to be left alone, it is noteworthy that each speaker had earlier in the session delivered a tirade against the principle of Negro suffrage;[50] if either seriously believed that the Fourteenth Amendment might enfranchise the freedmen, he was unusually calm about the fact. That they did not seriously interpret the Amendment in this way is indicated as well by other portions of their speeches.[51]

****295** ***184** Two other opponents of the Fourteenth Amendment, Phelps of Maryland and Niblack of Indiana, made statements which have been adduced to show that there was no consensus on the applicability of the Fourteenth Amendment to suffrage laws. Phelps voiced his sentiments on May 5, three days before the beginning of debate.[52] In the course of a speech urging a soft policy on reconstruction, he expressed the fear that the Amendment would authorize Congress to define the privileges of citizens to include the suffrage—or indeed that it might have that effect proprio vigore. Globe 2398. Phelps did not repeat this sentiment after he was contradicted by speaker after speaker during the debates proper; indeed, he did not take part in the debates at all, but simply voted against the Amendment, along with most of his Democratic Colleagues. Globe 2545.[53]

As for Niblack, on the first day of debate he made the following remarks:
'I give notice that I will offer the following amendment if I shall have the opportunity:

***185** "Add to the fifth section as follows:

"Provided, That nothing contained in this article shall be so construed as to authorize Congress to regulate or control the elective franchise within any State, or to abridge or restrict the power of any State to regulate or control the same within

its own jurisdiction, except as in the third section hereof prescribed." Globe 2465.

Like Phelps, Niblack found it unnecessary to participate in the debates. He was not heard from again until the vote on the call for the previous question. As Garfield ascertained at the time, the only opportunity to amend H.R. 127 would arise if the demand was voted down. Niblack voted to sustain it. Globe 2545.

Debate in the House was substantially concluded by Bingham, the man primarily responsible for the language of s 1. Without equivocation, he stated:
'The amendment does not give, as the second section shows, the power to Congress of regulating suffrage in the several States.

'The second section excludes the conclusion that by the first section suffrage is subjected to congressional law; save, indeed, with this exception, that as the right in the people of each State to a republican government and to choose their Representatives in Congress is of the guarantees of the Constitution, by this amendment a remedy might be given directly for a case supposed by Madison, where treason might change a State government from a republican to a despotic government, and thereby deny suffrage to the people.' Globe 2542.

Stevens then arose briefly in rebuttal. He attacked Bingham for saying in another portion of his speech that the disqualification provisions of s 3 were unenforceable. He did not contradict—or even refer to—Bingham's ***186** interpretation of ss 1 and 2. Globe 2544. The vote was taken and the resolution passed immediately thereafter. Globe 2545.

To say that Stevens did not contradict Bingham is to minimize the force of the record. Not once, during the three days of debate, did any supporter of the Amendment criticize or correct any of the Republicans or Democrats who observed ****296** that the Amendment left the ballot 'exclusively under the control of the States.' Globe 2542 (Bingham). This fact is tacitly admitted even by those who find the debates 'inconclusive.' The only contrary authority they can find in the debates is the pale remarks of the four Democrats already discussed.[54]

In the Senate, which did not have a gag rule, matters proceeded at a more leisurely pace. The introductory speech would normally have been given by Senator Fessenden of Maine, the Chairman of the Joint Committee on behalf of the Senate, but he was still weak with illness and unable to deliver a lengthy speech. The duty of presenting the views of the Joint Committee therefore devolved on Senator Howard of Michigan.[55]

***187** Howard minced no words. He stated that
'the first section of the proposed amendment does not give to either of these classes the right of voting. The right of suffrage is not, in law, one of the privileges or immunities thus secured by the Constitution. It is merely the creature of law. It has always been regarded in this country as the result of positive local law, not regarded as one of those fundamental rights lying at the basis of all society and without which a people cannot exist except as slaves, subject to a depotism (sic).' Globe 2766.

'The second section leaves the right to regulate the elective franchise still with the States, and does not meddle with that right.' Ibid. Howard stated that while he personally would have preferred to see the freedmen enfranchised, the Committee was confronted with the necessity of proposing an amendment which could be ratified.
'The committee were of opinion that the States are not yet prepared to sanction so fundamental a change as would be the concession of the right of suffrage to the colored race. We may as well state it plainly and fairly, so that there shall be no misunderstanding on the subject. It was our opinion that three fourths of the States of this Union could not be induced to vote to grant the right of suffrage, even in any degree or under any restriction, to the colored race.' Ibid.

Howard's forthright attempt to prevent misunderstanding was completely successful insofar as the Senate was concerned; at least, no one has yet discovered a remark during the Senate debates on the proposed Fourteenth Amendment which indicates any contrary impression.[56] ***188** For some, however, time has ****297** muddied the clarity with which he spoke.[57]

The Senate, like the House, made frequent reference to the fact that the proposed amendment would not result in the enfranchisement of the freedmen. The supporters ***189** who expressed their regret at the fact were Wade of Ohio,[58] Poland of Vermont,[59] Stewart of Nevada,[60] Howe of Wisconsin,[61] Henderson of Missouri, ****298** [62]Missouri, ***190** and Yates of Illinois.[63] The remarks of Senator Sherman of Ohio whose

support for the amendment was lukewarm, see Globe 2986, seem to have been based on the common interpretation.[64]

Doolittle of Wisconsin, whose support for the President resulted in his virtually being read out of the Republican Party, proposed to base representation on adult male voters. Globe 2942. In a discussion with Senator Grimes of Iowa, a member of the Joint Committee, about the desirability of this change, Doolittle defended himself by pointing out that: 'Your amendment proposes to ***191** allow the States to say who shall vote.' Globe 2943. Grimes did not respond. Among the Democrats, no different view was expressed. Those whose remarks are informative are Hendricks of Indiana,[65] Cowan of Pennsylvania,[66] Davis of Kentucky,[67] and Johnson of Maryland.[68]

Senator Howard, who had opened debate, made the last remarks in favor of the Amendment. He said:
'We know very well that the States retain the power, which they have always possessed, of regulating the right of suffrage in the States. It is the theory of the Constitution itself. That right has never been taken from them; no endeavor has ever been made to take it from them; and the theory of this whole amendment is, to leave the power of regulating the suffrage with the people or Legislatures of the States, and not to assume to regulate ***192** it by any clause of the Constitution of the United States.' Globe 3039.

Shortly thereafter the Amendment was approved. Globe 3041—3042.

****299** In the House, there was a brief discussion of the Senate amendments and the measure generally, chiefly by the Democrats. Stevens then concluded the debate as he had begun it, expressing his regret that the Amendment would not enfranchise the freedmen.[69] The House accepted the Senate changes and sent the measure to the States. Globe 3149.

E. Collateral Evidence of Congressional Intent

It has been suggested that despite this evidence of congressional understanding, which seems to me overwhelming, the history is nonetheless inconclusive. Primary reliance is placed on debates over H.R. 51, the Joint Committee's first effort in the field of the basis of representation. In these debates, some of the more extreme Radicals, typified by Senator Summer of Massachusetts, suggested that Congress had power to interfere with state voter qualifications at least to the extent of enfranchising the freedmen. This power was said to exist in a variety of constitutional provisions, including Art. I, s 2, Art. I, s 4, the war power, the power over territories, the guarantee of a republican form of government and s 2 of the Thirteenth Amendment. Those who held this view expressed concern lest the Committee's proposal be read to authorize the States to discriminate on racial grounds and stated that they could not vote for the measure if such was the correct construction. They were sometimes comforted by supporters ***193** of the committee proposal, who assured them that there would be no such effect. From these statements, and the fact that some of those who took the extreme view ultimately did vote for the proposed Fourteenth Amendment it is sought to construct a counter-argument: if H.R. 51, properly interpreted, would not have precluded congressional exercise of power otherwise existing under the constitutional provisions referred to, then s 2 of the Fourteenth Amendment, properly interpreted, does not preclude the exercise of congressional power under ss 1 and 5 of that Amendment.

This argument, however, is even logically fallacious, and quite understandably none of the opinions filed today place much reliance on it. I do not maintain that the framers of the Fourteenth Amendment took away with one hand what they had given with the other, but simply that the Amendment must be construed as a whole, and that for the reasons already given, supra, at 286—288, the inclusion of s 2 demonstrates that the framers never intended to confer the power which my Brethren seek to find in ss 1 and 5. Bingham, for one, distinguished between these two positions. When it was suggested in the debates over H.R. 51 that the proviso would remove pre-existing congressional power over voting qualifications, Bingham made the response quoted by my colleagues. Globe 431—432; see post, at 340—341. When it was observed during the debates over the proposed Fourteenth Amendment that s 2 demonstrated that the Amendment did not reach state control over voting qualifications, Bingham was the one making the observation. Globe 2542, quoted supra, at 295. As Bingham seems to have recognized, the sort of argument he made in connection with H.R. 51 is beside the point with respect to the Fourteenth Amendment.

In any event, even disregarding its analytical difficulties, the argument is based on blatant factual shortcomings. All but one of the speakers on whose statements ***194** primary reliance is placed stated, either during the debates on the Fourteenth Amendment or subsequently, ****300** that the Amendment did not enfranchise the freedmen.[70]

Finally, some of those determined to sustain the legislation now before us rely on speeches made between two and three years after Congress had sent the proposed Amendment to the States. Boutwell and Stevens in the House, and Sumner in the Senate, argued that the Fifteenth ***195** Amendment or enfranchising legislation was unnecessary because the Fourteenth Amendment prohibited racial discrimination in voter qualifications. Each had earlier expressed the opposite position.[71] Their subsequent attempts to achieve by assertion what they had not had the votes to achieve by constitutional processes can hardly be entitled to weight.

F. Ratification

State materials relating to the ratification process are not very revealing. For the most part only gubernatorial messages and committee reports have survived.[72] So far as my examination of ****301** these materials reveals, while the opponents of the Amendment were divided ***196** and sometimes equivocal on whether it might be construed to require enfranchisement,[73] the supporters of the Amendment in the States approached the congressional proponents in the unanimity of their interpretation. I have discovered only one brief passage in support of the Amendment which appears to be based on the assumption that it would result in enfranchisement.[74] These remarks, in the message of the Governor of Illinois, had to compete in the minds of the legislators with the viewpoint of the Chicago Tribune. This Radical journal repeatedly criticized the Amendment's lack of an enfranchising provision, and at one time it even expressed the hope that the South would refuse to ratify the Amendment so that the North would turn to enfranchisement of the freedmen as the ony means of reconstruction. June 25, 1866, quoted in James 177. In all the other States I have examined, where the materials are sufficiently full for the understanding of a supporter of the Amendment to appear, his understanding ***197** has been that enfranchisement would not result.[75]

The scanty official materials can be supplemented by other sources. There was a congressional election in the fall of the year the Fourteenth Amendment went to the States. The Radicals ran on the Amendment as their reconstruction program, attempting to force voters to choose between their plan and that of President Johnson. From the campaign speeches and from newspaper reactions, we can get some further idea of the understanding of the States.

The tone of the campaign was set by the formal report of the Joint Committee, which Fessenden openly stated he had composed as a partisan document. James 147. Indeed, it was not even submitted to Congress until the day the Senate approved the measure, and then only in manuscript form. Globe 3038. On the delicate issue of Negro suffrage, the report read as follows:[76]

'Doubts were entertained whether Congress had power, even under the amended Constitution, to prescribe the qualifications of voters in a State, or could act directly on the subject. It was doubtful, in the opinion of your committee, whether the States would consent to surrender a power they had always exercised, and to which they were attached. As the best if not the only method of surmounting the difficulty, and as eminently just and proper in itself, your committee came to the conclusion that political power should be possessed in all the States exactly in proportion as the right of suffrage should be granted, without distinction of color or race. ***198** This it was thought would leave the ****302** whole question with the people of each State, holding out to all the advantage of increased political power as an inducement to allow all to participate in its exercise. Such a provision would be in its nature gentle and persuasive, and would lead, it was hoped, at no distant day, to an equal participation of all without distinction, in all the rights and privileges of citizenship, thus affording a full and adequate protection to all classes of citizens, since all would have, through the ballot-box, the power of self-protection.

'Holding these views, your committee prepared an amendment to the Constitution to carry out this idea, and submitted the same to Congress. Unfortunately, as we think, it did not receive the necessary constitutional support in the Senate, and therefore could not be proposed for adoption by the States. The principle involved in that amendment is, however, believed to be sound, and your committee have again proposed it in another form, hoping that it may receive the approbation of Congress.'

Newspapers expressed the same view of the reach of the Amendment. Even while deliberations were underway, predictions that Congress would come up with a plan involving enfranchisement of the freedmen had gradually ceased. James 91. When the Amendment was released to the press, Andrew Johnson was reported as seeing in it a 'practical abandonment of the negro suffrage issue.' Cincinnati Daily Commercial, April 30, 1866, quoted in James 117. The New York Herald had reported editorially that the Amendment

reflected an abandonment of the Radical push for Negro suffrage and acceptance of Johnson's position that control over suffrage rested exclusively with the States. May 1, 1866, reported in James 119. The Nation, a Radical organ, ***199** attributed the absence of any provision on Negro suffrage to 'sheer want of confidence in the public.' 2 Nation 545 (May 1, 1866), quoted in James 120. The Chicago Tribune, another Radical organ, complained that s 1 was objectionable as 'surplusage,' May 5, 1866, quoted in James 123, and later in the same month criticized the measure for 'postponing, and not settling' the matter of equal political rights for Negroes. May 31, 1866, quoted in James 146. As deliberations continued, the reporting went on in the same vein. The New York Times reported that with elections approaching, 'No one now talks or dreams of forcing Negro suffrage upon the Southern States.' June 6, 1866. The Cincinnati Daily Commercial and the Boston Daily Journal for June 7, 1866, commented on the Radicals' abandonment of Negro suffrage. James 145.

Much the same picture emerges from the campaign speeches. Although an occasional Democrat expressed the fear that the Amendment would or might result in political equality,[77] the supporters of the Amendment denied such effects without exception that I have discovered. Among the leading congressional figures who stated in campaign speeches that the Amendment did not prohibit racial voting qualifications were Senators Howe, Lane, Sherman, Sumner, and Trumbull, and Congressmen Bingham, Delano, Schenck, and Stevens. See James 159—168, 173, 178; Fairman, Does the Fourteenth Amendment Incorporate the Bill of Rights?, 2 Stan.L.Rev. 5, 70—78 (1949).

As was pointed out above all but a handful of Northern States prohibited blacks from voting at all, ***200** and opposition to a change was intense. Between 1865 and 1869 referenda on the issue rejected impartial Negro suffrage in Colorado Territory, Connecticut, Wisconsin, Minnesota (twice), the District of Columbia, ****303** Nebraska Territory, Kansas, Ohio, Michigan, Missouri, and New York. Only Iowa and Minnesota accepted it, and that on the day Grant was elected to the Presidency.[78] It is inconceivable that those States, in that climate, could have ratified the Amendment with the expectation that it would require them to permit their black citizens to vote.

Small wonder, then, that in early 1869 substantially the same group of men who three years earlier had proposed the Fourteenth Amendment felt it necessary to make further modifications in the Constitution if state suffrage laws were to be controlled even to the minimal degree of prohibiting qualifications which on their face discriminated on the basis of race. If the consequences for our federal system were not so serious, the contention that the history is 'inconclusive' would be undeserving of attention. And, with all respect, the transparent failure of attempts to cast doubt on the original understanding is simply further evidence of the force of the historical record.

II

The history of the Fourteenth Amendment with respect to suffrage qualifications is remarkably free of the problems which bedevil most attempts to find a reliable guide to present decision in the pages of the past. Instead, there is virtually unanimous agreement, clearly and repeatedly expressed, that s 1 of the Amendment did not reach discriminatory voter qualifications. In this rather remarkable situation, the issue of the bearing of the historical understanding on constitutional interpretation squarely arises.

***201** I must confess to complete astonishment at the position of some of my Brethren that the history of the Fourteenth Amendment has become irrelevant. Ante, at 272—273. In the six years since I first set out much of this history,[79] I have seen no justification for such a result which appears to me at all adequate. With matters in this posture, I need do no more by way of justifying my reliance on these materials than sketch the familiar outlines of our constitutional system.

When the Constitution with its original Amendments came into being, the States delegated some of their sovereign powers to the Federal Government, surrendered other powers, and expressly retained all powers not delegated or surrendered. Amdt. X. The power to set state voting qualifications was neither surrendered nor delegated, except to the extent that the guarantee of a republican form of government[80] may be thought to require a certain minimum distribution of political power. The power to set qualifications for voters for national office, created by the Constitution, was expressly committed to the States by Art. I, s 2, and Art. II, s 1.[81] By Art. V, States may be deprived of their retained powers only with the concurrence of two-thirds of each House of Congress and three-fourths of the States. No one asserts that the power to set voting qualifications was taken from the States or subjected to federal control by any Amendment before the Fourteenth. The historical evidence makes is plain that the Congress and the States proposing and ratifying that Amendment affirmatively understood that

they were not limiting state power over voting qualifications. The ***202** existence of the power therefore survived the amending process, and, except as it has been limited by the Fifteenth, Nineteenth, and Twenty-fourth Amendments, ****304** it still exists today.[82] Indeed, the very fact that constitutional amendments were deemed necessary to bring about federal abolition of state restrictions on voting by reason of race (Amdt. XV), sex (Amdt. XIX), and, even with respect to federal elections, the failure to pay state poll taxes (Amdt. XXIV), is itself forceful evidence of the common understanding in 1869, 1919, and 1962, respectively, that the Fourteenth Amendment did not empower Congress to legislate in these respects.

It must be recognized, of course, that the amending process is not the only way in which constitutional understanding alters with time. The judiciary has long been entrusted with the task of applying the Constitution in changing circumstances, and as conditions change the Constitution in a sense changes as well. But when the Court gives the language of the Constitution an ***203** unforeseen application, it does so, whether explicitly or implicitly, in the name of some underlying purpose of the Framers.[83] This is necessarily so; the federal judiciary, which by express constitutional provision is appointed for life, and therefore cannot be held responsible by the electorate, has no inherent general authority to establish the norms for the rest of society. It is limited to elaboration and application of the precepts ordained in the Constitution by the political representatives of the people. When the Court disregards the express intent and understanding of the Framers, it has invaded the realm of the political process to which the amending power was committed, and it has violated the constitutional structure which it is its highest duty to protect.[84]

****305** ***204** As the Court is not justified in substituting its own views of wise policy for the commands of the Constitution, still less is it justified in allowing Congress to disregard those commands as the Court understands them. Although Congress' expression of the view that it does have power to alter state suffrage qualifications is entitled to the most respectful consideration by the judiciary, coming as it does from a coordinate branch of government,[85] this cannot displace the duty of this Court to make an independent determination whether Congress has exceeded its powers. The reason for this goes beyond Marshall's assertion that: 'It is emphatically the province and duty of the judicial department to say what the law is.' Marbury v. Madison, 1 Cranch 137, 177, 2 L.Ed. 60 (1803).[86] It inheres in the structure of the ***205** constitutional system itself. Congress is subject to none of the institutional restraints imposed on judicial decisionmaking; it is controlled only by the political process. In Article V, the Framers expressed the view that the political restraints on Congress alone were an insufficient control over the process of constitution making. The concurrence of two-thirds of each House and of three-fourths of the States was needed for the political check to be adequate. To allow a simple majority of Congress to have final say on matters of constitutional interpretation is therefore fundamentally out of keeping with the constitutional structure. Nor is that structure adequately protected by a requirement that the judiciary be able to perceive a basis for the congressional interpretation, the only restriction laid down in Katzenbach v. Morgan, 384 U.S. 641, 86 S.Ct. 1717 (1966).

It is suggested that the proper basis for the doctrine enunciated in Morgan lies in the relative factfinding competence of Court, Congress, and state legislatures. Post, at 326—328. In this view, as I understand it, since Congress is at least as well qualified as a state legislature to determine factual issues, and far better qualified than this Court, where a dispute is basically factual in nature the congressional finding of fact should control, subject only to review by this Court for reasonableness.

****306** In the first place, this argument has little or no force as applied to the issue whether the Fourteenth Amendment covers voter qualifications. Indeed, I do not understand the adherents of Morgan to maintain the contrary. ***206** But even on the assumption that the Fourteenth Amendment does place a limit on the sorts of voter qualifications which a State may adopt, I still do not see any real force in the reasoning.

When my Brothers refer to 'complex factual questions,' post, at 327, they call to mind disputes about primary, objective facts dealing with such issues as the number of persons between the ages of 18 and 21, the extent of their education, and so forth. The briefs of the four States in these cases take no issue with respect to any of the facts of this nature presented to Congress and relied on by my Brothers DOUGLAS, ante, at 273—274, and BRENNAN, WHITE, and MARSHALL, post, at 324—326, 342. Except for one or two matters of dubious relevance, these facts are not subject to rational dispute. The disagreement in these cases revolves around the evaluation of this largely uncontested factual material.[87] On the assumption that maturity and experience are relevant to intelligent and responsible exercise of the elective franchise, are the immaturity and inexperience of the average 18-, 19-, or 20-year-old sufficiently serious to justify denying such a

person a direct voice in decisions affecting his or her life? Whether or not this judgment is characterized as 'factual,' it calls for striking a balance between incommensurate interests. Where the balance is to be struck depends ultimately on the values and the perspective of the decisionmaker. It is a matter as to which men of good will can and do reasonably differ.

I fully agree that judgments of the sort involved here are beyond the institutional competence and constitutional ***207** authority of the judiciary. See, e.g., Baker v. Carr, 369 U.S. 186, 266—330, 82 S.Ct. 691, 737—771 (1962) (Frankfurter, J., dissenting); Kramer v. Union Free School District No. 15, 395 U.S. 621, 634—641, 89 S.Ct. 1886, 1893—1896 (1969) (Stewart, J., dissenting). They are preeminently matters for legislative discretion, with judicial review, if it exists at all, narrowly limited. But the same reasons which in my view would require the judiciary to sustain a reasonable state resolution of the issue also require Congress to abstain from entering the picture.

Judicial deference is based, not on relative factfinding competence, but on due regard for the decision of the body constitutionally appointed to decide. Establishment of voting qualifications is a matter for state legislatures. Assuming any authority at all, only when the Court can say with some confidence that the legislature has demonstrably erred in adjusting the competing interests is it justified in striking down the legislative judgment. This order of things is more efficient and more congenial to our system and, in my judgment, much more likely to achieve satisfactory results than one in which the Court has a free hand to replace state legislative judgments with its own. See Ferguson v. Skrupa, 372 U.S. 726, 83 S.Ct. 1028, 10 L.Ed.2d 93 (1963).

The same considerations apply, and with almost equal force, to Congress' displacement of state decisions with its own ideas of wise policy. The sole distinction between Congress and the Court in this regard is that Congress, being an elective body, presumptively has popular authority for the value judgment it makes. But since the state legislature has a like authority, this distinction between Congress and the judiciary falls ****307** short of justifying a congressional veto on the state judgment. The perspectives and values of national legislators on the issue of voting qualifications are likely to differ from those of state legislators, but I see no reason ***208** a priori to prefer those of the national figures, whose collective decision, applying nationwide, is necessarily less able to take account of peculiar local conditions. Whether one agrees with this judgment or not, it is the one expressed by the Framers in leaving voter qualifications to the States. The Supremacy Clause does not, as my colleagues seem to argue, represent a judgment that federal decisions are superior to those of the States whenever the two may differ.

To be sure, my colleagues do not expressly say that Congress or this Court is empowered by the Constitution to substitute its own judgment for those of the States. However, before sustaining a state judgment they require a 'clear showing that the burden imposed is necessary to protect a compelling and substantial governmental interest.'[88] Post, at 321; see post, at 326 n. 30. I should think that if the state interest were truly compelling' and 'substantial,' and a clear showing could be made that the voter qualification was 'necessary' to its preservation, no reasonable person would think the qualification undesirable. Equivalently, if my colleagues or a majority of Congress deem a given voting qualification undesirable as a matter of policy, they must consider that the state interests involved are not 'compelling' or 'substantial' or that they can be adequately protected in other ways. It follows that my colleagues must be prepared to hold invalid as a matter ***209** of federal constitutional law all state voting qualifications which they deem unwise, as well as all such qualifications which Congress reasonably deems unwise. For this reason, I find their argument subject to the same objection as if it explicitly acknowledged such a conclusion.

It seems to me that the notion of deference to congressional interpretation of the Constitution, which the Court promulgated in Morgan, is directly related to this higher standard of constitutionality which the Court intimated in Harper v. Virginia State Board of Elections, 383 U.S. 663, 86 S.Ct. 1079 (1966), and brought to fruition in Kramer. When the scope of federal review of state determinations became so broad as to be judicially unmanageable, it was natural for the Court to seek assistance from the national legislature. If the federal role were restricted to its traditional and appropriate scope, review for the sort of 'plain error' which is variously described as 'arbitrary and capricious,' 'irrational,' or 'invidious,' there would be no call for the Court to defer to a congressional judgment on this score that it did not find convincing. Whether a state judgment has so exceeded the bounds of reason as to authorize federal intervention is not a matter as to which the political process is intrinsically likely to produce a sounder or more acceptable result. It is a matter of the delicate adjustment of the federal system. In this area, to rely on Congress would make that body a judge in its own cause. The role of final arbiter belongs to this Court.

III

Since I cannot agree that the Fourteenth Amendment empowered Congress, or the federal judiciary, to control voter qualifications, I turn to other asserted **308 sources of congressional power. My Brother BLACK would find that such power exists with respect to federal elections by *210 virtue of Art. I, s 4, and seemingly other considerations that he finds implicit in federal authority.

The constitutional provisions controlling the regulation of congressional elections are the following:
Art. I, s 2: 'the Electors (for Representatives) in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature.'

Art. I, s 4: 'The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Places of chusing Senators.'

Amdt. XVII: 'The electors (for Senators) in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislatures.'

It is difficult to see how words could be clearer in stating what Congress can control and what it cannot control. Surely nothing in these provisions lends itself to the view that voting qualifications in federal elections are to be set by Congress. The reason for the scheme is not hard to find. In the Constitutional Convention, Madison expressed the view that:
'The qualifications of electors and elected were fundamental articles in a Republican Govt. and ought to be fixed by the Constitution. If the Legislature could regulate those of either, it can by degrees subvert the Constitution.' 2 M. Farrand, Records of the Federal Convention of 1787, pp. 249—250 (1911). He explained further in The Federalist No. 52, p. 326 (C. Rossiter ed. 1961):
'To have reduced the different qualifications in the different States to one uniform rule would probably have been as dissatisfactory to some of the *211 States as it would have been difficult to the convention. The provision made by the convention appears, therefore, to be the best that lay within their option. It must be satisfactory to every State, because it is conformable to the standard already established, or which may be established, by the State itself. It will be safe to the United States because, being fixed by the State constitutions, it is not alterable by the State governments, and it cannot be feared that the people of the States will alter this part of their constitutions in such a manner as to abridge the rights secured to them by the federal Constitution.'

See also Federalist No. 60, p. 371 (C. Rossiter ed. 1961) (Hamilton), quoted in the opinion of Mr. Justice STEWART, post, at 347, which is to the same effect.

As to presidential elections, the Constitution provides:
'Each State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors, * * *' Art. II, s 1, cl. 2.

'The Congress may determine the Time of chusing the Electors, and the Day on which they shall give their Votes; which Day shall be the same throughout the United States.' Art. II, s 1, cl. 4.

Even the power to control the 'Manner' of holding elections, given with respect to congressional elections by Art. I, s 4, is absent with respect to the selection of presidential electors.[89] And, of course, the fact that it was deemed necessary to provide separately for congressional *212 power to regulate the time of choosing presidential electors and the **309 President himself demonstrates that the power over 'Times, Places and Manner' given by Art. I, s 4, does not refer to presidential elections, but only to the elections for Congressmen. Any shadow of a justification for congressional power with respect to congressional elections therefore disappears utterly in presidential elections.

IV

With these major contentions resolved, it is convenient to consider the three sections of the Act individually to determine whether they can be supported by any other basis of congressional power.

A. Voting Age

The only constitutional basis advanced in support of the lowering of the voting age is the power to enforce the Equal Protection Clause, a power found in s 5 of the Fourteenth Amendment. For the reasons already given, it cannot be said that the statutory provision is valid as declaratory of the meaning of that clause. Its validity therefore must rest on congressional power to lower the voting age as a means of

preventing invidious discrimination that is within the purview of that clause.

The history of the Fourteenth Amendment may well foreclose the possibility that s 5 empowers Congress to enfranchise a class of citizens so that they may protect themselves against discrimination forbidden by the first section, but it is unnecessary for me to explore that question. For I think it fair to say that the suggestion that members of the age group between 18 and 21 are threatened with unconstitutional discrimination, or that any hypothetical discrimination is likely to be affected by lowering the voting age, is little short of fanciful. I see no justification for stretching to find any such possibility ***213** when all the evidence indicates that Congress—led on by recent decisions of this Court—thought simply that 18-year-olds were fairly entitled to the vote and that Congress could give it to them by legislation.[90]

I therefore conclude, for these and other reasons given in this opinion, that in s 302 of the Voting Rights Act Amendments of 1970 Congress exceeded its delegated powers.

B. Residency

For reasons already stated, neither the power to regulate voting qualifications in presidential elections, asserted by my Brother BLACK, nor the power to declare the meaning of s 1 of the Fourteenth Amendment, relied on by my Brother DOUGLAS, can support s 202 of the Act. It would also be frivolous to contend that requiring States to allow new arrivals to vote in presidential elections is an appropriate means of preventing local discrimination against them in other respects, or of forestalling violations of the Fifteenth Amendment. The remaining grounds relied on are the Privileges and Immunities Clause of Art. IV, s 2,[91] and the right to travel across state lines.

While the right of qualified electors to cast their ballots and to have their votes counted was held to be a privilege of citizenship in Ex parte Yarbrough, 110 U.S. 651, 4 S.Ct. 152, 28 L.Ed. 274 (1884), and United States v. Classic, 313 U.S. 299, 61 S.Ct. 1031 (1941), these decisions were careful to observe that it ***214** remained with the States to determine the class of qualified voters. It was federal law, acting on this state-defined class, which turned the right to vote into a privilege of national citizenship. As ****310** the Court has consistently held, the Privileges and Immunities Clauses do not react on the mere status of citizenship to enfranchise any citizen whom an otherwise valid state law does not allow to vote. Minor v. Happersett, 21 Wall. 162, 170—175, 22 L.Ed. 627 (1875); Pope v. Williams, 193 U.S. 621, 632, 24 S.Ct. 573, 48 L.Ed. 817 (1904); Breedlove v. Suttles, 302 U.S. 277, 283, 58 S.Ct. 205, 207—208, 82 L.Ed. 252 (1937); cf. Snowden v. Hughes, 321 U.S. 1, 6—7, 64 S.Ct. 397, 400, 88 L.Ed. 497 (1944). Minors, felons, insane persons, and persons who have not satisfied residency requirements are among those citizens who are not allowed to vote in most States.[92] The Privileges and Immunities Clause of Art. IV of the Constitution is a direct descendant of Art. IV of the Articles of Confederation:

'The better to secure and perpetuate mutual friendship and intercourse among the people of the different States in this Union, the free inhabitants of each of these States, paupers, vagabonds and fugitives from justice excepted, shall be entitled to all privileges and immunities of free citizens in the several States; * * *'

It is inconceivable that these words when used in the Articles could have been understood to abolish state durational residency requirements.[93] There is not a ***215** vestige of evidence that any further extent was envisioned for them when they were carried over into the Constitution. And, as I have shown, when they were substantially repeated in s 1 of the Fourteenth Amendment it was affirmatively understood that they did not include the right to vote. The Privileges and Immunities Clause is therefore unavailing to sustain any portion of s 202.

The right to travel across state lines, see United States v. Guest, 383 U.S. 745, 757—758, 86 S.Ct. 1170, 1177—1178, 16 L.Ed.2d 239 (1966), and Shapiro v. Thompson, 394 U.S. 618, 630, 89 S.cT. 1322, 1329, 22 L.Ed.2d 600 (1969), is likewise insufficient to require Idaho to conform its laws to the requirements of s 202. Mr. Justice STEWART justifies s 202 solely on the power under s 5 of the Fourteenth Amendment to enforce the Privileges and Immunities Clause of s 1 which he deems the basis for the right to travel. Post, at 345—346. I find it impossible to square the position that s 5 authorizes Congress to abolish state voting qualifications based on residency with the position that it does not authorize Congress to abolish such qualifications based on race. Since the historical record compels me to accept the latter position, I must reject the former.

Mr. Justice BRENNAN, Mr. Justice WHITE, and Mr. Justice MARSHALL do not anchor the right of interstate travel to any specific constitutional provision. Post, at 321—322. Past decisions to which they refer have relied on the two Privileges

and Immunities Clauses, just discussed, the Due Process Clause of the Fifth Amendment, and the Commerce Clause. See Shapiro v. Thompson, 394 U.S., at 630, n. 8, 89 S.Ct. at 1329; id., at 663—671, 89 S.Ct. at 1346—1351 (dissenting opinion). The Fifth Amendment is wholly inapplicable to state laws; and surely the Commerce Clause cannot be seriously relied on to sustain the Act here challenged. With no specific clause of the Constitution ***216** empowering Congress to enact s 202, I fail to see how that nebulous judicial construct, the right to travel, can do so.

C. Literacy

The remaining provision of the Voting Rights Act Amendments involved in these cases is the five-year suspension of Arizona's requirement that registrants ****311** be able to read the Constitution in English and to write their names. Although the issue is not free from difficulty, I am of the opinion that this provision can be sustained as a valid means of enforcing the Fifteenth Amendment.

Despite the lack of evidence of specific instances of discriminatory application or effect, Congress could have determined that racial prejudice is prevalent throughout the Nation, and that literacy tests unduly lend themselves to discriminatory application, either conscious or unconscious.[94] This danger of violation of s 1 of the Fifteenth Amendment was sufficient to authorize the exercise of congressional power under s 2.

Whether to engage in a more particularized inquiry into the extent and effects of discrimination, either as a condition precedent or as a condition subsequent to suspension of literacy tests, was a choice for Congress to make.[95] The fact that the suspension is only for five years will require Congress to re-evaluate at the close of that period. While a less sweeping approach ***217** in this delicate area might well have been appropriate, the choice which Congress made was within the range of the reasonable.[96] I therefore agree that s 201 of the Act is a valid exercise of congressional power to the extent it is involved in this case. I express no view about its validity as applied to suspend tests such as educational qualifications, which do not lend themselves so readily to discriminatory application or effect.

For the reasons expressed in this opinion, I would grant the relief requested in Nos. 43, Orig., and 44, Orig. I would dismiss the complaint in No. 47, Orig., for failure to state a claim on which relief can be granted. In No. 46, Orig., I would grant declaratory relief with respect to the validity of s 201 of the Voting Rights Act Amendments as applied to Arizona's current literacy test; I would deny relief in all other respects, with leave to reapply to the United States District Court for the District of Arizona for injunctive relief in the event it proves necessary, which I am confident it will not.

V

In conclusion I add the following. The consideration that has troubled me most in deciding that the 18-year-old and residency provisions of this legislation should be held unconstitutional is whether I ought to regard the doctrine of stare decisis as preventing me from arriving at that result. For as I indicated at the outset of this opinion, were I to continue to consider myself constricted by recent past decisions holding that the Equal Protection Clause of the Fourteenth Amendment reaches ***218** state electoral processes, I would, particularly perforce of the decisions cited in n. 84, supra, be led to cast my vote with those of my Brethren who are of the opinion that the lowering of the voting age and the abolition of state residency requirements in presidential elections are within the ordinary legislative power of Congress.

After much reflection I have reached the conclusion that I ought not to allow stare decisis to stand in the way of casting my vote in accordance with what I am deeply convinced the Constitution demands. In the annals of this Court few developments in the march of events have ****312** so imperatively called upon us to take a fresh hard look at past decisions, which could well be mustered in support of such developments, as do the legislative lowering of the voting age and, albeit to a lesser extent, the elimination of state residential requirements in presidential elections. Concluding, as I have, that such decisions cannot withstand constitutional scrutiny, I think it my duty to depart from them, rather than to lend my support to perpetuating their constitutional error in the name of stare decisis.

In taking this position, I feel fortified by the evident malaise among the members of the Court with those decisions. Despite them, a majority of the Court holds that this congressional attempt to lower the voting age by simple legislation is unconstitutional, insofar as it relates to state elections. Despite them, four members of the Court take the same view of this legislation with respect to federal elections as well; and the fifth member of the Court who considers the legislation constitutionally infirm as regards state elections relies not at all on any of those decisions in reaching the opposite conclusion in federal elections. And of the eight

members of the Court who vote to uphold the residential provision of the statute, ***219** only four appear to rely upon any of those decisions in reaching that result.

In these circumstances I am satisfied that I am free to decide these cases unshackled by a line of decisions which I have felt from the start entailed a basic departure from sound constitutional principle.

APPENDIX TO OPINION OF MR. JUSTICE HARLAN

VOTING RIGHTS ACT AMENDMENTS OF 1970, PUB.L. 91—285, 84 STAT. 314

TITLE II—SUPPLEMENTAL PROVISIONS

APPLICATION OF PROHIBITION TO OTHER STATES

Sec. 201. (a) Prior to August 6, 1975, no citizen shall be denied, because of his failure to comply with any test or device, the right to vote in any Federal, State, or local election conducted in any State or political subdivision of a State as to which the provisions of section 4(a) of this Act are not in effect by reason of determinations made under section 4(b) of this Act.

(b) As used in this section, the term 'test or device' means any requirement that a person as a prerequisite for voting or registration for voting (1) demonstrate the ability to read, write, understand, or interpret any matter, (2) demonstrate any educational achievement or his knowledge of any particular subject, (3) possess good moral character, or (4) prove his qualifications by the voucher of registered voters or members of any other class.

RESIDENCE REQUIREMENTS FOR VOTING

Sec. 202. (a) The Congress hereby finds that the imposition and application of the durational residency requirement as a precondition to voting for the offices of President and Vice President, and the lack of sufficient ***220** opportunities for absentee registration and absentee balloting in presidential elections—

(1) denies or abridges the inherent constitutional right of citizens to vote for their President and Vice President;

(2) denies or abridges the inherent constitutional right of citizens to enjoy their free movement across State lines;

(3) denies or abridges the privileges and immunities guaranteed to the citizens of each State under article IV, section 2, clause 1, of the Constitution;

(4) in some instances has the impermissible purpose or effect of denying citizens the right to vote for such officers because of the way they may vote;

(5) has the effect of denying to citizens the equality of civil rights, and due process and equal protection of the laws that are guaranteed to them under the fourteenth amendment; and

****313** (6) does not bear a reasonable relationship to any compelling State interest in the conduct of presidential elections.

(b) Upon the basis of these findings, Congress declares that in order to secure and protect the above-stated rights of citizens under the Constitution, to enable citizens to better obtain the enjoyment of such rights, and to enforce the guarantees of the fourteenth amendment, it is necessary (1) to completely abolish the durational residency requirement as a precondition to voting for President and Vice President, and (2) to establish nationwide, uniform standards relative to absentee registration and absentee balloting in presidential elections.

(c) No citizen of the United States who is otherwise qualified to vote in any election for President and Vice President shall be denied the right to vote for electors for President and Vice President, or for President and Vice President, in such election because of the failure of such citizen to comply with any durational residency ***221** requirement of such State or political subdivision; nor shall any citizen of the United States be denied the right to vote for electors for President and Vice President, or for President and Vice President, in such election because of the failure of such citizen to be physically present in such State or political subdivision at the time of such election, if such citizen shall have complied with the requirements prescribed by the law of such State or political subdivision providing for the casting of absentee ballots in such election.

(d) For the purposes of this section, each State shall provide by law for the registration or other means of qualification of all duly qualified residents of such State who apply, not later than thirty days immediately prior to any presidential election, for registration or qualification to vote for the choice of electors for President and Vice President or for President and Vice President in such election; and each State shall provide by law

for the casting of absentee ballots for the choice of electors for President and Vice President, or for President and Vice President, by all duly qualified residents of such State who may be absent from their election district or unit in such State on the day such election is held and who have applied therefor not later than seven days immediately prior to such election and have returned such ballots to the appropriate election official of such State not later than the time of closing of the polls in such State on the day of such election.

(e) If any citizen of the United States who is otherwise qualified to vote in any State or political subdivision in any election for President and Vice President has begun residence in such State or political subdivision after the thirtieth day next preceding such election and, for that reason, does not satisfy the registration requirements of such State or political subdivision he shall be allowed to vote for the choice of electors for President and Vice ***222** President, or for President and Vice President, in such election, (1) in person in the State or political subdivision in which he resided immediately prior to his removal if he had satisfied, as of the date of his change of residence, the requirements to vote in that State or political subdivision, or (2) by absentee ballot in the State or political subdivision in which he resided immediately prior to his removal if he satisfies, but for his nonresident status and the reason for his absence, the requirements for absentee voting in that State or political subdivision.

(f) No citizen of the United States who is otherwise qualified to vote by absentee ballot in any State or political subdivision in any election for President and Vice President shall be denied the right to vote for the choice of electors for President and Vice President, or for President and Vice President, in such election because of any requirement of registration that does not include a provision for absentee registration.

(g) Nothing in this section shall prevent any State or political subdivision from adopting less restrictive voting ****314** practices than those that are prescribed herein.

SEPARABILITY

Sec. 205. If any provision of this Act or the application of any provision thereof to any person or circumstance is judicially determined to be invalid, the remainder of this Act or the application of such provision to other persons or circumstances shall not be affected by such determination.

TITLE III—REDUCING VOTING AGE TO EIGHTEEN IN FEDERAL, STATE, AND LOCAL ELECTIONS

DECLARATION AND FINDINGS

Sec. 301. (a) The Congress finds and declares that the imposition and application of the requirement that a ***223** citizen be twenty-one years of age as a precondition to voting in any primary or in any election—

(1) denies and abridges the inherent constitutional rights of citizens eighteen years of age but not yet twenty-one years of age to vote—a particularly unfair treatment of such citizens in view of the national defense responsibilities imposed upon such citizens;

(2) has the effect of denying to citizens eighteen years of age but not yet twenty-one years of age the due process and equal protection of the laws that are guaranteed to them under the fourteenth amendment of the Constitution; and

(3) does not bear a reasonable relationship to any compelling State interest.

(b) In order to secure the constitutional rights set forth in subsection (a), the Congress declares that it is necessary to prohibit the denial of the right to vote to citizens of the United States eighteen years of age or over.

PROHIBITION

Sec. 302. Except as required by the Constitution, no citizen of the United States who is otherwise qualified to vote in any State or political subdivision in any primary or in any election shall be denied the right to vote in any such primary or election on account of age if such citizen is eighteen years of age or older.

EFFECTIVE DATE

Sec. 305. The provisions of title III shall take effect with respect to any primary or election held on or after January 1, 1971.

ARIZONA CONSTITUTION

Art. 7, s 2. No person shall be entitled to vote at any general election, or for any office that now is, or hereafter may be, elective by the people, or upon any question ***224** which may be submitted to a vote of the people, unless such person be a citizen of the United States of the age of twenty-one years or over, and shall have resided in the State one year immediately preceding such election, provided that qualifications for voters at a general election for the purpose of electing presidential electors shall be as prescribed by law. The word 'citizen' shall include persons of the male and female sex.

ARIZONA REVISED STATUTES ANNOTATED

s 16—101. Qualifications of elector

A. Every resident of the state is qualified to become an elector and may register to vote at all elections authorized by law if he:

1. Is a citizen of the United States.

2. Will be twenty-one years or more of age prior to the regular general election next following his registration.

3. Will have been a resident of the state one year and of the county in which he claims the right to vote thirty days next preceding the election.

4. Is able to read the constitution of the United States in the English language in a manner showing that he is neither prompted nor reciting from memory, ****315** unless prevented from so doing by physical disability.

5. Is able to write his name, unless prevented from so doing by physical disability.

B. At an election held between the date of registration and the next regular general election, the elector is eligible to vote if at the date of the intervening election he is twenty-one years of age and has been a resident of the state one year and the county thirty days.

C. A person convicted of treason or a felony, unless restored to civil rights, or an idiot, insane person or person under guardianship is not qualified to register. As amended, Laws 1970, c. 151, s 1.

***225** s 16—107. Closing of registrations

A. No elector shall be registered to vote between five o'clock p.m. of the day which is two months preceding the date of the next primary election and seven o'clock p.m. of the day of the primary election.

B. No elector shall be registered to vote between five o'clock p.m. of the eighth Monday preceding a general election and seven o'clock p.m. of the day thereof. As amended, Laws 1958, c. 48, s 1; Laws 1970, c. 151, s 5.

IDAHO CONSTITUTION

Art. 6, s 2. Qualifications of electors.—Except as in this article otherwise provided, every male or female citizen of the United States, twenty-one years old, who has actually resided in this state or territory for six months, and in the county where he or she offers to vote, thirty days next preceding the day of election, if registered as provided by law, is a qualified elector; provided however, that every citizen of the United States, twenty-one years old, who has actually resided in this state for sixty days next preceding the day of election, if registered as required by law, is a qualified elector for the sole purpose of voting for presidential electors; and until otherwise provided by the legislature, women who have the qualifications prescribed in this article may continue to hold such school offices and vote at such school elections as provided by the laws of Idaho territory.

IDAHO CODE

Sec. 34—401. Qualifications of voters.—Every person over the age of twenty-one (21) years, possessing the qualifications following, shall be entitled to vote at all elections: He shall be a citizen of the United States and shall have resided in this state six (6) months immediately preceding the election at which he offers to vote, ***226** and in the county thirty (30) days: provided, that no person shall be permitted to vote at any county seat election who has not resided in the county six (6) months, and in the precinct ninety (90) days, where he offers to vote; nor shall any person be permitted to vote at any election for the division of the county, or striking off from any county any part thereof, who has not the qualifications provided for in section 3, article 18, of the constitution; nor shall any person be denied the right to vote at any school district election, nor to hold any school district office on account of sex.

34—408. Eligibility of new residents to vote.—Each citizen of the United States who, immediately prior to his removal

to this state, was a citizen of another state and who has been a resident of this state for sixty (60) days next preceding the day of election but for less than the six (6) month period of required residence for voting prior to a presidential election, is entitled to vote for presidential and vice-presidential electors at that election, but for no other offices, if

(1) he otherwise possesses the substantive qualifications to vote in this state, except the requirement of residence and registration, and

(2) he complies with the provisions of this act.

34—409. Application for presidential ballot by new residents.—A person desiring to qualify under this act in order **316 to vote for presidential and vice-presidential electors shall be considered as registered within the meaning of this act if on or before ten (10) days prior to the date of the general election, he shall make an application in the form of an affidavit executed in duplicate in the presence of the county auditor, substantially as follows * * *.

34—413. Voting by new residents.—(1) The applicant, upon receiving the ballot for presidential and vice-presidential electors shall mark forthwith the ballot in the *227 presence of the county auditor, but in a manner that the official cannot know how the ballot is marked. He shall then fold the ballot in the county auditor's presence so as to conceal the markings, and deposit and seal it in an envelope furnished by the county auditor.

34—1101. Absent voting authorized.—Any qualified elector of the state of Idaho who is absent or expects to be absent from the election precinct in which he resides on the day of holding any election under any of the laws of this state in which an official ballot is required, or who is within the election precinct and is, or will be, unable, because of physical disability, or because of blindness, to go to the voting place, and if registration is required for such election, who is duly registered therefor, may vote at any such election, as hereinafter provided.

34—1105. Return of ballot.—On marking such ballot or ballots such absent or disabled or blind elector shall refold same as theretofore folded and shall inclose the same in said official envelope and seal said envelope securely and mail by registered or certified mail or deliver it in person to the officer who issued same; provided, that an absentee ballot must be received by the issuing officer by 12:00 o'clock noon on the day of the election before such ballot may be counted. Said ballot or ballots shall be so marked, folded and sealed by said voter in private and secretly. Provided, that whenever the disability or blindness makes it necessary that the voter shall be assisted in marking his ballot, such voter may have the assistance of any person of his choice in marking his ballot.

OREGON CONSTITUTION

Art. II, s 2. Qualifications of electors. (1) Every citizen of the United States is entitled to vote in all elections not otherwise provided for by this Constitution if such citizen:

(a) Is 21 years of age or older * * *

*228 TEXAS CONSTITUTION

Art. 6, s 1. Classes of persons not allowed to vote

Section 1. The following classes of persons shall not be allowed to vote in this State, to wit:

First: Persons under twenty-one (21) years of age.

Second: Idiots and lunatics.

Third: All paupers supported by any county.

Fourth: All persons convicted of any felony, subject to such exceptions as the Legislature may make.

s 2. Qualified elector; registration; absentee voting

Sec. 2. Every person subject to none of the foregoing disqualifications who shall have attained the age of twenty-one (21) years and who shall be a citizen of the United States and who shall have resided in this State one (1) year next preceding an election and the last six (6) months within the district or county in which such person offers to vote, shall be deemed a qualified elector; provided, however, that before offering to vote at an election a voter shall have registered annually, but such requirement for registration shall not be considered a qualification of an elector within the meaning of the term 'qualified elector' as used in any other Article of this Constitution in respect to any matter except qualification and eligibility to vote at an election. Any legislation enacted in anticipation of the adoption of this Amendment shall not be invalid because of its **317 anticipatory nature. The Legislature may authorize absentee voting. And this provision of the Constitution shall be self-enacting without the necessity of further legislation.

TEXAS ELECTION CODE

Article 5.01. Classes of persons not qualified to vote.

The following classes of persons shall not be allowed to vote in this state:

1. Persons under twenty-one years of age.

2. Idiots and lunatics.

***229** 3. All paupers supported by the county.

4. All persons convicted of any felony except those restored to full citizenship and right of suffrage or pardoned.

Art. 5.02. Qualification and requirements for voting

Every person subject to none of the foregoing disqualifications who shall have attained the age of twenty-one years and who shall be a citizen of the United States and who shall have resided in this state one year next preceding an election and the last six months within the district or county in which such person offers to vote, and who shall have registered as a voter, shall be deemed a qualified elector. No person shall be permitted to vote unless he has registered in accordance with the provisions of this code. The provisions of this section, as modified by Sections 35 and 39 of this code, shall apply to all elections, including general, special, and primary elections, whether held by the state, by a county, municipality, or other political subdivision of the state, or by a political party.

Mr. Justice BRENNAN, Mr. Justice WHITE, and Mr. Justice MARSHALL dissent from the judgments insofar as they declare s 302 unconstitutional as applied to state and local elections, and concur in the judgments in all other respects, for the following reasons.

These cases draw into question the power and judgment of Congress in enacting Titles II and III of the Voting Rights Act Amendments of 1970, 84 Stat. 314. The State of Arizona challenges the power of Congress to impose a nationwide ban, until August 6, 1975, on the use of literacy and certain other tests to limit the franchise in any election. The State of Idaho takes issue with the asserted congressional power to find that the imposition of a durational residence requirement to deny the right to vote in elections for President and Vice President imposes a burden upon the right of free interstate ***230** migration that is not necessary to further a compelling state interest.[1] Finally, the States of Oregon, Texas, Arizona, and Idaho would have us strike down as unreasonable and beyond congressional power the findings, embodied in s 301(a) of the Amendments, that denying the vote to otherwise qualified persons 18 to 21 years of age, while granting it to those 21 years of age and older, violates the Equal Protection Clause and is, in any event, not reasonably related to any compelling state interest.[2] In Nos. 43, ****318** Orig., and 44, Orig., Oregon and Texas have invoked our original jurisdiction under Art. III, s 2, of the Constitution to restrain the Attorney General of the United States, a citizen of New York, from enforcing the 18-year-old voting provisions of the Amendments. ***231** South Carolina v. Katzenbach, 383 U.S. 301, 307, 86 S.Ct. 803, 807, 15 L.Ed.2d 769 (1966). In Nos. 46, Orig., and 47, Orig., the United States seeks orders enjoining Arizona from enforcing age and literacy limitations on the franchise,[3] and enjoining Idaho from enforcing age, residence, and absentee voting limitations,[4] insofar as those limitations are inconsistent with the 1970 Amendments. Original jurisdiction, again, is founded upon Art. III, s 2, of the Constitution. See United States v. California, 332 U.S. 19, 22, 67 S.Ct. 1658, 1660, 91 L.Ed. 1889 (1947). Since, in our view, congressional power to enact the challenged Amendments is found in the enforcement clauses of the Fourteenth and Fifteenth Amendments, and since we may easily perceive a rational basis for the congressional judgments underlying each of them, we would deny relief in Nos. 43, Orig., and 44, Orig., and issue the requested orders in Nos. 46, Orig., and 47, Orig.

I

The Voting Rights Act of 1965, 79 Stat. 438, 42 U.S.C. s 1973 et seq. (1964 ed., Supp. V), proscribed the use of any 'test or device,'[5] including literacy tests, in States ***232** or their political subdivisions that fell within a coverage formula set forth in s 4(b) of the 1965 Act. 42 U.S.C. s 1973b(a), (b) (1964 ed., Supp. V). Although we had previously concluded that literacy tests, fairly administered, violate neither the Fourteenth nor the Fifteenth Amendment, Lassiter v. Northampton Election Board, 360 U.S. 45, 79 S.Ct. 985, 3 L.Ed.2d 1072 (1959), we nevertheless upheld their selective proscription by Congress. South Carolina v. Katzenbach, 383 U.S. 301, 86 S.Ct. 803, 15 L.Ed.2d 769 (1966). Canvassing the 'voluminous' legislative history of the 1965 Act, we found ample basis for a legislative conclusion that such a proscription was necessary to combat the 'insidious and pervasive evil' of racial discrimination

with regard to voting. Id., at 308—315, 86 S.Ct., at 808—812. Accordingly, we held the proscription to be well within the power of Congress granted by s 2 of the Fifteenth Amendment. Id., at 327—334, 86 S.Ct., at 818—822. Three years later, in Gaston County v. United States, 395 U.S. 285, 89 S.Ct. 1720, 23 L.Ed.2d 309 (1969), we sustained application of the ban on literacy tests to a county where there was no evidence that the test itself was discriminatory or that — ****319** at least since 1962[6]—it had been administered in a discriminatory manner. Notwithstanding this fact, we noted that the record did contain substantial evidence that in years past, 'Gaston County (had) systematically deprived its black citizens of the educational opportunities it granted to its white citizens.' Id., at 297, 89 S.Ct., at 1726. Since this 'in turn deprived them of an equal chance to pass the literacy test,' id., at 291, 89 S.Ct., at 1723, even impartial administration of an impartial test would inevitably result in just the discrimination that Congress ***233** and the Fifteenth Amendment had sought to proscribe. Id., at 296—297, 89 S.Ct., at 1725—1726; see South Carolina v. Katzenbach, 383 U.S., at 308, 333—334, 86 S.Ct., at 808, 821—822.

No challenge is made in the present cases either to the 1965 Act or to the five-year extension of its ban on 'tests or devices' embodied in Title I of the 1970 Amendments. Arizona does, however, challenge s 201 of the Amendments, which extends (until August 6, 1975) the 1965 Act's selective ban on the use of 'tests or devices' to all States and political subdivisions in which it is not already in force by virtue of the 1965 Act. In substance, Arizona argues that it is and has been providing education of equal quality for all its citizens; that its literacy test is both fair and fairly administered; and that there is no evidence in the legislative record upon which Congress could have relied to reach a contrary conclusion. It urges that to the extent that any citizens of Arizona have been denied the right to vote because of illiteracy resulting from discriminatory governmental practices, the unlawful discrimination has been by governments other than the State of Arizona or its political subdivisions. Arizona, it suggests, should not have its laws overridden to cure discrimination on the part of governmental bodies elsewhere in the country.

We need not question Arizona's assertions as to the nondiscriminatory character, past and present, of its educational system. Congressional power to remedy the evils resulting from state-sponsored racial discrimination does not end when the subject of that discrimination removes himself from the jurisdiction in which the injury occurred. 'The Constitution was framed under the dominion of a political philosophy less parochial in range. It was framed upon the theory that the peoples of the several states must sink or swim together, and that in the long run prosperity and salvation are in union and not division.' Baldwin v. G.A.F. Seelig, Inc., 294 U.S. 511, 523, 55 S.Ct. 497, 500, 79 L.Ed. 1032 (1935); ***234** see Edwards v. California, 314 U.S. 160, 173—176, 62 S.Ct. 164, 166—168, 86 L.Ed. 119 (1941). In upholding the suspension of literacy tests as applied to Gaston County under the 1965 Act, we could see 'no legal significance' in the possibility that adult residents of the county might have received their education 'in other counties or States also maintaining segregated and unequal school systems.' Gaston County v. United States, 395 U.S., at 293 n. 9, 89 S.Ct., at 1724.[7]

The legislative history of the 1970 Amendments contains substantial information upon which Congress could have based a finding that the use of literacy tests in Arizona and in other States where their use was not proscribed by the 1965 Act has the effect of denying ****320** the vote to racial minorities whose illiteracy is the consequence of a previous, governmentally sponsored denial of equal educational opportunity. The Attorney General of Arizona told the Senate Subcommittee on Constitutional Rights that many older Indians in the State were 'never privileged to attend a formal school.'[8] Extensive testimony before both Houses indicated that racial minorities have long received inferior educational opportunities throughout the United States.[9] And interstate ***235** migration of such persons, particularly of Negroes from the Southern States, has long been a matter of common knowledge.[10]

Moreover, Congress was given testimony explicitly relating the denial of educational opportunity to inability to pass literacy tests in States not covered by the formula contained in the 1965 Act. The United States Commission on Civil Rights reported a survey of the Northern and Western States which concluded that literacy tests have a negative impact upon voter registration which 'falls most heavily on blacks and persons of Spanish surname.'[11] With regard specifically to Arizona, the Chairman of the Navajo Tribal Council testified that a greater percentage of Navajos are registered in New Mexico, which has no literacy test, than in Arizona.[12]

In short, there is no question but that Congress could legitimately have concluded that the use of literacy tests anywhere within the United States has the inevitable effect of denying the vote to members of racial minorities whose inability to pass such tests is the direct consequence of previous governmental discrimination in education. Almost

five years ago, we found in s 2 of the Fifteenth Amendment an ample grant of legislative power for Congress to decree a selective proscription of such tests in certain portions of the country. South Carolina v. Katzenbach, 383 U.S., at 327—334, 86 S.Ct., at 818—822. We have since held that power ample to cover the proscription of fair literacy tests, fairly administered, which ***236** nevertheless operate to disenfranchise racial minorities because of previous governmental discrimination against them in education. Gaston County v. United States, 395 U.S., at 287, 289—293, 89 S.Ct., at 1721, 1722—1724. Five years of experience with the 1965 Act persuaded Congress that a nationwide ban on literacy and other potentially discriminatory tests was necessary to prevent racial discrimination in voting throughout the country. That conclusion is amply supported in the legislative record and s 201 of the 1970 Amendments is accordingly well within the scope of congressional power.

II

Section 202 of the 1970 Amendments abolishes all durational state residence requirements restricting the right to vote in presidential elections. In their place, ****321** Congress has undertaken to prescribe a uniform nationwide system of registration and absentee voting designed to allow all otherwise qualified persons to vote in such elections regardless of the length of time they have lived in a particular jurisdiction.[13] The States are required to keep open their registration rolls for presidential elections until 30 days preceding the election. s 202(d). Persons who have changed their residence within 30 days of the election are, if otherwise qualified, entitled to vote either in person or by absentee ballot in the State of their previous residence, s 202(e), and the States are compelled to permit the casting of absentee ballots by all properly qualified persons who have made application not less than seven days prior to the election, and returned the ballot to the appropriate officials not later than the closing of polls on election day. s 202(b), (d). Provision must also be made by the States to allow absentee registration. s 202(f).

***237** Idaho challenges the power of Congress to enact such legislation insofar as it conflicts with Idaho's statutory and constitutional provisions regarding durational residence requirements for voting; regarding absentee voting; and regarding absentee registration.[14] The State's argument in brief is that the Constitution has left to the States the power to set qualifications for voters in both state and federal elections, subject only to certain explicit limitations such as, for example, those imposed by the Fourteenth, Fifteenth, Nineteenth, and Twenty-fourth Amendments. Admitting that unreasonable residence requirements may not withstand judicial scrutiny, Carrington v. Rash, 380 U.S. 89, 85 S.Ct. 775, 13 L.Ed.2d 675 (1965), Idaho urges that its 60-day residence requirement is necessary for protection against fraud, and for administrative purposes. In consequence, s 202 of the 1970 Amendments is said to be of no weight against these compelling state interests.

Whether or not the Constitution vests Congress with particular power to set qualifications for voting in strictly federal elections,[15] we believe there is an adequate constitutional basis for s 202 in s 5 of the Fourteenth Amendment. For more than a century, this Court has recognized the constitutional right of all citizens to unhindered interstate travel and settlement. Passenger Cases, 7 How. 283, 492, 12 L.Ed. 702 (1849) (Taney, C.J.); Crandall v. Nevada, 6 Wall. 35, 43—44, 18 L.Ed. 744 (1868); Paul v. Virginia, 8 Wall. 168, 180, 19 L.Ed. 357 (1869); Edwards v. California, 314 U.S. 160, 62 S.Ct. 164, 86 L.Ed. 119 (1941); United States v. Guest, 383 U.S. 745, 757—758, 86 S.Ct. 1170, 1177—1178, 16 L.Ed.2d 239 (1966); Shapiro v. Thompson, 394 U.S. 618, 629—631, 634, 89 S.Ct. 1322, 1328, 1329—1331, 22 L.Ed.2d 600 (1969). From whatever constitutional provision this right may be said to flow,[16] both its existence ***238** and its fundamental importance to our Federal Union have long been established beyond question.

By definition, the imposition of a durational residence requirement operates to penalize those persons, and only those persons, who have exercised their constitutional right of interstate migration. Of course, governmental action that has the incidental effect of burdening the exercise of a constitutional right is not ipso facto unconstitutional. But in such a case, governmental action may withstand constitutional scrutiny only upon a clear showing that the burden imposed is necessary to protect a compelling and substantial governmental interest. Shapiro v. Thompson, 394 U.S., at 634, 89 S.Ct., at 1331; ****322** United States v. Jackson, 390 U.S. 570, 582—583, 88 S.Ct. 1209, 1216—1217, 20 L.Ed.2d 138 (1968); Sherbert v. Verner, 374 U.S. 398, 406—409, 83 S.Ct. 1790, 1795—1797, 10 L.Ed.2d 965 (1963). And once it be determined that a burden has been placed upon a constitutional right, the onus of demonstrating that no less intrusive means will adequately protect compelling state interests is upon the party seeking to justify the burden. See Speiser v. Randall, 357 U.S. 513, 525—526, 78 S.Ct. 1332, 1341—1342, 2 L.Ed.2d 1460 (1958).

In the present case, Congress had explicitly found both that the imposition of durational residence requirements abridges the right of free interstate migration and that such requirements are not reasonably related to any compelling state interests. 1970 Amendments, s 202(a)(2), (6). The latter finding was made with full cognizance of the possibility of fraud and administrative difficulty. Senator Goldwater, testifying at Senate hearings on the bill, pointed out that 40 States presently allow registration until 30 days or less prior to the election.[17] Idaho itself allows registration by those desiring to vote as new residents in presidential elections within 10 days of balloting. Idaho Code s 34—409 (1963). And Idaho's assertion of the administrative unfeasibility ***239** of maintaining separate registration lists for fully qualified voters and for these qualified only for presidential balloting is difficult to credit in light of the fact that the Idaho Constitution, Art. 6, s 2, itself sets separate qualifications for voting in general and in presidential elections. The provisions for absentee voting, as Senator Goldwater pointed out on the floor of the Senate, were likewise 'drawn from the proven practice of the States themselves.'[18] Thirty-seven States allow application within a week of the election, and 40 permit the marked ballot to be returned on election day.[19] Finally, Idaho has provided no evidence beyond the mere assertion that the scheme of s 202 is inadequate to protect against fraud. But the only kind of fraud asserted is the possibility of dual voting, and Idaho has provided no explanation why the 30-day period between the closing of new registrations and the date of election would not provide, in light of modern communications, adequate time to insure against such frauds. Accordingly, we find ample justification for the congressional conclusion that s 202 is a reasonable means for eliminating an unnecessary burden on the right of interstate migration. United States v. Guest, supra.

III

The final question presented by these cases is the propriety of Title III of the 1970 Amendments, which ***240** forbids the States from disenfranchising persons over the age of 18 because of their age. Congress was of the view that this prohibition, embodied in s 302 of the Amendments, was necessary among other reasons in order to enforce the Equal Protection Clause of the Fourteenth Amendment. See s 301(a)(2), (b). The States involved in the present litigation question the assertion of congressional power to make that judgment.

It is important at the outset to recognize what is not involved in these cases. We are not faced with an assertion of congressional power to regulate any and all aspects of state and federal elections, or even to make general rules for the ****323** determination of voter qualifications. Nor are we faced with the assertion that Congress is possessed of plenary power to set minimum ages for voting throughout the States. Every State in the Union has conceded by statute that citizens 21 years of age and over are capable of intelligent and responsible exercise of the right to vote. The single, narrow question presented by these cases is whether Congress was empowered to conclude, as it did, that citizens 18 to 21 years of age are not substantially less able.

We believe there is serious question whether a statute granting the franchise to citizens 21 and over while denying it to those between the ages of 18 and 21 could, in any event, withstand present scrutiny under the Equal Protection Clause. Regardless of the answer to this question, however, it is clear to us that proper regard for the special function of Congress in making determinations of legislative fact compels this Court to respect those determinations unless they are contradicted by evidence far stronger than anything that has been adduced in these cases. We would uphold s 302 as a valid exercise of congressional power under s 5 of the Fourteenth Amendment.

***241** A

All parties to these cases are agreed that the States are given power, under the Constitution, to determine the qualifications for voting in state elections. Art. I, s 2; Lassiter v. Northampton Election Board, 360 U.S. 45, 50, 79 S.Ct. 985, 989, 3 L.Ed.2d 1072 (1959); Carrington v. Rash, 380 U.S. 89, 91, 85 S.Ct. 775, 777, 13 L.Ed.2d 675 (1965). But it is now settled that exercise of this power, like all other exercises of state power, is subject to the Equal Protection Clause of the Fourteenth Amendment. Carrington v. Rash, supra; Harper v. Virginia State Board of Elections, 383 U.S. 663, 86 S.Ct. 1079, 16 L.Ed.2d 169 (1966); Kramer v. Union School District, 395 U.S. 621, 89 S.Ct. 1886, 23 L.Ed.2d 583 (1969); Evans v. Cornman, 398 U.S. 419, 90 S.Ct. 1752, 26 L.Ed.2d 370 (1970). Although it once was thought that equal protection required only that a given legislative classification, once made, be evenly applied, see Hayes v. Missouri, 120 U.S. 68, 71—72, 7 S.Ct. 350, 351—352, 30 L.Ed. 578 (1887), for more than 70 years we have consistently held that the classifications embodied in a state statute must also meet the requirements of equal protection. Gulf, C. & S.F.R. Co. v. Ellis, 165 U.S. 150, 155, 17 S.Ct. 255, 256—257, 41 L.Ed.

666 (1897); see McLaughlin v. Florida, 379 U.S. 184, 189—191, 85 S.Ct. 283, 286—288, 13 L.Ed.2d 222 (1964), and cases cited.

The right to vote has long been recognized as a 'fundamental political right, because preservative of all rights.' Yick Wo v. Hopkins, 118 U.S. 356, 370, 6 S.Ct. 1064, 1071, 30 L.Ed. 220 (1886); see Reynolds v. Sims, 377 U.S. 533, 562, 84 S.Ct. 1362, 1381, 12 L.Ed.2d 506 (1964); Williams v. Rhodes, 393 U.S. 23, 31, 89 S.Ct. 5, 10, 21 L.Ed.2d 24 (1968). 'Any unjustified discrimination in determining who may participate in political affairs * * * undermines the legitimacy of representative government.' Kramer v. Union School District, 395 U.S., at 626, 89 S.Ct., at 1889. Consequently, when exclusions from the franchise are challenged as violating the Equal Protection Clause, judicial scrutiny is not confined to the question whether the exclusion may reasonably be thought to further a permissible interest of the State. ***242** Cf. Metropolitan Cas. Ins. Co. of New York v. Brownell, 294 U.S. 580, 583—584, 55 S.Ct. 538, 539—540, 79 L.Ed. 1070 (1935). 'A more exacting standard obtains.' Kramer v. Union School District, 395 U.S., at 633, 89 S.Ct., at 1892. In such cases, 'the Court must determine whether the exclusions are necessary to promote a compelling state interest.' Id., at 627, 89 S.Ct., at 1890; Cipriano v. City of Houma, 395 U.S. 701, 704, 89 S.Ct. 1897, 1899, 23 L.Ed.2d 647 (1969).

In the present cases, the States justify exclusion of 18- to 21-year-olds from the voting rolls solely on the basis of the ****324** States' interests in promoting intelligent and responsible exercise of the franchise.[20] There is no reason to question the legitimacy and importance of these interests. But standards of intelligence and responsibility, however defined, may permissibly be applied only to the means whereby a prospective voter determines how to exercise his choice, and not to the actual choice itself. Were it otherwise, such standards could all too easily serve as mere epithets designed to cloak the exclusion of a class of voters simply because of the way they might vote. Cf. Evans v. Cornman, 398 U.S., at 422—423, 90 S.Ct., at 1754—1755. Such a state purpose is, of course, constitutionally impermissible. Carrington v. Rash, 380 U.S., at 94, 85 S.Ct., at 779. We must, therefore, examine with particular care the asserted connection between age limitations and the admittedly laudable state purpose to further intelligent and responsible voting.

We do not lack a starting point for this inquiry. Although the question has never been squarely presented, we have in the past indicated that age is a factor not necessarily irrelevant to qualifications for voting. Lassiter v. Northampton Election Board, 360 U.S., at 51, 79 S.Ct., at 989; Kramer v. Union School District, 395 U.S., at 625—626, 89 S.Ct., at 1888-1889. ***243** But recognition that age is not in all circumstances a 'capricious or irrelevant factor,' Harper v. Virginia Board of Elections, 383 U.S., at 668, 86 S.Ct., at 1082, does not insure the validity of the particular limitation involved here. Evans v. Cornman, 398 U.S., at 425—426, 90 S.Ct., at 1756—1757. Every State in the Union has concluded for itself that citizens 21 years of age and over are capable of responsible and intelligent voting. Accepting this judgment, there remains the question whether citizens 18 to 21 years of age may fairly be said to be less able.

State practice itself in other ageas casts doubt upon any such proposition. Each of the 50 States has provided special mechanisms for dealing with persons who are deemed insufficiently mature and intelligent to understand, and to conform their behavior to, the criminal laws of the State.[21] Forty-nine of the States have concluded that, in this regard, 18-year-olds are invariably to be dealt with according to precisely the same standards prescribed for their elders.[22] This at the very least is evidence of a nearly unanimous legislative judgment on the part of the States themselves that differences in maturity and intelligence between 18-year-olds and persons 21 years of age and over are too trivial to warrant specialized treatment for any of the former class in the critically important matter of criminal responsibility.[23] Similarly, ***244** every State permits 18-year-olds to marry, and 39 States do not require parental consent ****325** for such persons of one or both sexes.[24] State statutory practice in other areas follows along these lines, albeit not as consistently.[25]

Uniform state practice in the field of education points the same way. No State in the Union requires attendance at school beyond the age of 18. Of course, many 18-year-olds continue their education to 21 and beyond. But no 18-year-old who does not do so will be disenfranchised thereby once he reaches the age of 21.[26] ***245** Whether or not a State could in any circumstances condition exercise of the franchise upon educational achievements beyond the level reached by 18-year-olds today, there is no question but that no State purports to do so. Accordingly, that 18-year-olds as a class may be less educated than some of their elders[27] cannot justify restriction of the franchise for the States themselves have determined that this incremental education is irrelevant to voting qualifications. And finally, we have been cited to no

material whatsoever that would support the proposition that intelligence, as opposed to educational attainment, increases between the ages of 18 and 21.

One final point remains. No State seeking to uphold its denial of the franchise to 18-year-olds has adduced anything beyond the mere difference in age. We have already indicated that the relevance of this difference is contradicted by nearly uniform state practice in other areas. But perhaps more important is the uniform experience of those States—Georgia since 1943, and Kentucky since 1955—that have permitted 18-year-olds to vote.[28] We have not been directed to a word of testimony or other evidence that would indicate either that 18-year-olds in those States have voted any less intelligently and responsibly than their elders, or that there is any reasonable ground for belief that 18-year-olds in other States are less able than those in Georgia and Kentucky. On the other hand, every person who spoke to the issue in either the House or Senate was agreed that 18-year- ***246** olds in both States were at least as interested, able, and responsible ****326** in voting as were their elders.[29]

In short, we are faced with an admitted restriction upon the franchise, supported only by bare assertions and long practice, in the face of strong indications that the States themselves do not credit the factual propositions upon which the restriction is asserted to rest. But there is no reason for us to decide whether, in a proper case, we would be compelled to hold this restriction a violation of the Equal Protection Clause. For as our decisions have long made clear, the question we face today is not one of judicial power under the Equal Protection Clause. The question is the scope of congressional power under s 5 of the Fourteenth Amendment. To that question we now turn.

B

As we have often indicated, questions of constitutional power frequently turn in the last analysis on questions of fact. This is particularly the case when an assertion of state power is challenged under the Equal Protection Clause of the Fourteenth Amendment. For although equal protection requires that all persons 'under like circumstances and conditions' be treated alike, Hayes v. Missouri, 120 U.S., at 71, 7 S.Ct., at 352, such a formulation merely raises, but does not answer the question whether a legislative classification has resulted in different treatment of persons who are in fact 'under like circumstances and conditions.'

Legislatures, as wel as courts, are bound by the provisions of the Fourteenth Amendment. Cooper v. Aaron, 358 U.S. 1, 18—20, 78 S.Ct. 1401, 1409—1411, 3 L.Ed.2d 5 (1958). When a state legislative classification is subjected to judicial challenge as violating the Equal Protection Clause, it comes before the ***247** courts cloaked by the presumption that the legislature has, as it should, acted within constitutional limitations. Kotch v. Board of River Port Pilots, 330 U.S. 552, 556, 563-564, 67 S.Ct. 910, 912, 915—916, 91 L.Ed. 1093 (1947); see Kramer v. Union School District, 395 U.S., at 627—628, 89 S.Ct., at 1889—1890. Accordingly, '(a) statutory discrimination will not be set aside as the denial of equal protection of the laws if any state of facts reasonably may be conceived to justify it.' Metropolitan Cas. Ins. Co. of New York v. Brownell, 294 U.S., at 584, 55 S.Ct., at 540.[30]

But, as we have consistently held, this limitation on judicial review of state legislative classifications is a limitation stemming, not from the Fourteenth Amendment itself, but from the nature of judicial review. It is simply a 'salutary principle of judicial decision,' ****327** Metropolitan Cas. Ins. Co. of New York v. Brownell, supra, at 584, 55 S.Ct. at 540, one of the 'self-imposed restraints intended to protect (the Court) and the state against irresponsible exercise of (the Court's) unappealable power.' Fay v. New York, 332 U.S. 261, 282, 67 S.Ct. 1613, 1624, 91 L.Ed. 2043 (1947). The nature of the judicial process makes it an inappropriate forum for the determination ***248** of complex factual questions of the kind so often involved in constitutional adjudication. Courts, therefore, will overturn a legislative determination of a factual question only if the legislature's finding is so clearly wrong that it may be characterized as 'arbitrary,' 'irrational,' or 'unreasonable.' Communist Party of United States v. Subversive Activities Control Board, 367 U.S. 1, 94—95, 81 S.Ct. 1357, 1409—1410, 6 L.Ed.2d 625 (1961); United States v. Carolene Products Co., 304 U.S. 144, 152—154, 58 S.Ct. 778, 783—785, 82 L.Ed. 1234 (1938); Metropolitan Cas. Ins. Co. of New York v. Brownell, 294 U.S., at 583—584, 55 S.Ct., at 539—540.

Limitations stemming from the nature of the judicial process, however, have no application to Congress. Section 5 of the Fourteenth Amendment provides that '(t)he Congress shall have power to enforce by appropriate legislation, the provisions of this article.' Should Congress, pursuant to that power, undertake an investigation in order to determine whether the factual basis necessary to support a state legislative discrimination actually exists, it need not stop once it determines that some reasonable men could believe

the factual basis exists. Section 5 empowers Congress to make its own determination on the matter. See Katzenbach v. Morgan, 384 U.S. 641, 654—656, 86 S.Ct. 1717, 1725—1727, 16 L.Ed.2d 828 (1966). It should hardly be necessary to add that if the asserted factual basis necessary to support a given state discrimination does not exist, s 5 of the Fourteenth Amendment vests Congress with power to remove the discrimination by appropriate means. Id., at 656—657, 86 S.Ct., at 1727; Fay v. New York, 332 U.S., at 282—283, 67 S.Ct., at 1624, 1625; Ex parte Virginia, 100 U.S. 339, 347—348, 25 L.Ed. 676 (1880).

The scope of our review in such matters has been established by a long line of consistent decisions. 'It is not for the courts to re-examine the validity of these legislative findings and reject them.' Communist Party of United States v. Subversive Activities Control Board, 367 U.S., at 94, 81 S.Ct., at 1409, '(W)here we find that the legislators, in light of the facts and testimony before them, have a rational basis for finding a chosen regulatory ***249** scheme necessary * * * our investigation is at an end.' Katzenbach v. McClung, 379 U.S. 294, 303—304, 85 S.Ct. 377, 383, 13 L.Ed.2d 290 (1964); Katzenbach v. Morgan, 384 U.S., at 653, 86 S.Ct., at 1724; see Galvan v. Press, 347 U.S. 522, 529, 74 S.Ct. 737, 741, 98 L.Ed. 911 (1954).[31]

This scheme is consistent with our prior decisions in related areas. The core of dispute over the constitutionality of Title III of the 1970 Amendments is a conflict between state and federal legislative determinations of the factual issues upon which depends decision of a federal constitutional question—the legitimacy, under the Equal Protection Clause, of state discrimination against persons between the ages of 18 and 21. Our cases have repeatedly emphasized that, when state and federal claims come into conflict, the primacy of federal power requires that the federal finding of fact control. See ****328** England v. Louisiana State Board of Medical Examiners, 375 U.S. 411, 415—417, 84 S.Ct. 461, 464—466, 11 L.Ed.2d 440 (1964); Townsend v. Sain, 372 U.S. 293, 311—312, 83 S.Ct. 745, 756—757, 9 L.Ed.2d 770 (1963); Tarble's Case, 13 Wall. 397, 406—407, 20 L.Ed. 597 (1872); cf. United States v. Darby, 312 U.S. 100, 119, 61 S.Ct. 451, 459, 85 L.Ed. 609 (1941). The Supremacy Clause requires an identical result when the conflict is one of legislative, not judicial, findings.

Finally, it is no answer to say that Title III intrudes upon a domain reserved to the States—the power to set qualifications for voting. It is no longer open to question that the Fourteenth Amendment applies to this, as to any other, exercise of state power. Kramer v. Union School District, supra, ***250** and cases cited. As we said in answer to a similar contention almost a century ago, 'the Constitution now expressly gives authority for congressional interference and compulsion in the cases embraced within the Fourteenth Amendment. It is but a limited authority, true, extending only to a single class of cases; but within its limits it is complete.' Ex parte Virginia, 100 U.S., at 347—348.

C

Our Brother HARLAN has set out in some detail the historical evidence that persuades him that the framers of the Fourteenth Amendment did not believe that the Equal Protection Clause, either through judicial action or through congressional enforcement under s 5 of the Amendment, could operate to enfranchise Negroes in States that denied them the vote. Ante, at 280—303. From this he has concluded 'that the Fourteenth Amendment was never intended to restrict the authority of the States to allocate their political power as they see fit and therefore that it does not authorize Congress to set voter qualifications, in either state or federal elections.' Ante, at 280. This conclusion, if accepted, would seem to require as a corollary that although States may not, under the Fifteenth Amendment, discriminate against Negro voters, they are free so far as the Federal Constitution is concerned to discriminate against Negro or unpopular candidates in any way they desire. Not surprisingly, our Brother HARLAN's thesis is explicitly disavowed by all the States party to the present litigation,[32] and has been presented to us only in the briefs amici ***251** curiae of Virginia and, perhaps, Mississippi.[33] We could not accept this thesis even if it were supported by historical evidence far stronger than anything adduced here today. But in our view, our Brother HARLAN's historical analysis is flawed by his ascription of 20th-century meanings to the words of 19th-century legislators. In consequence, his analysis imposes an artificial simplicity upon a complex era, and presents, as universal, beliefs that were held by merely one of several groups competing for political power. We can accept neither his judicial conclusion nor his historical premise that the original understanding of the Fourteenth Amendment left it within the power of the States to deny the vote to Negro citizens.

It is clear that the language of the Fourteenth Amendment, which forbids a State to 'deny to any person within its jurisdiction the equal protection of the laws,' applies on its face to all assertions of state power, however made. More

than 40 years ago, this Court faced for the first time the question whether a State could deny Negroes the right to vote in primary elections. Writing for a unanimous Court, Mr. Justice Holmes observed tartly that '(w)e find it unnecessary to consider the Fifteenth Amendment, because it seems to us hard to imagine a more direct and obvious infringement of the Fourteenth.' ****329** Nixon v. Herndon, 273 U.S. 536, 540—541, 47 S.Ct. 446, 71 L.Ed. 759 (1927); see Nixon v. Condon, 286 U.S. 73, 83, 87—89, 52 S.Ct. 484, 485, 486—487, 76 L.Ed. 984 (1932) (Cardozo, J.); Anderson v. Martin, 375 U.S. 399, 84 S.Ct. 454, 11 L.Ed.2d 430 (1964); cf. Raymond v. Chicago Union Traction Co., 207 U.S. 20, 35—36, 28 S.Ct. 7, 12, 52 L.Ed. 78 (1907). If the broad language of the Equal Protection Clause were to be read as nevertheless allowing the States to deny equal political rights to any citizens they see fit to exclude from the political process, ***252** far more is involved than merely shifting the doctrinal basis of such cases as Nixon v. Herndon from the Fourteenth to the Fifteenth Amendment. For the Fifteenth Amendment applies only to voting, not to the holding of public office; in consequence, our Brother HARLAN's view would appear to leave the States free to encourage citizens to cast their votes solely on the basis of race (a practice found to violate the Fourteenth Amendment in Anderson v. Martin, supra), or even presumably to deny Negro citizens the right to run for office at all.[34] We cannot believe that the Equal Protection Clause would permit such discrimination.

In any event, it seems to us, the historical record will not bear the weight our Brother HARLAN has placed upon it. His examination of the historical background of the Fourteenth Amendment leads him to conclude that it is 'clear beyond any reasonable doubt that no part of the legislation now under review can be upheld as a legitimate exercise of congressional power under that Amendment,' ante, at 280, because the Amendment was not intended 'to restrict the authority of the States to allocate their political power as they see fit.' Ante, at 280. Our own reading of the historical background, on the other hand, results in a somewhat imperfect picture of an era of constitutional confusion, confusion that the Amendment did little to resolve. As the leading constitutional historian of the Civil War has observed, constitutional law was characterized during the war years by 'a noticeable lack of legal precision' and by '(a) tendency toward irregularity * * * in legislation, and in legal interpretation.' J. Randall, Constitutional Problems under Lincoln ***253** 515—516 (rev. ed. 1951). Nor would the postwar period of Reconstruction be substantially different.

For several decades prior to the Civil War, constitutional interpretation had been a pressing concern of the Nation's leading statesmen and lawyers, whose attention focused especially on the nature of the relationship of the States to the Federal Government. The onset of the Civil War served only to raise new problems upon which the original Constitution offered, at best, only peripheral guidance. The greatest problem of all, perhaps, was the character of the civil conflict—whether it was to be treated as a rebellion, as a war with a belligerent state, or as some combination of the two. Another issue concerned the scope of federal power to emancipate the slaves; even President Lincoln doubted whether his Emancipation Proclamation would be operative when the war had ended and his special war powers had expired. This particular issue was resolved by the Thirteenth Amendment, but that Amendment only raised new issues, for some men doubted the validity of even a constitutional change upon such a fundamental matter as slavery, particularly while the status of the eleven Confederate States remained unsettled. See id., at 12—24, 59—73, 342—404.

The end of the war did not bring an end to difficult constitutional questions. Two perplexing problems remained. The one was the relation of the former Confederate States to the Federal Government; the other was the relation of the ****330** former slaves to the white citizens of the Nation. Both were intimately related to the politics of the day, an understanding of which is essential since the Fourteenth Amendment was presented to the Nation as the Republican Party's solution for these problems. See J. James, The Framing of the Fourteenth Amendment 169—173 (1956) (hereafter James).

***254** The starting point must be the key fact that, as of 1860, the Republicans were very much the Nation's minority party. Lincoln had won the Presidency that year with less than 40% of the popular vote, while the Republicans had secured control of Congress only when southern Democrats had left Washington following the secession of their States. The compromise in the original Constitution, by which only three-fifths of the slaves in Southern States were computed in determining representation in the House of Representatives and votes in the electoral college also was a matter of critical importance in 1865; with slavery abolished, southern and hence Democratic power in the House and in the electoral college would increase. The Republicans had calculated this matter rather carefully; as the Chicago Tribune had demonstrated as early as the summer of 1865, the increased southern delegation would need only 29 readily obtainable

Democratic votes from the North in order to dominate the House. See James 21—23. But Republicans had no intention of permitting such a Democratic resurgence to occur; in their view, as one Republican Senator observed, Republicans would be 'faithless' to their 'trust,' if they allowed 'men who have thus proven themselves faithless' to recover 'the very political power which they have hitherto used for the destruction of this Government.' Cong. Globe, 39th Cong, 1st Sess. (hereafter Globe) 2918 (1866) (remarks of Sen. Willey). Whether one looks upon such sentiments as a grasp for partisan political power or as an idealistic determination that the gains of the Civil War not be surrendered, the central fact remains that Republicans found it essential to bar or at least to delay the return of all-white southern delegations to Congress.

Temporarily, they proposed to do so by refusing to seat Congressmen from the seceded States. They usually justified their refusal on constitutional grounds, ***255** presenting a variety of theories as to how the former Confederate States had forfeited their rights by secession. See generally E. McKitrick, Andrew Johnson and Reconstruction 93—119 (1960). But exclusion of southern representatives could not be a permanent solution; a better solution seemed to be to elect at least some Republican representatives from the South by enfranchising the only class that could be expected to vote Republican in large numbers—the freedmen.

According to the census of 1860, Negroes had constituted some 4,200,000 of the total population of 12,200,000 in the 15 slave States. In two States—Mississippi and South Carolina—Negroes were a substantial majority of the population, while in several other States the population was at least 40% Negro. Thus, Negro suffrage would probably result in a number of Negro and presumably Republican representatives from the South. The difficulty was with the means of bringing Negro suffrage about. Some, including Chief Justice Chase, looked back toward the Emancipation Proclamation and contended that Negro suffrage could be achieved at least in the South, by means of a presidential proclamation. See James 5—7; 1 W. Fleming, Documentary History of Reconstruction 142 (1906). Others thought congressional legislation the appropriate vehicle for granting the suffrage, see James 13, 52—53; Van Alstyne, The Fourteenth Amendment, The 'Right' to Vote, and the Understanding of the Thirty-Ninth Congress, 1965 Supreme Court Review 33, 49—51, while still others argued for a constitutional amendment. See Cincinnati Daily Commercial, Sept. 19, 1865, in James 11—12 (reporting speech of ****331** Cong. Bingham). Disagreement over means, however, was but a minor obstacle in the path of equal suffrage; racial prejudice in the North was a far more significant one. Only five New England States and New York permitted any Negroes to vote ***256** as of 1866, see Van Alstyne, supra, at 70, and extension of the suffrage was rejected by voters in 17 of 19 popular referenda held on the subject between 1865 and 1868. Moreover, Republicans suffered some severe election setbacks in 1867 on account of their support of Negro suffrage. See W. Gillette, The Right to Vote 25—27, 32—38 (1969).

Meeting in the winter and spring of 1866 and facing elections in the fall of the same year, the Republicans in Congress thus faced a difficult dilemma: they desperately needed Negro suffrage in order to prevent total Democratic resurgence in the South, yet they feared that by pressing for suffrage they might create a reaction among northern white voters that would lead to massive Democratic electoral gains in the North. Their task was thus to frame a policy that would prevent total southern Democratic resurgence and that simultaneously would serve as a platform upon which Republicans could go before their northern constituents in the fall. What ultimately emerged as the policy and political platform of the Republican Party was the Fourteenth Amendment.[35]

As finally adopted, relevant portions of the Fourteenth Amendment read as follows:

Sec. 1. 'No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.'

***257** Sec. 2. 'Representatives shall be apportioned among the several States according ****332** to their respective numbers. * * * But when the right to vote at any election * * * is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.'

Sec. 5. 'The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.'

The key provision on the suffrage question was, of course, s 2, which was to have the effect of reducing the representation of any State which did not permit Negroes to vote. Section 1 also began, however, as a provision aimed at securing equality

of 'political rights and privileges'—a fact hardly surprising in view of Republican concern with the question. In their earliest versions in the Joint Congressional Committee on Reconstruction, which framed the Fourteenth Amendment, ss 1 and 2 read as follows:
'(Sec. 1.) Congress shall have power to make all laws necessary and proper to secure to all citizens of the United States, in every State, the same political rights and privileges; and to all persons in every State equal protection in the enjoyment of life, liberty and property.' B. Kendrick, The Journal of the Joint Committee of Fifteen on Reconstruction 51 (1914) (hereafter Kendrick).

'(Sec. 2.) Representatives and direct taxes shall be apportioned among the several States, which ***258** may be included within this Union, according to their respective numbers of persons, deducting therefrom all of any race or color, whose members or any of them are denied any of the civil or political rights or privileges.' Id., at 43.

The question that must now be pursued is whether s 1 of the Amendment ever lost its original connection with the suffrage question.

It became evident at an early date that the Joint Committee did not wish to make congressional power over the suffrage more explicit than did the language of the original version of the future s 1. Six days after that section had been proposed by a subcommittee, the full committee refused to adopt an amendment offered by Senator Howard to make the section refer expressly to 'political and elective rights and privileges,' id., at 55 (emphasis added), and refused as well to substitute for the language:
'Congress shall have power to make all laws necessary and proper to secure to all citizens of the United States in each State the same political rights and privileges; and to all persons in every State equal protection in the enjoyment of life, liberty and property.'

the following language offered by Congressman Boutwell:
'Congress shall have power to abolish any distinction in the exercise of the elective franchise in any State, which by law, regulation or usage may exist therein.' Id., at 54—55.

The committee did agree, however, to return the proposal to a special subcommittee, chaired by Congressman John A. Bingham, which at the next meeting of the full committee reported back the following language:
'Congress shall have power to make all laws which shall be necessary and proper to secure all ***259** persons in every state full protection in the enjoyment of life, liberty and property; and to all citizens of the United States in any State the same immunities and also equal political rights and privileges.' Id., at 56.

This language, it seems clear, did not change the meaning of the section as originally proposed, but the next change in language, proposed several days later by Bingham, arguably did. Bingham moved the following substitute:
'The Congress shall have power to make all laws which shall be necessary and proper to secure to the citizens of each state all privileges and immunities of citizens in the several states (Art. 4, Sec. 2); and to all persons in the several States equal protection in the rights of life, liberty and property (5th Amendment).' Id., at 61.

This substitute was accepted by a committee vote of 7—6.

No record of the committee's debates has been preserved, and thus one can only guess whether Bingham's substitute was intended to change the meaning of the original proposal. The breakdown of the committee vote suggests, however, that no change in meaning was intended. The substitute was supported by men of all political views, ranging from Senator Howard and Congressman Boutwell, radicals who had earlier sought to make the section's coverage of suffrage explicit, to Congressman Rogers, a Democrat. Similarly, among the six voting against the substitute were a radical, Stevens; a moderate, Fessenden; and a Democrat, Grider. Id., at 61. Thus, while one might continue to argue that Bingham meant his substitute to do away with congressional power to legislate for the preservation of equal rights of suffrage, one can, with at least equal plausibility, ***260** contend that Bingham sought to do no more than substitute for his earlier specific language more general language which had already appeared elsewhere in the Constitution.[36]

Bingham's proposed amendment to the Constitution, as modified, was next ****333** submitted to the House of Representatives, where Republicans joined Democrats in attacking it. Republican Representative Hale of New York, for example, thought the amendment 'in effect a provision under which all State legislation, in its codes of civil and criminal jurisprudence and procedure, affecting the individual citizen, may be overridden,' Globe 1063, while Representative Davis, also a New York Republican, thought it would give Congress power to establish 'perfect political equality between the colored and the white race of the South.' Id., at 1085. Meanwhile, the New York Times, edited by conservative Republican Congressman Henry J.

Raymond, wondered if the proposed Amendment was 'simply a preliminary to the enactment of negro suffrage.' Feb. 19, 1866. Even the Amendment's supporters recognized that it would confer extensive power upon the Federal Government; Representative Kelley, a Pennsylvania radical, who supported the Amendment, concluded, after a lengthy discussion of the right of suffrage, that 'the proposed amendment * * * (was) intended to secure it.' Globe 1063. Its proponents, however, could not secure the necessary support for the Amendment in the House and thus were compelled to postpone the matter until a later date, when they failed to bring it again to the floor. Kendrick 215.

Meanwhile, the Joint Committee had returned to work and had begun to consider the direct antecedent of the Fourteenth Amendment, a proposal by Robert Dale ***261** Owen which Representative Stevens had placed before the committee. Its relevant provisions were as follows:
'Section 1. No discrimination shall be made by any state, nor by the United States, as to the civil rights of persons because of race, color, or previous condition of servitude.

'Sec. 2. From and after the fourth day of July, in the year one thousand eight hundred and seventy-six, no discrimination shall be made by any state, nor by the United States, as to the enjoyment by classes of persons of the right of suffrage, because of race, color, or previous condition of servitude.

'Sec. 3. Until the fourth day of July, one thousand eight hundred and seventy-six, no class of persons, as to the right of any of whom to suffrage discrimination shall be made by any state, because of race, color, or previous condition of servitude, shall be included in the basis of representation.

'Sec. 5. Congress shall have power to enforce by appropriate legislation, the provisions of this article.' Id., at 83—84.

Congressman Bingham had not, however, given up on his own favorite proposal, and he immediately moved to add the following new section to the Amendment:
'Sec. 5. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty or property without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.' Id., at 87.

His motion was adopted on a 10-to-2 party-line vote, but its adoption was only the beginning of some intricate and inexplicable maneuvering. Four days later, Senator ***262** Williams, an Oregon radical, moved to delete Bingham's section, and his motion was carried by a vote of 7 to 5, with radicals Howard and Boutwell and Democrats Grider and Johnson voting for the motion and Stevens, Bingham, and Democrat Rogers voting against. Bingham then moved to submit his proposal as a separate amendment, but he was supported by only the three Democrats on the committee. The committee then agreed to submit the Owen proposal to Congress with only slight modifications, but postponed the submission until after one further meeting to be held three days hence. Id., at 98—100.

****334** At this meeting, the proposed Fourteenth Amendment was substantially rewritten. First, the committee, by a vote of 12 to 2, deleted s 2, which had barred States from making racial discriminations in the enjoyment of the right of suffrage after 1876, and conformed s 3, so as to insure that it would remain in effect after 1876. After making numerous other changes, the committee then concluded its deliberations by replacing Owen's ban in s 1 on discrimination 'as to civil rights' with Bingham's now familiar language. Here the vote was 10 to 3, with the majority again containing a full spectrum of political views. Id., at 100—106. The reasons for the rewriting are not entirely clear. The only known explanation was given by Owen in 1875, when he wrote an article recalling a contemporary conversation with Stevens. Stevens had reportedly explained that the committee's original decisions had 'got noised abroad,' and that, as a result, several state delegations had held caucuses which decided that the explicit references to 'negro suffrage, in any shape, ought to be excluded from the platform * * *.' Quoted in id., at 302. Thus, the provision for suffrage after 1876 had to be eliminated, but Stevens did not explain why Bingham's version of s 1 was then substituted ***263** for Owen's version. Perhaps the changes in s 1 of the Amendment were thought by the committee to be mere linguistic improvements which did not substantially modify Owen's meaning and which did not extend its coverage to political as distinguished from civil rights. But, at the very least the committee must have realized that it was substituting for Owen's rather specific language Bingham's far more elastic language—language that, as one scholar has noted, is far more 'capable of growth' and 'receptive to 'latitudinarian' construction.' Bickel, The Original Understanding and the Segregation Decision, 69 Harv.L.Rev. 1, 61, 63 (1955). It is, moreover, at least equally plausible that the committee meant to substitute for Owen's narrow provision dealing solely with civil rights a broader provision that had originated and been

understood only two months earlier as protecting equality in the right of suffrage as well as equality of civil rights.

The purpose of s 1 in relation to the suffrage emerges out of the debates on the floor of Congress with an equal obscurity. In the search for meaning one must begin, of course, with the statements of leading men in Congress, such as Bingham and Howard. Bingham, for one, stated without apparent equivocation that '(t)he amendment does not give * * * the power to Congress of regulating suffrage in the several States.' Globe 2542. Similarly, Senator Howard, after noting that the Amendment would accord to Negroes the same protection in their fundamental rights as the law gave to whites, explicitly cautioned that 'the first section of the proposed amendment does not give to either of these classes the right of voting.' Globe 2766.[37] But such statements are not ***264** as unambiguous as they initially appear to be. Thus, Howard, with that 'lack of legal precision' typical of the period, stated that the right of suffrage was not one of the privileges and immunities protected by the Constitution, Globe 2766, immediately after he had read into the record an excerpt from the case of Corfield v. Coryell, 6 F.Cas. p. 546 (No. 3,230) (CCED Pa. 1823), an excerpt which listed the elective franchise as among the privileges and immunities. Globe 2765. Bingham was equally ambiguous, for he too thought that the elective franchise was a constitutionally protected privilege and immunity. Globe ****335** 2542. Indeed, at one point in the debates, Bingham made what is for us a completely incongruous statement:
'To be sure we all agree, and the great body of the people of this country agree, and the committee thus far in reporting measures of reconstruction agree, that the exercise of the elective franchise, though it be one of the privileges of a citizen of the Republic, is exclusively under the control of the States.' Globe 2542.
Bingham seemed to say in one breath first, that the franchise was a constitutionally protected privilege in support of which Congress under s 5 of the Fourteenth Amendment could legislate and then, in the next breath, that the franchise was exclusively under the control of the States.

Bingham's words make little sense to modern ears; yet, when they were uttered, his words must have made some sense, at least to Bingham and probably to many of his listeners. The search for their meaning probably ***265** ought to begin with Art. IV, s 2—the Privileges and Immunities Clause of the original Constitution. In the minds of members of the 39th Congress, the leading case to construe that clause was Corfield v. Coryell, supra, which had listed among a citizen's privileges and immunities 'the elective franchise, as regulated and established by the laws or constitution of the state in which it is to be exercised.' 6 F.Cas., at 552. Here again is the same apparent ambiguity that later occurred in Bingham's thought—that the franchise is a federally protected right, but only to be extent it is regulated and established by state law. The ambiguity was, however, only apparent and not real, for the Privileges and Immunities Clause of the original Constitution served a peculiar function; it did not create absolute rights but only placed a noncitizen of a State 'upon a perfect equality with its own citizens' as to those fundamental rights already created by state law. Scott v. Sandford, 19 How. 393, 407, 15 L.Ed. 691 (1857). Accord, id., at 584 (dissenting opinion). The Privileges and Immunities Clause, that is, was a sort of equal protection clause adopted for the benefit of out-of-state citizens;[38] it required, for example, that if a State gave its own citizens a right to enter into a lawful business, it could not arbitrarily deny the same right to out-of-state citizens solely because they came from out of State. See Ward v. Maryland, 12 Wall. 418, 430, 20 L.Ed. 449 (1871). Thus, what Bingham may have meant in indicating that the franchise was included within the scope of the Privileges and Immunities Clause of the Fourteenth Amendment while remaining entirely under the control of the States was that, although the States would be free in general to confer the franchise upon whomever they chose, Congress would have power ***266** to bar them from racial or other arbitrary discriminations in making their choices. In short, the Privileges and Immunities Clause might for Bingham have meant the same as the Equal Protection Clause; as he later explained in a campaign speech, s 1 was nothing but 'a simple, strong, plain declaration that equal laws and equal and exact justice shall hereafter be secured within every State of this Union. * * *' Cincinnati Daily Commercial, Aug. 27, 1866, quoted in James 160.

One way, then, to reconcile the seemingly incongruous statements of Bingham is to read him as understanding that, while the Fourteenth Amendment did not take from the States nor grant to Congress plenary power to regulate the suffrage, it did give Congress power to invalidate discriminatory state legislation. In his words, the Amendment took 'from no State any right which hitherto pertained to the several States of the Union, but it impose(d) a limitation upon the States to correct their abuses of power.' Ibid. Others had a ****336** similar understanding. Thus, for Charles Sumner, 'Equality of political rights * * * (did) not involve necessarily what is sometimes called the 'regulation' of the suffrage by the National Government, although this would be best * * *

(but) simply require(d) the abolition of any discrimination among citizens, inconsistent with Equal Rights.' C. Sumner, Are We a Nation? 34 (1867). Or, as Stevens explained in presenting the Amendment to the House, it merely allowed 'Congress to correct the unjust legislation of the States, so far that the law which operates upon one man shall operate equally upon all.' Globe 2459 (emphasis in original). Clearest of all, perhaps was Thomas M. Cooley in the 1871 edition of his Constitutional Limitations, where he wrote:

'This amendment of the Constitution does not concentrate power in the general government for ***267** any purpose of police government within the States; its object is to preclude legislation by any State which shall 'abridge the privileges or immunities of citizens of the United States,' or 'deprive any person of life, liberty, or property without due process of law,' or 'deny to any person within its jurisdiction the equal protection of the laws'; and Congress is empowered to pass all laws necessary to render such unconstitutional State legislation ineffectual.' T. Cooley, Constitutional Limitations 294 (2d ed. 1871).

There is also other evidence that at least some members of Congress and of the electorate believed that s 1 of the Fourteenth Amendment gave Congress power to invalidate discriminatory state regulations of the suffrage. Thus, Congressman Rogers, a Democrat who had served on the Joint Committee, agreed with Bingham and Howard that '(t)he right to vote is a privilege,' Globe 2538, while Congressman Boyer, another Democrat, feared that s 1 was 'intended to secure ultimately, and to some extent indirectly, the political equality of the negro race.' Globe 2467. A third Democrat, Congressman Niblack, thought the section sufficiently ambiguous to warn that he might, although in fact he never did, offer the following addition to it:

'Provided, That nothing contained in this article shall be so construed as to authorize Congress to regulate or control the elective franchise within any State, or to abridge or restrict the power of any State to regulate or control the same within its own jurisdiction, except as in the third section hereof prescribed.' Globe 2465.

Republicans also alluded on occasion to their belief that the Amendment might give Congress power to prevent discrimination in regard to the suffrage. Radical ***268** Senator Stewart, for example, while unhappy that the Amendment did not directly confer suffrage, nevertheless could 'support this plan' because it did 'not preclude Congress from adopting other means by a two-thirds vote,[39] when experience shall have demonstrated, as it certainly will, the necessity for a change of policy. In fact it furnishes a conclusive argument in favor of universal amnesty and impartial suffrage.' Globe 2964. Likewise, the more conservative Congressman Raymond of New York supported the first section because he thought Congress should have the power to legislate on behalf of equal rights 'in courts and elsewhere,' Globe 2513, after the radical Congressman Wilson of Iowa had informed him that, 'if we give a reasonable construction to the term 'elsewhere,' we may include in that the jury-box and the ballot-box.' Globe 2505. Congressman Stevens, meanwhile, was informing Congress that 'if this amendment prevails you must legislate to carry out many parts of it,' Globe 2544, and was looking forward to 'further legislation; in enabling acts or other provisions,' Globe 3148, while even the Joint ****337** Committee submitted the Amendment to the Nation 'in the hope that its imperfections may be cured, and its deficiencies supplied, by legislative wisdom * * *.' Report of the Joint Committee on Reconstruction, H.R.Rep.No. 30, 39th Cong., 1st Sess., xxi (1866). Nor did the radical Republican press disagree; as the Lansing State Republican argued in its editorial columns, even '(i)f impartial suffrage, the real vital question of the whole struggle * * * (was) postponed through the mulish obstinacy of Andrew Johnson,' 'freedom' would 'triumph by the adoption of the proposed ***269** amendment,' which would be followed by 'equal rights to all * * *.' July 11, 1866. And, of course, once the Amendment had been ratified, Republicans in Congress began to make speeches in favor of legislation which would implement the Amendment by guaranteeing equal suffrage. See, e.g., Cong.Globe, 40th Cong., 2d Sess., 1966—1967 (1868) (remarks of Cong. Stevens); 3d Sess., 1008 (1869) (remarks of Sen. Sumner).

Of course, few of the above statements taken from congressional debates, campaign speeches, and the press were made with such clarity and precision that we can know with certainty that its framers intended the Fourteenth Amendment to function as we think they did. But clarity and precision are not to be expected in an age when men are confronting new problems for which old concepts do not provide ready solutions. As we have seen, the 1860's were such an age, and the men who formulated the Fourteenth Amendment were facing an especially perplexing problem—that of creating federal mechanisms to insure the fairness of state action without in the process destroying the reserved powers of the States. It would, indeed, be surprising if the men who first faced this difficult problem were possessed of such foresight that they could debate its solution with complete clarity and consistency and with uniformity of

views. There is, in short, every reason to believe that different men reconciled in different and often imprecise ways the Fourteenth Amendment's broad guarantee of equal rights and the statements of some of its framers that it did not give Congress power to legislate upon the suffrage.

Some men, for example, might have reconciled the broad guarantee and the narrow language by concluding that Negroes were not yet ready to exercise the franchise and hence that a State would not act arbitrarily ***270** in denying it to them while granting it to whites. As the debates make clear, proponents of the Amendment did not understand the Equal Protection Clause to forbid States to distinguish among persons where justification for distinctions appeared. See, e.g., Globe 1064 (Congressman Stevens). At the time the Fourteenth Amendment was adopted, the overwhelming majority of Negro residents of the United States were former slaves living in the Southern States. Most of them were illiterate and uneducated. Except for those few who had been kidnaped by slave traders after reaching adulthood, they had no prior experience with the responsibilities of citizenship. Given this state of affairs, it would hardly be surprising if some of the framers of the Fourteenth Amendment felt that the Equal Protection Clause would not forbid the States from classifying Negroes as a group to be denied the right to vote. Equal protection has never been thought to require identical treatment of all persons in all respects. Metropolitan Cas. Ins. Co. v. Brownell, 294 U.S., at 583—584, 55 S.Ct., at 539—540, and cases cited. It requires only that the State provide adequate justification for treating one group differently from another. Levy v. Louisiana, 391 U.S. 68, 88 S.Ct. 1509, 20 L.Ed.2d 436 (1968). Entirely aside from any concepts of racial inequality that may have been held by some members of Congress at that time, it seems clear that many members had serious reservations about the ability of the majority of Negroes, after centuries of slavery, to cast an intelligent and responsible vote. See, for example, the debates over a proposal to enfranchise Negroes ****338** in the District of Columbia in Cong. Globe, 38th Cong., 1st Sess., 2140—2141, 2239—2243, 2248 (1864). Of course, we would not now hold that even the situation existing in 1866 would justify wholesale exclusion of Negroes from the franchise: our decisions have consistently held that a particular group may not be denied the right to vote merely ***271** because many, or even most, of its members could properly be excluded. Carrington v. Rash, 380 U.S., at 93—96, 85 S.Ct., at 778—780; Kramer v. Union School District, 395 U.S., at 632—633, 89 S.Ct., at 1892—1893; Evans v. Cornman, 398 U.S., at 424—426, 90 S.Ct., at 1756—1757; cf. Tussman & TenBroek, The Equal Protection of the Laws, 37 Calif.L.Rev. 341, 351—352 (1949). But mere administrative convenience was once thought to be sufficient justification for an overly broad legislative classification, so long at least as the resultant discrimination could be justified as to a majority of the class affected. Terrace v. Thompson, 263 U.S. 197, 218—222, 44 S.Ct. 15, 19—20, 68 L.Ed. 255 (1923); cf. Kotch v. Board of River Port Pilots, 330 U.S. 552, 67 S.Ct. 910, 91 L.Ed. 1093 (1947). Rejection of this approach has been the result of a judicial development that could hardly have been known to the framers of the Amendment. Cf. Baxstrom v. Herold, 383 U.S. 107, 114—115, 86 S.Ct. 760, 765, 15 L.Ed.2d 620 (1966).

Of course, many Americans in the 1860's rejected imputations that Negroes were unready for the franchise and thus concluded that distinctions between the races in regard to the franchise would constitute denials of equal protection. Congressman Stevens, for one, had no doubt that to allow a State to deny the franchise to Negroes would be to allow it 'to discriminate among the same class.' Globe 2460. And Negroes, of course, indignantly rejected such imputations, arguing that '(w)e are not all so illiterate as you suppose' and that 'even if we were, our instincts have proved better than that 'educated class,' whose 'little learning' prompted them to attempt the impossible thing of destroying this great Republic * * *.' Letter to the Editor, New York Times, Nov. 4, 1866.

Among the men who refused to regard Negroes as ill prepared for the exercise of the franchise, there may have been some who did not understand the subtle distinctions of constitutional lawyers such as Bingham and who thus ***272** accepted at face value assurances that the Fourteenth Amendment gave Congress no power over the suffrage. As a result, at least three identifiable groups may have existed within the Republican majorities that enacted and ratified the Amendment—those who thought that Congress would have power to insure to Negroes the same right to suffrage as the States gave to whites, those who thought that Congress would not have such power since Negroes and whites constituted distinct and dissimilar classes for voting purposes, and those who thought Congress would possess no power at all over the suffrage. Perhaps all there such groups did not exist in 1866 in Congress and in the Nation at large, but surely the evidence is not clear 'beyond any reasonable doubt' that the only existent group was the last one, consisting of men who, despite the broad language of s 1 and the hints by speakers of its applicability to the suffrage, simply assumed without developing any analytical framework in support of their assumption that the section would not be so applied.

The evidence, in sum, plausibly suggests that the men who framed the Fourteenth Amendment possessed differing views as to the limits of its applicability but that they papered over their differences because those differences were not always fully apparent and because they could not foresee with precision how their amendment would operate in the future. Moreover, political considerations militated against clarification of issues and in favor of compromise. Much of the North, as already noted, opposed Negro suffrage, and many Republicans ****339** in Congress had to seek re-election from constituencies where racial prejudice remained rampant. Republicans in the forthcoming elections thus found it convenient to speak differently before different constituencies; as the Republican state chairman of Ohio wrote, in northern counties of the State 'some of our Speakers have openly ***273** advocated impartial suffrage, while in other places it was thought necessary, not only to repudiate it but to oppose it.' Letter from B. R. Cowan to S. P. Chase, Oct. 12, 1866, quoted in James 168. Similarly, Senator Wilson of Massachusetts, when accused shortly after the 1866 elections of misrepresenting the issues of the campaign in Delaware by saying nothing of Negro suffrage, replied that since he had been 'in a State where not much progress had been made, I acted somewhat on the scriptural principle of giving 'milk to babes.'' Cong.Globe, 39th Cong., 2d Sess. 42. Apparently Congressman Ashley of Ohio acted upon similar principles, for when he was asked after the House had initially approved the Amendment whether Congress had 'power to confer the right of suffrage upon negroes in the States,' he responded, 'Well, sir, I do not intend to put myself on record against the right of Congress to do that. I am not prepared now to argue the point with my colleague; but I will say to him that when the time comes for the American Congress to take action on the question, I will be ready to speak. I will not say now whether I would vote for or against such a proposition.' Globe 2882.

Thus, precise legal analysis and clarity of thought were both intellectually difficult and politically unwise. What Republicans needed, in the words of Wendell Phillips, the former abolitionist leader, was 'a party trick to tide over the elections and save time,' after which they could 'float back into Congress, able to pass an act that shall give the ballot to the negro and initiate an amendment to the Constitution which shall secure it to him.' Speech of Wendell Phillips, July 4, 1866, quoted in A. Harris, A Review of the Political Conflict in America 437 (1876), Similarly, the New York Times, edited by Congressman Henry J. Raymond, a conservative Republican who ***274** ultimately would support the Amendment, observed that 'all the excitement that had been raised about constitutional amendments * * * has been simply dust thrown in the eyes of the public to cover the approach to the grand fundamental, indispensable principle of universal negro suffrage. * * *' April 27, 1866, quoted in Harris, supra, at 433.

Not surprisingly, the product of such political needs was an Amendment which contemporaries saw was vague and imprecise. Democratic Senator Hendricks, for example, protested that he had 'not heard any Senator accurately define, what are the rights and immunities of citizenship,' Globe 3039, while Congressman Boyer, another Democrat, found the first section 'objectionable also in its phraseology, being open to ambiguity and admitting of conflicting constructions.' Globe 2467. Republicans, too, were aware of the Amendment's vagueness. Thus, when he presented the Amendment to the Senate, Senator Howard noted that '(i)t would be a curious question to solve what are the privileges and immunities of citizens' and proposed not to consider the question at length, since '(i)t would be a somewhat barren discussion.' Instead, like the pre-Civil War Supreme Court,[40] he 'very modestly declined to go into a definition of them, leaving questions arising under the clause to be discussed and adjudicated when they should happen practically to arise.' Globe 2765.

Thus, the historical evidence does not point to a single, clear-cut conclusion that contemporaries viewed the first section of the Fourteenth Amendment as an ****340** explicit abandonment of the radical goal of equal suffrage for Negroes. Rather the evidence suggests an alternative hypothesis: that the Amendment was framed by men who possessed differing views on the great question of the ***275** suffrage and who, partly in order to formulate some program of government and partly out of political expediency, papered over their differences with the broad, elastic language of s 1 and left to future interpreters of their Amendment the task of resolving in accordance with future vision and future needs the issues that they left unresolved. Such a hypothesis strikes us as far more consistent with the turbulent character of the times than one resting upon a belief that the broad language of the Equal Protection Clause contained a hidden limitation upon its operation that would prevent it from applying to state action regulating rights that could be characterized as 'political.'[41]

Nor is such a hypothesis inconsistent with the subsequent enactment of the Fifteenth Nineteenth, and Twenty-

fourth Amendments. Those who submitted the Fifteenth Amendment to the States for ratification could well have desired that any prohibition against racial discrimination in voting stand upon a firmer foundation that mere legislative action capable of repeal[42] or the vagaries of judicial decision.[43] Or they could merely have concluded that, whatever might be the case with other rights, the right to vote was too important to allow disenfranchisement of any person for no better reason ***276** than that others of the same race might not be qualified. At least some of the supporters of the Nineteenth Amendment believed that sex discrimination in voting was itself proscribed by the Fourteenth Amendment's guarantee of equal protection. 57 Cong.Rec. 3053 (1919). And finally, the Twenty-fourth Amendment was not proposed to the States until this Court had held, in Breedlove v. Suttles, 302 U.S. 277, 58 S.Ct. 205, 82 L.Ed. 252 (1937),[44] that state laws requiring payment of a poll tax as a prerequisite to voting did not ipso facto violate the Equal Protection Clause. Accordingly, we see no reason that the mere enactment of these amendments can be thought to imply that their proponents believed the Fourteenth Amendment did not apply to state allocations of political power. At a dubious best, these amendments may be read as implying that their proponents felt particular state allocations of power a proper exercise of power under the Equal Protection Clause.

Nor do we find persuasive our Brother HARLAN's argument that s 2 of the Fourteenth Amendment was intended as an exclusive remedy for state restrictions on the franchise, and that therefore any such restrictions are permissible under s 1. As Congressman Bingham emphatically told the House, when the same argument was made by Congressman Bromwell,

'there has not been such a construction, in my opinion, of a law which imposes only a penalty, for centuries, ****341** if ever, in any country where the common law obtains. The construction insisted upon by the gentleman amounts to this, that a law which inflicts a penalty or works a forfeiture for doing an act, by implication authorizes the act to be done for doing which the penalty is inflicted. There ***277** cannot be such a construction of the proviso. It is a penalty. It says in terms that if any of the States of the United States shall disobey the Constitution * * * as a penalty such State shall lose political power in this House. * * *

'You place upon your statute-book a law punishing the crime of murder with death. You do not thereby, by implication, say that anybody may, of right, commit murder. You but pass a penal law. You do not prohibit murder in the Constitution; you guaranty life in the Constitution. You do not prohibit the abuse of power by the majority in the Constitution in express terms, but you guaranty the equal right of all free male citizens of full age to elect Representatives; and by the proviso you inflict a penalty upon a State which denies or abridges that right on account of race or color. In doing that we are not to be told that we confer a power to override the express guarantees of the Constitution. We propose the penalty in aid of the guarantee, not in avoidance of it.' Globe 431—432.

See Van Alstyne, supra, at 48—68.

It may be conceivable that s 2 was intended to be the sole remedy available when a State deprived its citizens of their right to vote, but it is at least equally plausible that congressional legislation pursuant to ss 1 and 5 was thought by the framers of the Amendment to be another potential remedy. Section 2, in such a scheme, is hardly superfluous: it was of critical importance in assuring that, should the Southern States deny the franchise to Negroes, the Congress called upon the remedy that discrimination would not be controlled by the beneficiaries of discrimination themselves. And it could, of course, have been expected to provide at least a limited remedy ***278** in the event that both Congress and the courts took no action under s 1. Neither logic nor historical evidence compellingly suggests that s 2 was intended to be more than a remedy supplementary, and in some conceivable circumstances indispensable, to other congressional and judicial remedies available under ss 1 and 5. See generally Van Alstyne, supra.

The historical record left by the framers of the Fourteenth Amendment, because it is a product of differing and conflicting political pressures and conceptions of federalism, is thus too vague and imprecise to provide us with sure guidance in deciding the pending cases. We must therefore conclude that its framers understood their Amendment to be a broadly worded injunction capable of being interpreted by future generations in accordance with the vision and needs of those generations. We would be remiss in our duty if, in an attempt to find certainty amidst uncertainty, we were to misread the historical record and cease to interpret the Amendment as this Court has always interpreted it.

D

There remains only the question whether Congress could rationally have concluded that denial of the franchise to citizens between the ages of 18 and 21 was unnecessary to promote any legitimate interests of the States in assuring intelligent and responsible voting. There is no need to

set out the legislative history of Title III at any great length here.[45] Proposals to lower the voting age to 18 had been before Congress at several times since 1942.[46] The Senate Subcommittee on Constitutional ***279** Amendments conducted extensive hearings on ****342** the matter in 1968 and again in 1970,[47] and the question was discussed at some length on the floor of both the House and the Senate.

Congress was aware, of course, of the facts and state practices already discussed.[48] It was aware of the opinion of many historians that choice of the age of 21 as the age of maturity was an outgrowth of medieval requirements of time for military training and development of a physique adequate to bear heavy armor.[49] It knew that whereas only six percent of 18-year-olds in 1900 had completed high school, 81 percent have done so today.[50] Congress was aware that 18-year-olds today make up a not insubstantial proportion of the adult work force;[51] and it was entitled to draw upon its experience in supervising the federal establishment to determine the competence and responsibility with which 18-year-olds perform their assigned tasks. As Congress recognized, its judgment that 18-year-olds are capable of voting is consistent with its practice of entrusting them with the heavy responsibilities of military service. See s 301(a)(1) of the Amendments.[52] Finally, Congress was presented ***280** with evidence that the age of social and biological maturity in modern society has been consistently decreasing. Dr. Margaret Mead, an anthropologist, testified that in the past century, the 'age of physical maturity has been dropping and has dropped over 3 years.'[53] Many Senators and Representatives, including several involved in national campaigns, testified from personal experience that 18-year-olds of today appeared at least as mature and intelligent as 21-year-olds in the Congressmen's youth.[54]

Finally, and perhaps most important, Congress had before it information on the experience of two States, Georgia and Kentucky, which have allowed 18-year-olds to vote since 1943 and 1955, respectively. Every elected Representative from those States who spoke to the issue agreed that, as Senator Talmadge stated, 'young people (in these States) have made the sophisticated decisions and have assumed the mature responsibilities of voting. Their performance has exceeded the greatest hopes and expectations.'[55]

In sum, Congress had ample evidence upon which it could have based the conclusion that exclusion of citizens 18 to 21 years of age from the franchise is wholly unnecessary to promote any legitimate interest the States may have in assuring intelligent and responsible voting. See Katzenbach v. Morgan, 384 U.S., at 653—656, 86 S.Ct., at 1724—1727. If discrimination is unnecessary to promote ****343** any legitimate state interest, it is plainly unconstitutional ***281** under the Equal Protection Clause, and Congress has ample power to forbid it under s 5 of the Fourteenth Amendment. We would uphold s 302 of the 1970 Amendments as a legitimate exercise of congressional power.

Mr. Justice STEWART, with whom THE CHIEF JUSTICE and Mr. Justice BLACKMUN join, concurring in part and dissenting in part.

In these case we deal with the constitutional validity of three provisions of the Voting Rights Act Amendments of 1970. Congress undertook in these provisions: (a) to abolish for a five-year period all literacy tests and similar voting eligibility requirements imposed by any State in the Union (s 201); (b) to remove the restrictions imposed by state durational residency requirements upon voters in presidential elections (s 202); and (c) to reduce the voting age to a minimum of 18 years for all voters in all elections throughout the Nation (s 302). The Court today upholds s 201's nationwide literacy test ban and s 202's elimination of state durational residency restrictions in presidential elections. Section 302's extension of the franchise to 18-year-old voters in (by virtue of the opinion of Mr. Justice BLACK announcing the judgments of the Court) upheld as applied to federal elections. I agree with the Court in sustaining the congressional ban on state literacy tests, for substantially the same reasons relied upon by Mr. Justice BLACK. I also agree that the action of Congress in removing the restrictions of state residency requirements in presidential elections is constitutionally valid, but I base this judgment upon grounds quite different from those relied upon by Mr. Justice BLACK. And, finally, I disagree with the Court's conclusion that Congress could constitutionally reduce the voting ***282** age to 18 for federal elections, since I am convinced that Congress was wholly without constitutional power to alter—for the purpose of any elections—the voting age qualifications now determined by the several States.

Before turning to a discussion of my views, it seems appropriate to state that we are not called upon in these cases to evaluate or appraise the wisdom of abolishing literacy tests, of altering state residency requirements, or of reducing the voting age to 18. Whatever we may think as citizens, our single duty as judges is to determine whether the legislation

before us was within the constitutional power of Congress to enact. I find it necessary to state so elementary a proposition only because certain of the separate opinions filed today contain many pages devoted to a demonstration of how beneficent are the goals of this legislation, particularly the extension of the electoral franchise to young men and women of 18. A casual reader could easily get the impression that what we are being asked in these cases is whether or not we think allowing people 18 years old to vote is a good idea. Nothing could be wider of the mark. My Brothers to the contrary, there is no question here as to the 'judgment' of Congress; there are questions only of Congress' constitutional power.

I

I concur in Part II of Mr. Justice BLACK'S opinion which holds that the literacy test ban of s 201 of the 1970 Amendments is constitutional under the Enforcement Clause of the Fifteenth Amendment. Our decisions establish that the Fifteenth Amendment 'nullifies sophisticated as well as simple-minded modes of discrimination. It hits onerous procedural requirements which effectively handicap exercise of the franchise by the colored race although the abstract right to vote may remain unrestricted as to race.' Lane v. Wilson, 307 U.s. 268, 275, 59 S.Ct. 872, 876, 83 L.Ed. 1281; ***283** cf. Gomillion v. Lightfoot, 364 U.S. 339, 81 S.Ct. 125, 5 L.Ed.2d 110. Because ****344** literacy and illiteracy are seemingly neutral with respect to race, creed, color, and six, we upheld a literacy requirement against a claim that it was invalid on its face under the Fifteenth Amendment. Lassiter v. Northampton County Election Board, 360 U.S. 45, 79 S.Ct. 985, 3 L.Ed.2d 1072. But in Gaston County v. United States, 395 U.S. 285, 89 S.Ct. 1720, 23 L.Ed.2d 309, we made it clear that Congress has ample authority under s 2 of the Fifteenth Amendment to determine that literacy requirements work unfairly against Negroes in practice because they handicap those Negroes who have been deprived of the educational opportunities available to white citizens. We construed the 1965 Voting Rights Act in light of the report of the Senate Judiciary Committee which said, '(T)he educational differences between whites and Negroes in the areas to be covered by the prohibitions —differences which are reflected in the record before the committee—would mean that equal application of the tests would abridge 15th amendment rights.' S.Rep. No. 162, pt. 3, 89th Cong., 1st Sess., 16, U.S.Code Cong. & Admin.News 1965, p. 2554. See also South Carolina v. Katzenbach, 383 U.S. 301, 308—315, 86 S.Ct. 803, 808—811, 15 L.Ed.2d 769.

Congress has now undertaken to extend the ban on literacy tests to the whole Nation. I see no constitutional impediment to its doing so. Nationwide application reduces the danger that federal intervention will be perceived as unreasonable discrimination against particular States or particular regions of the country. This in turn increases the likelihood of voluntary compliance with the letter and spirit of federal law. Nationwide application facilitates the free movement of citizens from one State to another, since it eliminates the prospect that a change in residence will mean the loss of a federally protected right. Nationwide application avoids the often difficult task of drawing a line between those States where a problem is pressing enough to warrant federal intervention and those where it is not. Such a ***284** line may well appear discriminatory to those who think themselves on the wrong side of it. Moreover the application of the line to particular States can entail a substantial burden on administrative and judicial machinery and a diversion of enforcement resources. Finally, nationwide application may be reasonably thought appropriate when Congress acts against an evil such as racial discrimination which in varying degrees manifests itself in every part of the country. A remedy for racial discrimination which applies in all the States underlines an awareness that the problem is a national one and reflects a national commitment to its solution.

Because the justification for extending the ban on literacy tests to the entire Nation need not turn on whether literacy tests unfairly discriminate against Negroes in every State in the Union, Congress was not required to make state-by-state findings concerning either the equality of educational opportunity or actual impact of literacy requirements on the Negro citizen's access to the ballot box. In the interests of uniformity, Congress may paint with a much broader brush than may this Court, which must confine itself to the judicial function of deciding individual cases and controversies upon individual records. Cf. Lassiter v. Northampton County Election Board, supra. The findings that Congress made when it enacted the Voting Rights Act of 1965 would have supported a nationwide ban on literacy tests. Instead, at that time 'Congress chose to limit its attention to the geographic areas where immediate action seemed necessary.' South Carolina v. Katzenbach, 383 U.S., at 328, 86 S.Ct., at 819. Experience gained under the 1965 Act has now led Congress to conclude that it should go the whole distance. This approach to the problem is a rational one; consequently it is within the constitutional power of Congress under s 2 of the Fifteenth Amendment.

****345** ***285** II

Section 202 added by the Voting Rights Act Amendments of 1970 is a comprehensive provision aimed at insuring that a citizen will not be deprived of the opportunity to vote for the offices of President and Vice President because of a change of residence. Those who take up a new residence more than 30 days before a presidential election are guaranteed the right to register and vote in the State to which they have moved notwithstanding any durational residency requirement imposed by state law, provided, of course, that they are otherwise qualified to vote. Those who take up a new residence less than 30 days before a presidential election are guaranteed the right to vote, either in person or by absentee ballot, in the State from which they have moved, provided that they satisfied, as of the date of their change of residence, the requirements to vote in that State.

A

Congress, in my view, has the power under the Constitution to eradicate political and civil disabilities that arise by operation of state law following a change in residence from one State to another. Freedom to travel from State to State—freedom to enter and abide in any State in the Union—is a privilege of United States citizenship. Shapiro v. Thompson, 394 U.S. 618, 89 S.Ct. 1322, 22 L.Ed.2d 600; United States v. Guest, 383 U.S. 745, 757—760, 86 S.Ct. 1170, 1177—1179, 16 L.Ed.2d 239; Truax v. Raich, 239 U.S. 33, 39, 36 S.Ct. 7, 9, 60 L.Ed. 131; Twining v. New Jersey, 211 U.S. 78, 97, 29 S.Ct. 14, 18, 53 L.Ed. 97; Crandall v. Nevada, 6 Wall. 35, 18 L.Ed. 744. Section 1 of the Fourteenth Amendment provides: 'All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or ***286** immunities of citizens of the United States; * * *' In discussing the privileges of citizens of the United States within the meaning of s 1, Mr. Justice Miller wrote for the Court in the Slaughter-House Cases:

'One of these privileges is conferred by the very article under consideration. It is that a citizen of the United States can, of his own volition, become a citizen of any State of the Union by a bona fide residence therein, with the same rights as other citizens of that State.' 16 Wall. 36, 80, 21 L.Ed. 394.

Although s 5 of the Fourteenth Amendment confers on Congress the 'power to enforce, by appropriate legislation, the provisions of this article,' this Court has sustained the power to Congress to protect and facilitate the exercise of privileges of United States citizenship without reference to s 5. United States v. Guest, 383 U.S., at 757—760, 86 S.Ct., at 1177—1179, 16 L.Ed.2d 239; United States v. Classic, 313 U.S. 299, 61 S.Ct. 1031, 85 L.Ed. 1368; Burroughs v. United States, 290 U.S. 534, 54 S.Ct. 287, 78 L.Ed. 484. These cases and others establish that Congress brings to the protection and facilitation of the exercise of privileges of United States citizenship all of its power under the Necessary and Proper Clause. Consequently, as against the reserved power of the States, it is enough that the end to which Congress has acted be one legitimately within its power and that there be a rational basis for the measures chosen to achieve that end. McCulloch v. Maryland, 4 Wheat. 316, 421, 4 L.Ed. 579.

In the light of these considerations, s 202 presents no difficulty. Congress could rationally conclude that the imposition of durational residency requirements unreasonably burdens and sanctions the privilege of taking up residence in another State. The objective of s 202 is clearly a legitimate one. Federal action is required if the privilege to change residence is not to be undercut by parochial local sanctions. No State could undertake ***287** to guarantee this privilege to its citizens. At most a single State could take steps to resolve that its own laws ****346** would not unreasonably discriminate against the newly arrived resident. Even this resolve might not remain firm in the face of discriminations perceived as unfair against those of its own citizens who moved to other States. Thus, the problem could not be wholly solved by a single State, or even by several States, since every State of new residence and every State of prior residence would have a necessary role to play. In the absence of a unanimous interstate compact, the problem could only be solved by Congress. Quite clearly, then, Congress has acted to protect a constitutional privilege that finds its protection in the Federal Government and is national in character. Slaughter-House Cases, 16 Wall., at 79, 21 L.Ed. 394.

B

But even though general constitutional power clearly exists, Congress may not overstep the letter or spirit of any constitutional restriction in the exercise of that power. For example, Congress clearly has power to regulate interstate commerce, but it may not, in the exercise of that power, impinge upon the guarantees of the Bill of Rights. I have

concluded that, while s 202 applies only to presidential elections, nothing in the Constitution prevents Congress from protecting those who have moved from one State to another from disenfranchisement in any federal election, whether congressional or presidential.

The Constitution withholds from Congress any general authority to change by legislation the qualifications for voters in federal elections. The meaning of the applicable constitutional provisions is perfectly plain. Article I, s 2, and the Seventeenth Amendment prescribe the qualifications for voters in elections to choose Senators and Representatives: they 'shall have the Qualifications ***288** requisite for Electors of the most numerous Branch of the State legislatures.' The Constitution thus adopts as the federal standard the standard which each State has chosen for itself. Ex parte Yarbrough, 110 U.S. 651, 663, 4 S.Ct. 152, 158, 28 L.Ed.274; Wiley v. Sinkler, 179 U.S. 58, 64, 21 S.Ct. 17, 20, 45 L.Ed. 84. Accordingly, a state law that purported to establish distinct qualifications for congressional elections would be invalid as repugnant to Art. I, s 2, and the Seventeenth Amendment. By the same token, it cannot be gainsaid that federal legislation that had no objective other than to alter the qualifications to vote in congressional elections would be invalid for the same reasons. What the Constitution has fixed may not be changed except by constitutional amendment.

Contrary to the submission of my Brother BLACK, Art. I, s 4, does not create in the Federal Legislature the power to alter the constitutionally established qualifications to vote in congressional elections. That section provides that the legislatures in each State shall prescribe the 'Times, Places and Manner of holding Elections for Senators and Representatives,' but reserves in Congress the power to 'make or alter such Regulations, except as to the Places of chusing Senators.' The 'manner' of holding elections can hardly be read to mean the qualifications for voters, when it is remembered that s 2 of the same Art. I explicitly speaks of the 'qualifications' for voters in elections to choose Representatives. It is plain, in short, that when the Framers meant qualifications they said 'qualifications.' That word does not appear in Art. I, s 4. Moreover, s 4 does not give Congress the power to do anything that a State might not have done, and, as pointed out above, no State may establish distinct qualifications for congressional elections. The States, of course, are free to pass such laws as are necessary to assure fair elections. Congressional power under s 4 is equally broad with respect to congressional ***289** elections. United States v. Classic, 313 U.S. 299, 61 S.Ct. 1031, 85 L.Ed. 1368. But the States are not free to prescribe qualifications for voters in federal elections which differ from those prescribed for the most numerous branch of the state legislature. And the power ****347** of Congress to do so cannot, therefore, be found in Art. I, s 4.

This view is confirmed by extrinsic evidence of the intent of the Framers of the Constitution. An early draft of the Constitution provided that the States should fix the qualifications of voters in congressional elections subject to the proviso that these qualifications might 'at any Time be altered and superseded by the Legislature of the United States.'[1] The records of the Committee on Detail show that it was decided to strike the provision granting to Congress the authority to set voting qualifications and to add in its stead a clause making the qualifications 'the same from Time to Time as those of the Electors, in the several States, of the most numerous Branch of their own Legislatures.'[2] The proposed draft reported by the Committee on Detail to the Convention included the following:
'The qualifications of the electors shall be the same, from time to time, as those of the electors in the several States, of the most numerous branch of their own legislatures.' Art. IV, s 1.
'The times and places and manner of holding the elections of the members of each House shall be prescribed by the Legislature of each State; but their provisions concerning them may, at any time, be altered by the Legislature of the United States.'[3] Art. VI, s 1.

***290** On August 7, Gouverneur Morris moved to strike the last clause of the proposed Art. IV, s 1, and either to provide a freehold limitation on suffrage or to add a clause permitting Congress to alter the electoral qualifications.[4] This motion was opposed by Oliver Ellsworth, George Mason, James Madison, and Bemjamin Franklin. Ellsworth protested that the proposal favored aristocracy. It the legislature could alter qualifications, it could disqualify a great proportion of the electorate.[5] Mason voiced a similar objection. 'A power to alter the qualifications would be a dangerous power in the hands of the Legislature.'[6] To the same effect Madison said:
'The right of suffrage is certainly one of the fundamental articles of republican Government, and ought not to be left to be regulated by the Legislature.'[7]

The proposed motion was defeated by a seven-to-one vote,[8] and no substantive change in Art. I, s 2, was proposed or made thereafter.

Thus, Alexander Hamilton accurately reported the intent of the Convention when he wrote in The Federalist No. 60 that the authority of the national government 'would be expressly restricted to and regulation of the times, the places, and the manner of elections. The qualifications of the persons who may choose or be chosen, as has been remarked upon other occasions, are defined and fixed in the Constitution, and are unalterable by the legislature (i.e., Congress).' (Emphasis in original.)

Different provisions of the Constitution govern the selection of the President and the Vice President. Article ***291** II and the Twelfth Amendment provide for election by electors. Article II specifies that each State shall appoint electors 'in such Manner as the Legislature thereof may direct.' Because the Constitution does not require the popular election of members of the electoral college, it does not specify the qualifications that voters must have when the selection of electors is by popular election. This is left to the States in the exercise of their ****348** power to 'direct' the manner of choosing presidential electors. Williams v. Rhodes, 393 U.S. 23, 29, 89 S.Ct. 5, 9, 21 L.Ed.2d 24. When electors are chosen by popular election, the Federal Government has the power to assure that such elections are orderly and free from corruption. Burroughs v. United States, 290 U.S. 534, 54 S.Ct. 287, 78 L.Ed. 484. But in Burroughs the Court noted of the Act under review: 'Neither in purpose nor in effect does it interfere with the power of a state to appoint electors or the manner in which their appointment shall be made.' 290 U.S., at 544, 54 S.Ct., at 289, 78 L.Ed. 484. The Court quoted with approval the following passage from Ex parte Yarbrough, 110 U.S., 651, 4 S.Ct. 152, 28 L.Ed. 274: '(T)he importance to the general government of having the actual election—the voting for those members—free from force and fraud is not diminished by the circumstance that the qualification of the voter is determined by the law of the state where he votes.' 290 U.S., at 546, 54 S.Ct., at 290. And in United States v. Classic, 313 U.S. 299, 61 S.Ct. 1031, 85 L.Ed. 1368, the Court was careful to point out that it is the 'right of qualified voters within a state to cast their ballots and have them counted' which is a privilege of United States citizenship amenable to congressional protection. Id., at 315, 61 S.Ct., at 1037 (emphasis added). See also Corfield v. Coryell, 6 Fed.Cas. 546, 552 (No. 3230) (CCED Pa.).

The issue, then, is whether, despite the intentional withholding from the Federal Government of a general authority to establish qualifications to vote in either congressional or presidential elections, there exists congressional ***292** power to do so when Congress acts with the objective of protecting a citizen's privilege to move his residence from one State to another. Although the matter is not entirely free from doubt, I am persuaded that the constitutional provisions discussed above are not sufficient to prevent Congress from protecting a person who exercises his constitutional right to enter and abide in any State in the Union from losing his opportunity to vote, when Congress may protect the right of interstate travel from other less fundamental disabilities. The power of the States with regard to the franchise is subject to the power of the Federal Government to vindicate the unconditional personal rights secured to the citizen by the Federal Constitution. Williams v. Rhodes, supra; cf. Shapiro v. Thompson, supra. The power that Congress has exercised in enacting s 202 is not a general power to prescribe qualifications for voters in either federal or state elections. It is confined to federal action against a particular problem clearly within the purview of congressional authority. Finally, the power to facilitate the citizen's exercise of his constitutional privilege to change residence is one that cannot be left for exercise by the individual States without seriously diminishing the level of protection available. As I have sought to show above, federal action is required if this privilege is to be effectively maintained. We should strive to avoid an interpretation of the Constitution that would withhold from Congress the power to legislate for the protection of those constitutional rights that the States are unable effectively to secure. For all these reasons, I conclude that it was within the power of Congress to enact s 202.[9]

***293** III

Section 302 added by the Voting Rights Act Amendments of 1970 undertakes to enfranchise in all federal, state, and local ****349** elections those citizens 18 years of age or older who are now denied the right to vote by state law because they have not reached the age of 21. Although it was found necessary to amend the Constitution in order to confer a federal right to vote upon Negroes[10] and upon females,[11] the Government asserts that a federal right to vote can be conferred upon people between 18 and 21 years of age simply by this Act of Congress. Our decision in Katzenbach v. Morgan, 384 U.S. 641, 86 S.Ct. 1717, 16 L.Ed.2d 828, it is said, established the

power of Congress, under s 5 of the Fourteenth Amendment, to nullify state laws requiring voters to be 21 years of age or older if Congress could rationally have concluded that such laws are not supported by a 'compelling state interest.'

In my view, neither the Morgan case, nor any other case upon which the Government relies, establishes such congressional power, even assuming that all those cases[12] were rightly decided. Mr. Justice BLACK is surely ***294** correct when he writes, 'It is a plain fact of history that the Framers never imagined that the national Congress would set the qualifications for voters in every election from President to local constable or village alderman. It is obvious that the whole Constitution reserves to the States the power to set voter qualifications in state and local elections, except to the limited extent that the people through constitutional amendments have specifically narrowed the powers of the States.' Supra, at 265. For the reasons that I have set out in Part II of this opinion, it is equally plain to me that the Constitution just as completely withholds from Congress the power to alter by legislation qualifications for voters in federal elections, in view of the explicit provisions of Article I, Article II, and the Seventeenth Amendment.

To be sure, recent decisions have established that state action regulating suffrage is not immune from the impact of the Equal Protection Clause.[13] But we have been careful in those decisions to note the undoubted power of a State to establish a qualification for voting based on age. See, e.g., Kramer v. Union Free School District, 395 U.S., 621, 625, 89 S.Ct. 1886, 1888, 23 L.Ed.2d 853; Lassiter v. Northampton County Election Board, 360 U.S., at 51, 79 S.Ct., at 989—990. Indeed, none of the opinions filed today suggest that the States have anything but a constitutionally unimpeachable interest in establishing some age qualification as such. Yet to test the power to establish an age qualification by the 'compelling interest' standard is really to deny a State any choice at all, because no State could demonstrate a 'compelling interest' in drawing the line with respect to age at one point rather than another. Obviously, the power to establish an age qualification must carry with it the power to choose ***295** 21 as a reasonable voting age, as the vast majority of the States have done.[14]

****350** Katzenbach v. Morgan, supra, does not hold that Congress has the power to determine what are and what are not 'compelling state interests' for equal protection purposes. In Morgan the Court considered the power of Congress to enact a statute whose principal effect was to enfranchise Puerto Ricans who had moved to New York after receiving their education in Spanish-language Puerto Rican schools and who were denied the right to vote in New York because they were unable to read or write English. The Court upheld the statute on two grounds: that Congress could conclude that enhancing the political power of the Puerto Rican community by conferring the right to vote was an appropriate means of remedying discriminatory treatment in public services; and that Congress could conclude that the New York statute was tainted by the impermissible purpose of denying the right to vote to Puerto Ricans, ***296** an undoubted invidious discrimination under the Equal Protection Clause. Both of these decisional grounds were farreaching. The Court's opinion made clear that Congress could impose on the States a remedy for the denial of equal protection that elaborated upon the direct command of the Constitution, and that it could override state laws on the ground that they were in fact used as instruments of invidious discrimination even though a court in an individual lawsuit might not have reached that factual conclusion. Cf. Swain v. Alabama, 380 U.S. 202, 85 S.Ct. 824, 13 L.Ed.2d 759.

But it is necessary to go much further to sustain s 302. The state laws that it invalidates do not invidiously discriminate against any discrete and insular minority. Unlike the statute considered in Morgan, s 302 is valid only if Congress has the power not only to provide the means of eradicating situations that amount to a violation of the Equal Protection Clause, but also to determine as a matter of substantive constitutional law what situations fall within the ambit of the clause, and what state interests are 'compelling.' I concurred in Mr. Justice Harlan's dissent in Morgan. That case, as I now read it, gave congressional power under s 5 the furthest possible legitimate reach. Yet to sustain the constitutionality of s 302 would require an enormous extension of that decision's rationale. I cannot but conclude that s 302 was beyond the constitutional power of Congress to enact.

All Citations

400 U.S. 112, 91 S.Ct. 260, 27 L.Ed.2d 272

Footnotes

1 In Nos. 43, Orig., and 44 Orig., Oregon and Texas, respectively, invoke the original jurisdiction of this Court to sue the United States Attorney General seeking an injunction against the enforcement of Title III (18-year-old vote) of the Act. In No. 46 the United States invokes our original jurisdiction seeking to enjoin Arizona from enforcing its laws to the extent that they conflict with the Act, and directing the officials of Arizona to comply with the provisions of Title II (nationwide literacy test ban), s 201, 84 Stat. 315, and Title III (18-year-old vote), ss 301, 302, 84 Stat. 318, of the Act. In No. 47, Orig., the United States invokes our original jurisdiction seeking to enjoin Idaho from enforcing its laws to the extent that they conflict with Title II (abolition of residency requirements in presidential and vice-presidential elections), s 202, 84 Stat. 316, and Title III (18-year-old vote) of the Act. No question has been raised concerning the standing of the parties or the jurisdiction of this Court.

2 Article I, s 4, was a compromise between those delegates to the Constitutional Convention who wanted the States to have final authority over the election of all state and federal officers and those who wanted Congress to make laws governing national elections, 2 J. Story, Commentaries on the Constitution of the United States 280—292 (1st ed. 1833). The contemporary interpretation of this compromise reveals that those who favored national authority over national elections prevailed. Six States included in their resolutions of ratification the recommendation that a constitutional amendment be adopted to curtail the power of the Federal Government to regulate national elections. Such an amendment was never adopted.

A majority of the delegates to the Massachusetts ratifying convention must have assumed that Art. I, s 4, gave very broad powers to Congress. Otherwise that convention would not have recommended an amendment providing:

'That Congress do not exercise the powers vested in them by the 4th section of the 1st article, but in cases where a state shall neglect or refuse to make the regulations therein mentioned, or shall make regulations subversive of the rights of the people to a free and equal representation in Congress, agreeably to the Constitution.' 2 V. Elliot's Debates on the Federal Constitution 177 (1876).

The speech of Mr. Cabot, one delegate to the Massachusetts convention, who argued that Art. I, s 4, was 'to be as highly prized as any in the Constitution,' expressed a view of the breadth of that section which must have been shared by most of his colleagues:

'(I)f the state legislatures are suffered to regulate conclusively the elections of the democratic branch, they may * * * finally annihilate that control of the general government, which the people ought always to have * * *.' Id., at 26.

And Cabot was supported by Mr. Parsons, who added:

'* * * They might make an unequal and partial division of the states into districts for the election of representatives, or they might even disqualify one third of the electors. Without these powers in Congress, the people can have no remedy; but the 4th section provides a remedy, a controlling power in a legislature, composed of senators and representatives of twelve states, without the influence of our commotions and factions, who will hear impartially, and preserve and restore to the people their equal and sacred rights of election.' Id., at 27.

3 See Wesberry v. Sanders, 376 U.S. 1, 14—16, 84 S.Ct. 526, 533—534, 11 L.Ed.2d 481 (1964).

4 See, e.g., Act of Aug. 8, 1911, 37 Stat. 13.

5 My Brother STEWART has cited the debates of the Constitutional Convention to show that Ellsworth, Mason, Madison, and Franklin successfully opposed granting Congress the power to regulate federal elections, including the qualifications of voters, in the original Constitution. I read the history of our Constitution differently. Mr. Madison, for example, explained Art. I, s 4, to the Virginia ratifying convention as follows: '(I)t was thought that the regulation of the time, place, and manner, of electing the representatives, should be uniform throughout the continent. Some States might regulate the elections on the principles of equality, and others might regulate them otherwise. This diversity would be obviously unjust. * * * Should the people of any state by any means be deprived of the right of suffrage, it was judged proper that it should be remedied by the general government.' 3 J. Elliot's Debates on the Federal Constitution 367 (1876).

And Mr. Mason, who was supposedly successful in opposing a broad grant of power to Congress to regulate federal elections, still found it necessary to support an unsuccessful Virginia proposal to curb the power of Congress under Art. I, s 4. Id., at 403.

6 See, e.g., Ex parte Siebold, 100 U.S. 371, 25 L.Ed. 717 (1880); Ex parte Yarbrough, 110 U.S. 651, 4 S.Ct. 152, 28 L.Ed. 274 (1884); United States v. Mosley, 238 U.S. 383, 35 S.Ct. 904, 59 L.Ed. 1355 (1915); United States v. Classic, 313 U.S. 299, 61 S.Ct. 1031, 85 L.Ed. 1368 (1941).

7 With reference to the selection of the President and Vice President, Art. II, s 1, provides: 'Each State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors, equal to the whole Number of Senators and Representatives to which the State may be entitled in the Congress * * *.' But this Court in Burroughs v. United States, 290 U.S. 534, 54 S.Ct. 287, 78 L.Ed. 484 (1934), unheld the power of Congress to regulate certain aspects of elections

for presidential and vice-presidential electors, specifically rejecting a construction of Art. II, s 1, that would have curtailed the power of Congress to regulate such elections. Finally, and most important, inherent in the very concept of a supreme national government with national officers is a residual power in Congress to insure that those officers represent their national constituency as responsively as possible. This power arises from the nature of our constitutional system of government and from the Necessary and Proper Clause.

8 'The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.' U.S.Const., Amdt. X.

9 'The House of Representatives shall be composed of Members chosen every second Year by the People of the several States and the Electors in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature.'

10 My Brother BRENNAN relies upon Carrington v. Rash, 380 U.S. 89, 85 S.Ct. 775, 13 L.Ed.2d 675 (1965); Cipriano v. City of Houma, 395 U.S. 701, 89 S.Ct. 1897, 23 L.Ed.2d 647 (1969); and Evans v. Cornman, 398 U.S. 419, 90 S.Ct. 1752, 26 L.Ed.2d 370 (1970). These typical equal protection cases in which I joined are not relevant or material to our decision in the cases before us. The establishment of voter age qualifications is a matter of legislative judgment which cannot be properly decided under the Equal Protection Clause. The crucial question here is not who is denied equal protection, but, rather, which political body, state or federal, is empowered to fix the minimum age of voters. The Framers intended the States to make the voting age decision in all elections with the provision that Congress could override state judgments concerning the qualifications of voters in federal elections.

11 See: the First Amendment, e.g., Gitlow v. New York, 268 U.S. 652, 45 S.Ct. 625, 69 L.Ed. 1138 (1925); Cantwell v. Connecticut, 310 U.S. 296, 60 S.Ct. 900, 84 L.Ed. 1213 (1940); Edwards v. South Carolina, 372 U.S. 229, 83 S.Ct. 680, 9 L.Ed.2d 697 (1963); the Fourth Amendment, Mapp v. Ohio, 367 U.S. 643, 81 S.Ct. 1684, 6 L.Ed.2d 1081 (1961); the Fifth Amendment, Chicago, B. & Q.R. Co. v. Chicago, 166 U.S. 226, 17 S.Ct. 581, 41 L.Ed. 979 (1897); Malloy v. Hogan, 378 U.S. 1, 84 S.Ct. 1489, 12 L.Ed.2d 653 (1964); Benton v. Maryland, 395 U.S. 784, 89 S.Ct. 2056, 23 L.Ed.2d 707 (1969); the Sixth Amendment, Gideon v. Wainwright, 372 U.S. 335, 83 S.Ct. 792, 9 L.Ed.2d 799 (1963); Pointer v. Texas, 380 U.S. 400, 85 S.Ct. 1065, 13 L.Ed.2d 923 (1965); Klopfer v. North Carolina, 386 U.S. 213, 87 S.Ct. 988, 18 L.Ed.2d 1 (1967); Duncan v. Louisiana, 391 U.S. 145, 88 S.Ct. 1444, 20 L.Ed.2d 491 (1968); and the Eighth Amendment, Robinson v. California, 370 U.S. 660, 82 S.Ct. 1417, 8 L.Ed.2d 758 (1962).

12 Yuma County, Arizona, is presently subject to the literacy-test ban of the Voting Rights Act of 1965 pursuant to a determination of the Attorney General under s 4(a) of the 1965 Act. I do not understand Arizona to contest the application of the 1965 Act or its extension to that county. Arizona 'does not question' Congress' authority to enforce the Fourteenth and Fifteenth Amendments 'when Congress possesses a 'special legislative competence"; and cites South Carolina v. Katzenbach, 383 U.S. 301, 86 S.Ct. 803, 15 L.Ed.2d 769 (1966); and Katzenbach v. Morgan, 384 U.S. 641, 86 S.Ct. 1717, 16 L.Ed.2d 828 (1966), with approval. Answer and Brief for Arizona, No. 46, Orig., O.T. 1970.

13 Hearings on H.R. 4249, H.R. 5538, and Similar Proposals before Subcommittee No. 5 of the House Committee on the Judiciary, 91st Cong., 1st Sess., Ser. 3, p. 14 (1969).

14 Id., at 93.

15 Hearings on S. 818, S. 2456, S. 2507, and Title IV of S. 2029 before the Subcommittee on Constitutional Rights of the Senate Committee on the Judiciary, 91st Cong., 1st and 2d Sess., 406 (1969—1970).

16 Id., at 401.

17 That these views are not novel is demonstrated by Mr. Justice Story in his Commentaries on the Constitution of the United States, vol. 2, pp. 284—285 (1st ed. 1833):

'There is, too, in the nature of such a provision (Art. I, s 4), something incongruous, if not absurd. What would be said of a clause introduced into the national constitution to regulate the state elections of the members of the state legislatures? It would be deemed a most unwarrantable transfer of power, indicating a premeditated design to destroy the state governments. It would be deemed so flagrant a violation of principle, as to require no comment. It would be said, and justly, that the state governments ought to possess the power of self-existence and self-organization, independent of the pleasure of the national government. Why does not the same reasoning apply to the national government? What reason is there to suppose, that the state governments will be more true to the Union, than the national government will be to the state governments?' (Emphasis added.) (Footnote omitted.)

1 Strauder was tried for murder. He had sought removal to federal courts on the ground that 'by virtue of the laws of the State of West Virginia no colored man was eligible to be a member of the grand jury or to serve on a petit jury in the State.' Id., at 304, 25 L.Ed. 664. He was convicted of murder and the West Virginia Supreme Court affirmed. This Court held the West Virginia statute limiting jury duty to whites only unconstitutional:

'We do not say that within the limits from which it is not excluded by the amendment a State may not prescribe the qualifications of its jurors, and in so doing make discriminations. * * * (The aim of the Fourteenth Amendment) was against discrimination because of race or color.' 100 U.S., at 310, 25 L.Ed. 664.

2 Gray v. Sanders, 372 U.S. 368, 83 S.Ct. 801, 9 L.Ed.2d 821; Davis v. Mann, 377 U.S. 678, 84 S.Ct. 1441, 12 L.Ed.2d 609; Swann v. Adams, 385 U.S. 440, 87 S.Ct. 569, 17 L.Ed.2d 501; Kilgarlin v. Hill, 386 U.S. 120, 87 S.Ct. 820, 17 L.Ed.2d 771; Avery v. Midland County, 390 U.S. 474, 88 S.Ct. 1114, 20 L.Ed.2d 45; Moore v. Ogilvie, 394 U.S. 814, 89 S.Ct. 1493, 23 L.Ed.2d 1; Hadley v. Junior College District, 397 U.S. 50, 90 S.Ct. 791, 25 L.Ed.2d 45.

3 Reynolds v. Sims, 377 U.S. 533, 84 S.Ct. 1362, 12 L.Ed.2d 506; WMCA, Inc. v. Lomenzo, 377 U.S. 633, 84 S.Ct. 1418, 12 L.Ed.2d 568; Roman v. Sincock, 377 U.S. 695, 84 S.Ct. 1449, 12 L.Ed.2d 620.

4 Williams v. Rhodes, 393 U.S. 23, 89 S.Ct. 5, 21 L.Ed.2d 24. We also held in federal elections that the command of Art. I, s 2, of the Constitution that representatives be chosen 'by the People of the several States' means that 'as nearly as is practicable one man's vote in a congressional election is to be worth as much as another's,' Wesberry v. Sanders, 376 U.S. 1, 7—8, 84 S.Ct. 526, 529—530, 11 L.Ed.2d 481, and that that meant 'vote-diluting discrimination' could not be accomplished 'through the device of districts containing widely varied numbers of inhabitants.' Id., at 8, 84 S.Ct., at 530; Lucas v. Forty-Fourth General Assembly of Colorado, 377 U.S. 713, 84 S.Ct. 1459, 12 L.Ed.2d 632; Kirkpatrick v. Preisler, 394 U.S. 526, 89 S.Ct. 1225, 22 L.Ed.2d 519; Wells v. Rockefeller, 394 U.S. 542, 89 S.Ct. 1234, 22 L.Ed.2d 535.

5 Ex parte Siebold, 100 U.S. 371, 25 L.Ed. 717; Ex parte Yarbrough, 110 U.S. 651, 4 S.Ct. 152, 28 L.Ed. 274; Guinn v. United States, 238 U.S. 347, 35 S.Ct. 926, 59 L.Ed. 1340; United States v. Mosley, 238 U.S. 383, 35 S.Ct. 904, 59 L.Ed. 1355; Lane v. Wilson, 307 U.S. 268, 59 S.Ct. 872, 83 L.Ed. 1281; United States v. Classic, 313 U.S. 299, 61 S.Ct. 1031, 85 L.Ed. 1368; United States v. Saylor, 322 U.S. 385, 64 S.Ct. 1101, 88 L.Ed. 1341.

6 We noted that general obligation bonds may be satisfied not from real property taxes but from revenues from other local taxes paid by nonowners of property as well as those who own realty. Moreover, we noted that property taxes paid initially by property owners are often passed on to tenants or customers. 399 U.S., at 209—211, 90 S.Ct., at 1994—1995.

7 Engdahl, Constitutionality of the Voting Age Statute, 39 Geo.Wash.L.Rev. 1, 36 (1970).

8 Article I, s 4, provides: '(1) The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Places of chusing Senators.

'(2) The Congress shall assemble at least once in every Year, and such Meeting shall be on the first Monday in December, unless they shall by Law appoint a different Day.'

9 Section 201(b) defines 'test or device' as 'any requirement that a person as a prerequisite for voting or registration for voting (1) demonstrate the ability to read, write, understand, or interpret any matter, (2) demonstrate any educational achievement or his knowledge of any particular subject, (3) possess good moral character, or (4) prove his qualifications by the voucher of registered voters or members of any other class.' 84 Stat. 315.

10 The constitutionality of that procedure has been sustained in South Carolina v. Katzenbach, 383 U.S. 301, 86 S.Ct. 803, 15 L.Ed.2d 769.

11 This Court upheld durational residency requirements as applied in presidential and vice-presidential elections absent an Act of Congress. See Drueding v. Devlin, 234 F.Supp. 721 (Md.1964), aff'd, 380 U.S. 125, 85 S.Ct. 807, 13 L.Ed.2d 792. Subsequently we vacated as moot a case presenting the same question. Hall v. Beals, 396 U.S. 45, 90 S.Ct. 200, 24 L.Ed.2d 214. The district courts have been faced with the issue of durational residency requirements as they would be applied to congressional elections. Two have concluded the requirement is constitutional. Howe v. Brown, 319 F.Supp. 862 (N.D.Ohio 1970); Cocanower v. Marston, 318 F.Supp. 402 (Ariz.1970). Additionally, one other court has refused a preliminary injunction in a case presenting the issue. Piliavine v. Hoel, 320 F.Supp. 66 (W.D.Wis.1970). Some district courts, however, believe that Drueding cannot stand (absent an Act of Congress) after Carrington v. Rash, 380 U.S. 89, 85 S.Ct. 775, 13 L.Ed.2d 675; Kramer v. Union Free School District, 395 U.S. 621, 89 S.Ct. 1886, 23 L.Ed.2d 583; Cipriano v. City of Houma, 395 U.S. 701, 89 S.Ct. 1897, 23 L.Ed.2d 647, and Phoenix v. Kolodziejski, 399 U.S. 204, 90 S.Ct. 1990, 26 L.Ed.2d 523. Accordingly they have held durational residency requirements for congressional elections (and by implication presidential elections) violate the Equal Protection Clause. See Burg v. Canniffe, 315 F.Supp. 380 (Mass.1970); Blumstein v. Ellington (M.D.Tenn.1970); Hadnott v. Amos, 320 F.Supp. 107 (M.D.Ala.1970); Bufford v. Holton, 319 F.Supp. 843 (E.D.Va.1970).

In none of these cases was an Act of Congress involved.

12 Article IV, s 2, of the Constitution provides:

'The Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States.'

The Fourteenth Amendment provides in s 1 that: 'No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States.'

13 The cases relied on by my Brother HARLAN, post, at 310, are not to the contrary. Snowden v. Hughes, 321 U.S. 1, 7, 64 S.Ct. 397, 400, 88 L.Ed. 497, states: 'The right to become a candidate for state office, like the right to vote for the election of state officers * * * is a right or privilege of state citizenship.' (Emphasis added.) Arguably Minor v. Happersett, 21 Wall. 162, 22 L.Ed. 627, is to the contrary, but to the extent its dicta indicated otherwise, it was limited in Ex parte Yarbrough. Breedlove v. Suttles, 302 U.S. 277, 58 S.Ct. 205, 82 L.Ed. 252, overruled by Harper v. Virginia State Board of Elections, 383 U.S. 663, 86 S.Ct. 1079, 16 L.Ed.2d 169, involved a poll tax applied in both federal and state elections; it erroneously cited Yarbrough for the proposition voting is not a privilege and immunity of national citizenship. Pope v. Williams, 193 U.S. 621, 24 S.Ct. 573, 48 L.Ed. 817, involved durational residency requirements, but expressly reserved the question of their application to presidential and vice-presidential elections. Our holdings concerning privileges and immunities of national citizenship were analyzed less than five years ago by my Brother Harlan. After referring to Ex parte Yarbrough, and United States v. Classic, he stated that those cases 'are essentially concerned with the vindication of important relationships with the Federal Government—voting in federal elections, involvement in federal law enforcement, communicating with the Federal Government.' United States v. Guest, 383 U.S. 745, 772, 86 S.Ct. 1170, 1185, 16 L.Ed.2d 239 (separate opinion) (emphasis added).

Contrary to the suggestion of my Brother HARLAN, post, at 309, we need not rely on the power of Congress to declare the meaning of s 1 of the Fourteenth Amendment. This Court had determined that voting for national officers is a privilege and immunity of national citizenship. No congressional declaration was necessary. Congressional power under s 5 of the Fourteenth Amendment is, as stated, buttressed by congressional power under the Necessary and Proper Clause. Thus even if the durational residency requirements do not violate the Privileges and Immunities Clause, Congress can determine that it is necessary and proper to abolish them in national elections to effectuate and further the purpose of s 1 as it has been declared by this Court.

1 The Attorney General of the United States, a citizen of New York, is named as defendant. The jurisdictional basis alleged is Art. III, s 2, which gives this Court original jurisdiction over controversies between a State and a citizen of another State. We held a similar suit justiciable and otherwise within our original jurisdiction in South Carolina v. Katzenbach, 383 U.S. 301, 307, 86 S.Ct. 803, 807, 15 L.Ed.2d 769 (1966). The parties have not asked us to re-examine the validity of that ruling, and since the Court has not undertaken to do so, I am content to sustain jurisdiction on the authority of that decision.

2 In response to inquiries from the Attorney General, Arizona, Oregon, and Texas indicated willingness to abide by s 202 of the Act, governing residency, registration, and absentee voting in presidential elections and to conform conflicting state laws.

3 The account in the text is largely drawn from J. James, The Framing of the Fourteenth Amendment (1956) (hereafter James), and to some extent from W. Gillette, The Right To Vote: Politics and the Passage of the Fifteenth Amendment (1969) (hereafter Gillette), and B. Kendrick, The Journal of the Joint Committee of Fifteen on Reconstruction (1914) (hereafter Kendrick), as well.

4 'Representatives and direct Taxes shall be apportioned among the several States which may be included within this Union, according to their respective Numbers, which shall be determined by adding to the whole Number of free Persons, including those bound to Service for a Term of Years, and excluding Indians not taxed, three fifths of all other Persons.'

5 See infra, at 307—309, for the text of these provisions, and for discussion of the contention that they empower Congress to set qualifications of voters in federal elections.

6 'The United States shall guarantee to every State in this Union a Republican Form of Government.'

7 E.g., Proclamation of May 29, 1865, 13 Stat. 760 (North Carolina).

8 The texts of the state constitutions are most readily available in F. Thorpe, The Federal and State Constitutions (1909). The qualifications imposed by the various States three years later, when the Fifteenth Amendment was proposed, are presented in tabular form in Hearings on the Voting Rights Bill, S. 1564, before the Senate Committee on the Judiciary, 89th Cong., 1st Sess., 128—129 (1965).

9 James 33.

10 See Globe 209 (Freedmen's Bureau Bill); Globe 211 (Civil Rights Bill).

11 While formally further consideration was postponed until a date in April, six weeks off, Globe 1095, it was generally understood that 'April means indefinitely.' 2 Nation 289 (Mar. 1, 1866), quoted in James 87.

12 The only change made in s 1 was the addition of the Citizenship Clause by the Senate. Globe 3041. The primary change made in s 2 was to condition reduction of representation on denial or abridgment of the right to vote in certain named elections, rather than to speak generally of denial or abridgment of 'the elective franchise.' Ibid. That section now reads:

'Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the Executive and Judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.'

13 Section 1 of that Act provided in part that
'all persons * * * shall have the same right, in every State and Territory in the United States, to make and enforce contracts, to sue, be parties, and give evidence, to inherit, purchase, lease, sell, hold, and convey real and personal property, and to full and equal benefit of all laws and procedings for the security of person and property, as is enjoyed by white citizens, and shall be subject to like punishment, pains, and penalties, and to none other, any law, statute, ordinance, regulation, or custom, to the contrary notwithstanding.' Act of Apr. 9, 1866, s 1, 14 Stat. 27.

14 In this connection, Professor Fairman's admonition of 20 years ago is even more forceful than it was when he wrote:
'We know so much more about the constitutional law of the Fourteenth Amendment than the men who adopted it that we should remind ourselves not to be surprised to find them vague where we want them to prove sharp. Eighty years of adjudication has taught us distinctions and subtleties where the men of 1866 did not even perceive the need for analysis.' Fairman, Does the Fourteenth Amendment Incorporate the Bill of Rights?, 2 Stan.L.Rev. 5, 9 (1949).

15 See, e.g., Globe 599 (Sen. Trumbull); Globe 1117 (Cong. Wilson of Iowa, quoting Kent's Commentaries and Bouvier's Law Dictionary); Globe 1152 (Cong. Thayer). There were some, however, who considered the distinction either nonexistent or too uncertain to be a basis for legislation. E.g., Globe 477 (Sen. Saulsbury); Globe 1157 (Cong. Thornton); Globe 1292—1293 (Cong. Bingham).
It hardly seems necessary to point out that the jurisprudential concept of 'political' as opposed to 'civil' or 'natural' rights bears no relation to that class of nonjusticiable issues perhaps inappropriately known as 'political questions.' See the opinion of Mr. Justice DOUGLAS, ante, at 271—273.

16 See generally Fairman, Does the Fourteenth Amendment Incorporate the Bill of Rights?, 2 Stan.L.Rev. 5 (1949), especially at 8—9.

17 The remarks of these three Democrats, Niblack, Boyer, and Rogers, are discussed infra, at 293—295. Also discussed there are the remarks of a fourth Democratic Representative, Phelps, which were delivered before the start of debate on the proposed Fourteenth Amendment.

18 While this provision might seem useless in light of the Fifteenth Amendment, it was doubtless intended to prohibit the imposition of property or literacy qualifications which, even though fairly applied, would have the effect of disfranchising most of the Negroes. The Radicals had sought to prohibit such qualifications in the Fifteenth Amendment, but were unsuccessful. See Gillette 53, 56—62, 69—72, 76.

19 While the history indicates that the supporters of the Fourteenth Amendment would have been surprised at the suggestion that the Amendment brought qualifications for state office under federal supervision, office holding was not the focus of attention during the consideration of the Amendment. Moreover, state power to set voter qualifications, unlike state power to set qualifications for office, is explicitly recognized not only in the original Constitution but in s 2 of the Fourteenth Amendment itself. Whether these distinctions are sufficient to justify testing state qualifications for office by the Fourteenth Amendment is a matter not presented by these cases.
Where the state action has a racial basis, see Anderson v. Martin, 375 U.S. 399, 84 S.Ct. 454, 11 L.Ed.2d 430 (1964), I am not prepared to assume that the Fifteenth Amendment provides no protection. Despite the statement in the opinion of Mr. Justice BRENNAN, Mr. Justice WHITE, and Mr. Justice MARSHALL, post, at 329, I would find it surprising if a State could undercut the right to vote by taking steps to ensure that all candidates are unpalatable to voters of a certain race. Although an explicit provision on officeholding was deleted from the proposed Fifteenth Amendment at the eleventh hour, the idea that the right to vote without more implies the right to be voted for was specifically referred to by supporters of the Fifteenth Amendment in both Houses of Congress. See Cong. Globe, 40th Cong., 3d Sess., 1425—1426 (1869) (Cong. Boutwell); id., at 1426 (Cong. Butler): id., at 1629 (Sen. Sawyer).

20 Hearings, supra, n. 8, at 128—129.

21 See, e.g., Globe 141—142 (Cong. Blaine); Globe 2766—2767 (Sen. Howard); Globe 2769—2770 (Sens. Wade and Wilson); Globe 3033 (Sen. Henderson).

22 The Journal is reprinted in Kendrick, supra, n. 3, at 37—129.

23 The attempts were not altogether successful. See James 108—109.

24 See generally Kendrick 18—22. For reasons to be developed below, infra, at 301, the report of the Joint Committee, H.R.Rep.No. 30, 39th Cong., 1st Sess. (1866), is less useful as an indication of the understanding of the Committee and the Congress than as an indication of the understanding of the ratifying States.

25 Owen's account of the Fourteenth Amendment is given in Political Results from the Varioloid, 35 Atlantic Monthly 660 (June 1875).

26 See James 109—112; Gillette 24; Owen, supra, n. 25, at 666.

27 See the votes on Stevens' motion to select the alternative which reduced representation rather than that which prohibited racial restrictions on the ballot, Kendrick 52; Boutwell's motion to condition readmission of Tennessee on that State's agreement not to discriminate in its voter qualifications, Kendrick 70; Stevens' motion to strike out the provision of the Owen plan enfranchising Negroes after 1876, Kendrick 101; and the motion to condition readmission of Tennessee and Arkansas on their having provided impartial male suffrage, as well as on conforming their laws and constitutions to the requirements of the proposed amendment (which included Bingham's provision when this motion was made), Kendrick 109.

Bingham was not, however, wholly opposed to Negro suffrage. As chairman of the subcommittee, he reported the equal-rights provision which would have empowered Congress to provide for equal political rights and privileges, Kendrick 56, although he was the one who subsequently had that replaced with the first equal-rights provision reported to Congress. Kendrick 61. As already noted, the substitute contained substantially identical language, but omitted reference to political rights and privileges. Bingham also voted for Owen's plan, which would have enfranchised Negroes in 1876, when it was first presented. Kendrick 85. In February 1867 he moved to condition readmission of the Southern States on impartial male suffrage as well as on the States' ratifying the Fourteenth Amendment and conforming their laws thereto. Kendrick 123.

28 While any guess as to the motives of Bingham and the other members of the committee is sheer speculation, it is not necessarily true that they believed they were replacing specific language with general. The author of the original plan, for one, seems to have taken the opposite view. He gave the following characterization of s 1 some years later:

'A declaration who is a citizen: unnecessary, if we had given suffrage to the negro; since there could be no possible doubt that an elector, nativeborn, is a citizen of the United States. Also a specification of the particular civil rights to be assured: out of place, I think, in a constitutional amendment, though necessary and proper in a civil rights bill.' Owen, supra, n. 25, at 666 (emphasis added).

29 The proceedings of the Joint Committee are examined in greater detail in the opinion of Mr. Justice BRENNAN, Mr. Justice WHITE, and Mr. Justice MARSHALL. Post, at 331—334. I agree with their apparent conclusion that the Journal sheds little light on the contemporary construction of the Fourteenth Amendment. One is left to do what he can with the two facts noted at the outset of this section: that of the plans considered by the Joint Committee, all provided either for reduction of representation or for enfranchisement while none provided for both at the same time; and that the Committee consistently rejected provisions to enfranchise the freedmen, with the conceivable exception of a plan which was defeated in the House largely because of the scope of the powers it transferred from the States to the Federal Government.

30 Unless, of course, one adopts a 'conspiracy theory' of the history of the Fourteenth Amendment. Thus far no one has (quite) done so in this context.

31 'I regret more than I shall be able to tell this House that we have not found the situation (sic) of affairs in this country such, and the public virtue such that we might come out on the plain, unanswerable proposition that every adult intelligent citizen of the United States, unconvicted of crime, shall enjoy the right of suffrage.' Globe 2462.

32 'I shall, Mr. Speaker, vote for this amendment; not because I approve it. Could I have controlled the report of the committee of fifteen, it would have proposed to give the right of suffrage to every loyal man in the country.' Globe 2469.

'So far as I am individually concerned, I object to the amendment as a whole, because it does not go far enough and propose to at once enfranchise every loyal man in the country.' Ibid.

33 'The proposition in the matter of suffrage falls short of what I desire, but so far as it goes it tends to the equalization of the inequality at present existing; and while I demand and shall continue to demand the franchise for all loyal male citizens of this country—-and I cannot but admit the possibility that ultimately those eleven States may be restored to representative power without the right of franchise being conferred upon the colored people—I should feel myself doubly humiliated and disgraced, and criminal even, if I hesitated to do what I can for a proposition which equalizes representation.' Globe 2508.

34 'The second section, Mr. Speaker, is, in my judgment, as nearly correct as it can be without being fully, in full measure, right. But one thing is right, and that is secured by the amendment. Manifestly no State should have its basis of national representation enlarged by reason of a portion of citizens within its borders to which the elective franchise is denied. If political power shall be lost because of such denial, not imposed because of participation in rebellion or other crime, it is to be hoped that political interests may work in the line of justice, and that the end will be the impartial enfranchisement

of all citizens not disqualified by crime. Whether that end shall be attained or not, this will be secured: that the measure of political power of any State shall be determined by that portion of its citizens which can speak and act at the polls, and shall not be enlarged because of the residence within the State of portions of its citizens denied the right of franchise. So much for the second section of the amendment. It is not all that I wish and would demand; but odious inequalities are removed by it and representation will be equalized, and the political rights of all citizens will under its operation be, as we believe, ultimately recognized and admitted.' Globe 2511.

35 'I did hope to see the rights of the freedmen completely established. * * * I did hope * * * that we should have the manhood and magnanimity to declare that men who have wielded the sword in defense of their country are fit to be intrusted with the ballot. But I am convinced that my expectations, hitherto fondly cherished, are doomed to some disappointment.' Globe 2537.

36 'This is a step in the right direction; and although I should prefer to see incorporated into the Constitution a guarantee of universal suffrage, as we cannot get the required two thirds for that, I cordially support this proposition as the next best.' Globe 2540.

37 '(If the freed slaves had been added) to the thinking, voting men of the southern States, it would be just and proper that that addition should be represented in this body. But we all know that such is not the case. In those States themselves the late slaves do not enter into the basis of local representation. * * *

'Would it not be a most unprecedented thing that when this population are not permitted where they reside to enter into the basis of representation in their own State, we should receive it as an element of representation here * * *.' Globe 2464.

38 'The second proposition is, in short, to limit the representation of the several States as those States themselves shall limit suffrage. * * *

'* * * And why not? If the negroes of the South are not to be counted as a political element in the government of the South in the States, why should they be counted as a political element in the government of the country in the Union? If they are not to be counted as against the southern people themselves, why should they be counted as against us?' Globe 2498.

39 H.R. 51 'deprived (the southern States) of all inducement for (the) gradual admission (of the freedmen) to the right of suffrage, inasmuch as it exacted universal suffrage as the only condition upon which they should be counted in the basis of representation at all. * * * I voted against a proposition which seemed to me so unjust and so injurious, not only to the whites of the southern States, but to the colored race itself. Well, sir, that amendment was rejected in the Senate, and the proposition, as embodied in the committee's report, comes before us in a very different form. It is now proposed to base representation upon suffrage, upon the number of voters, instead of upon the aggregate population in every State of the Union. And as I believe that to be essentially just, and likely to remedy the unequal representation of which complaint is so justly made, I shall give it my vote.' Globe 2502.

Later, in discussion of s 3, which at that time would have disfranchised certain rebels in federal elections, Raymond remarked that the effect would be to allow 'one fifth, one eighth, or one tenth, as the case may be, of the people of these southern States to elect members from those States, to hold seats upon this floor.' Ibid. It is obvious that the possibility of Negroes' voting in these elections did not cross his mind.

40 'But this House is not prepared to enfranchise all men; the nation, perhaps, is not prepared for it to-day; the colored race are not prepared for it, probably, and I am sure the rebels are unfit for it; and as Congress has not the moral courage to vote for it, then put in this provision which cuts off the traitor from all political power in the nation, and then we have secured to the loyal men that control which they so richly deserve.' Globe 2505.

41 'This amendment will settle the complication in regard to suffrage and representation, leaving each State to regulate that for itself, so that it will be for it to decide whether or not it shall have a representation for all its male citizens not less than twenty-one years of age.' Globe 2510.

42 'I have no doubt that the Government of the United States has full power to extend the elective franchise to the colored population of the insurgent States. I mean authority; I said power. I have no doubt that the Government of the United States has authority to do this under the Constitution; but I do not think they have the power. The distinction I make between authority and power is this: we have, in the nature of our Government, the right to do it; but the public opinion of the country is such at this precise moment as to make it impossible we should do it. It was therefore most wise on the part of the committee on reconstruction to waive this matter in deference to public opinion.' Globe 2532.

43 'If South Carolina persists in withholding the ballot from the colored man, then let her take the alternative we offer, of confining her to the white basis of representation * * *.' Globe 2535.

44 Spalding's speeches are given at Globe 2509—2510. His only remarks addressed to ss 1 and 2 read:

'As to the first measure proposed, a person may read it five hundred years hence without gathering from it any idea that this rebellion ever existed. The same may be said of the second proposition, for it only proposes that, the bondsmen

being made free, the apportionment of Representatives in Congress shall be based upon the whole number of persons who exercise the elective franchise, instead of the population.' Globe 2509.

A month later, in the debate over the Amendment when it had returned from the Senate, Spalding expressed his views more clearly:

'I say, as an individual, that I would more cheerfully give my vote if that provision allowed all men of proper age whom we have made free to join in the exercise of the right of suffrage in this country. But if I cannot obtain all that I wish, I will go heartily to secure all we can obtain.' Globe 3146.

45 Longyear's speech is published at Globe 2536—2537. He did not in terms address himself to any section except the third. However, it is not difficult to read his statement that the proposals of the Joint Committee disappointed 'the expectations of the people' and his personal hopes as having reference to the absence of any provision on suffrage.

46 Shellabarger spoke only briefly, and this in connection with the disfranchising section. In the course of his remarks he expressed the view that congressional power to regulate voter qualifications in federal elections was granted by Art. I, s 4. Globe 2512.

47 'Why is it that the gentleman from Pennsylvania (Mr. Stevens) gives up universal suffrage? Why is it that he and other gentlemen give up universal confiscation? Why is it that other gentlemen give up universal butchery of that people? It is a compromise of what they call principle for the purpose of saving their party in the next fall election.' Globe 2506.

48 'Gentlemen here admit that they desire (federal control over suffrage), but that the weak kneed of their party are not equal to the issue. Your purpose is the same, and but for that timidity you would now ingraft negro suffrage upon our Constitution and force it on the entire people of this Union.' Globe 2530.

49 'While this (second) section admits the right of the States thus to exclude negroes from voting, it says to them, if you do so exclude them they shall also be excluded from all representation; and you shall suffer the penalty by loss of representation.' Globe 3145.

50 Boyer's speech was made in opposition to a proposal to enfranchise Negroes in the District of Columbia. He then thought Negro suffrage a 'monstrous proposition,' Globe 176, which was incompatible with 'the broad general principle that this is, and of right ought to be, a white man's Government.' Globe 175. One of Rogers' harangues on the subject came in connection with the same bill. There he spoke of 'the monstrous doctrine of political equality of the negro race with the white at the ballot-box,' Globe 198, and launched into an attack remarkable for its vitriol.

51 Boyer viewed s 3, which at that time would have prohibited voluntary participants in the rebellion from voting in federal elections, as 'the most objectionable of all the parts,' Globe 2467, as it would disfranchise nine-tenths of the voting population of the South for more than four years. The second section he found objectionable as designed 'to reduce the number of southern representatives in Congress and in the Electoral College; and also to operate as a standing inducement to negro suffrage.' Globe 2467. These remarks indicate no awareness that the first section would increase the number of voters in the Southern States and also render any 'inducement' to Negro suffrage unnecessary.

Rogers later in his speech asserted:

'The committee dare not submit the broad proposition to the people of the United States of negro suffrage. They dare not to-day pass the negro suffrage bill which passed this House in the Senate of the United States because, as I have heard one honorable and leading man on the Republican side of the House say, it would sink into oblivion the party that would advocate before the American people the equal right of the negro with the white man to suffrage.' Globe 2538.

When H.R. 127 was returned by the Senate with amendments, Rogers addressed the House and stated that when the records of the Joint Committee were made public, it would be revealed that the Committee at first agreed to recommend universal Negro suffrage, but reconsidered because of the force of public opinion. Globe App. 230. Rogers was himself a member of the Joint Committee, and he presumably was referring to the acceptance and then rejection of Owen's plan for enfranchisement in 1876.

52 The Amendment, however, had been released to the press on April 28. James 115.

53 It is not amiss to point out that whatever force Phelps' and Rogers' interpretations may have in the face of the contrary authority, even they foresaw no danger from the Equal Protection Clause as a source of federal power over the suffrage.

54 Like my colleagues, post, at 335, I find it difficult to understand what Bingham meant when he said that 'the exercise of the elective franchise, though it be one of the privileges of a citizen of the Republic, is exclusively under the control of the States.' Globe 2542. However, I do not find this mysterious sentence to mean that the exercise of the elective franchise is exclusively under the control of the States and Congress, nor do I find it to dilute the force of his explicit statements quoted above that s 1 did not reach the right to vote. The general statements by Bingham and Stevens to the effect that the Amendment was designed to achieve equality before the law, or would be effectuated by legislation in part, likewise do not weaken the force of the statements specifically addressed to the suffrage question quoted above.

55 Fessenden, however, was present in the Senate and participated in the discussion. See Globe 2763, 2769, 2770. He was therefore in a position to correct any gross misinterpretation of his views or of those of the Committee.

56 My colleagues, post, at 334, point to Howard's reference to Corfield v. Coryell, 6 Fed.Cas. 546 (No. 3230) (CCED Pa. 1825), in order to 'gather some intimation of what probably will be the opinion of the judiciary' on the scope of the Privileges and Immunities Clause of s 1. Globe 2765. As the text indicates, Howard rejected Justice Washington's lengthy dictum insofar as it said that the protected privileges and immunities included 'the elective franchise, as refulated and established by the laws or constitution of the State in which it is to be exercised.' No other Senator quoted or referred to this portion of Washington's opinion during the debates over the proposed Fourteenth Amendment. Corfield, which held that New Jersey could constitutionally restrict access to her oyster beds to her own residents, was the leading authority on privileges and immunities in the mind of the 39th Congress, but it was not the only one. Campbell v. Morris, 3 H. & McH. 535 (Md.1797) (Samuel Chase, J.), and Abbot v. Bayley, 6 Pick. 89 (Mass.1827) (Parker, C.J.), were also cited. See Fairman, Does the Fourteenth Amendment Incorporate the Bill of Rights?, 2 Stan.L.Rev. 5, 12—15 (1949). Both specifically stated that the privileges and immunities protected by Art. IV, s 2, did not include the right of suffrage or the right to hold office.

57 Howard was a very clear-spoken man. When it was suggested, during the debates over the Fifteenth Amendment, that the freedmen were entitled to the ballot by virtue of the Privileges and Immunities Clause of the Fourteenth Amendment, he recalled his role in the framing of that Amendment and said: 'I feel constrained to say here now that this is the first time it ever occurred to me that the right to vote was to be derived from the fourteenth article. I think such a construction cannot be maintained.' Cong. Globe, 40th Cong., 3d Sess., 1003 (1869). He then referred to the debates, s 2 of the Fourteenth Amendment, and the fact that '(n)obody ever supposed that the right of voting or of holding office was guarantied by that second section of the fourth article of the old Constitution' to bolster his construction of s 1 of the Fourteenth Amendment. Ibid.

58 'I think our friends, the colored people of the South, should not be excluded from the right of voting, and they shall not be if my vote and the votes of a sufficient number who agree with me in Congress shall be able to carry it. I do not agree in this particular with the Senator from Michigan (Mr. Howard). He yields to the provision in the committee's resolution on the subject reluctantly, because he does not believe three fourths of the States can be got to ratify that proposition which is right and just in itself. My own opinion is that if you go down to the very foundation of justice, so far from weakening yourself with the people, you will strengthen yourself immensely by it; but I know that it is not the opinion of many here, and I suppose we must accommodate ourselves to the will of majorities, and if we cannot do all we would, do all we can. I propose for myself to contend for all I can get in the right direction, and finally to go with those who will give us anything that is beneficial.' Globe 2769.

59 'I should be much better satisfied if the right of suffrage had been given at once to the more intelligent of ('the colored people of the South') and such as had served in our Army. * * * Believing that this amendment probably goes as far in favor of suffrage to the negro as is practicable to accomplish now, and hoping it may in the end accomplish all I desire in this respect, I shall vote for its adoption, although I should be glad to go further.' Globe 2963—2964.

60 'It declares that all men are entitled to life, liberty, and property, and imposes upon the Government the duty of discharging these solemn obligations, but fails to adopt the easy and direct means for the attainment of the results proposed. It refuses the aid of four million people in maintaining the Government of the people. * * * (But) it furnishes a conclusive argument in favor of universal amnesty and impartial suffrage. * * * The utter impossibility of a final solution of the difficulties by the means proposed will cause the North to clamor for suffrage.' Globe 2964.

61 'I am sorry to have to put that clause (s 2) into our Constitution, as I am sorry for the necessity which calls upon us to put the preceding clause into the Constitution. I wish there was no community and no State in the United States that was not prepared to say with my friend from Nevada (Mr. Stewart) that all men may be represented in the Congress of the United States and shall be represented and shall choose their own representatives. That is the better doctrine; that is the true doctrine. I would much prefer, myself, to unite with the people of the United States in saying that hereafter no man shall be excluded from the right to vote, than to unite with them in saying that hereafter some men may be excluded from the right of representation.' Globe App. 219.

62 Henderson, who had offered a direct enfranchising provision as an alternative to the Committee's first effort in the field of representation, see Globe App. 115, stated that he now recognized that 'the country is not yet prepared' to share political power with Negroes, and he supported the Committee plan. Globe 3035.

63 '(A)lthough we do not obtain suffrage now, it is not far off, because the grasping desire of the South for office, that old desire to rule and reign over this Government and control its destinies, will at a very early day hasten the enfranchisement of the loyal blacks.' Globe 3038.

64 'There is no reason why the white citizens of South Carolina should vote the political power of a class of people whom they say are entirely unfit to vote for themselves. If there is any portion of the people of this country who are unfit to vote for themselves, their neighbors ought not to vote for them.' Globe 2986.
There was no indication that Sherman considered South Carolina's disqualification on racial grounds any more improper than Massachusetts' limitations of the franchise to men, which he mentioned in the next breath.

65 'If you think the negro ought to have the right of voting; if you are in favor of it, and intend it shall be given, why do you not in plain words confer it upon them? It is much fairer than to seek it by indirection, and the people will distinctly understand you when you propose such a change of the Constitution.' Globe 2939.

66 'What is to be the operation of this amendment? Just this: your whip is held over Pennsylvania, and you say to her that she must either allow her negroes to vote or have one member of Congress less.' Globe 2987.

67 '(The second section's) true meaning was intended to be difficult to be reached, but when understood it is a measure which shrinks from the responsibility of openly forcing negro suffrage upon the late slave States, but attempts by a great penalty to coerce them to accept it.' Globe App. 240.

68 'It says that each of the southern States, and, of course, each other State in the Union, has a right to regulate for itself the franchise, and that consequently, as far as the Government of the United States is concerned, if the black man is not permitted the right to the franchise, it will be a wrong (if a wrong) which the Government of the United States will be impotent to redress.' Globe 3027. Johnson was the only Democratic Senator on the Joint Committee.

69 'With (the rebel States') enlarged basis of representation, and exclusion of the loyal men of color from the ballot-box, I see no hope of safety unless in the prescription of proper enabling acts, which shall do justice to the freedmen and enjoin enfranchisement as a condition-precedent.' Globe 3148.

70 Kelley: see Globe 2469, quoted at n. 32, supra.
Farnsworth: see Globe 2540, quoted at n. 36, supra.
Eliot: see Globe 2511, quoted at n. 34, supra.
Higby: see Globe 3978 (debate over readmission of Tennessee despite all-white electorate).
Bingham: see Globe 2542, quoted supra, at 295; see also Globe 3979 (debate over readmission of Tennessee).
Stevens: see Globe 2459—2460, quoted supra, at 290—291; Globe 3148, quoted at n. 69, supra.
Raymond: see Globe 2502, quoted at n. 39, supra.
Ashley: see Globe 2882.
Sumner: see n. 71, infra.
Fessenden: see H.R.Rep.No.30, 39th Cong., 1st Sess., XIII—XIV (1866), quoted infra, at 301—302.
Yates: see Globe 3038, quoted at n. 63, supra.
Stewart: see Globe 2964, quoted at n. 60, supra.
Wade: see Globe 2769, quoted at n. 58, supra.
The exception is Senator Wilson of Massachusetts, who did not address himself to this issue. However, he participated in the debates, see Globe 2770, 2986—2987, and was therefore in a position to express disagreement with the interpretation uniformly offered in the Senate.
Secondary reliance is placed on Shellabarger, Cook, Boutwell, Julian, and Lawrence of Ohio. These Representatives, with the exception of Boutwell, see n. 33, supra, did not participate significantly in the debates over the Fourteenth Amendment. The substance of their earlier remarks is that Congress had some power, usually by way of the Guarantee Clause, see n. 6, supra, to oversee state voter qualifications. Shellabarger also relied on Art. I, s 4, see n. 46, supra; infra, at 308; Julian relied on the Thirteenth Amendment; and Boutwell looked to the Declaration of Independence. The relevance of these views to the scope of s 1 of the Fourteenth Amendment is not apparent.

71 Stevens: see Globe 2459—2460, quoted supra, at 290—291, supra; Globe 3148, quoted at n. 69, supra; James 163 (campaign speech in fall of 1866).
Boutwell: see Globe 2508, quoted at n. 33, supra; Globe 3976 (debate over readmission of Tennessee).
Sumner did not actually participate in the debates on H.R. 127. However, after the caucus of Republican Senators had agreed on the form of the Amendment, Sumner gave notice that he intended to move to amend the bill accompanying the proposed Amendment. This bill, S. 292, provided that any Confederate State might be readmitted to representation in Congress once the proposed Amendment had become part of the Constitution and the particular State should have ratified it and modified its constitution and laws in conformity therewith. The bill is reprinted in H.R.Rep.No.30, 39th Cong., 1st Sess., V—VI, and in Kendrick 117—119. Sumner's amendment would have provided that a State might be readmitted when it should have ratified the Fourteenth Amendment and modified its constitution and laws in conformity therewith

'and shall have further provided that there shall be no denial of the elective franchise to citizens of the United States because of race or color, and that all persons shall be equal before the law.' Globe 2869 (emphasis added).

Sumner also referred to Negro suffrage as unfinished business in speeches that fall. James 173, 178.

72 For citations to the state materials, see Fairman, Does the Fourteenth Amendment Incorporate the Bill of Rights?, 2 Stan.L.Rev. 5, 84—132 (1949).

73 Fear that the Amendment would reach voting was expressed in Brevier Legis. Rep. (Indiana) 45—46, 80, 88—89 (1867); Tenn.H.R.J. 38 (Extra Sess.1866); Fla.S.J. 102 (1866); N.C.S.J. 96—97 (1866—1867); S.C.H.R.J. 34 (1866); and Tex.S.J. 422—423 (1866). The last four States rejected the proposed Amendment. Opponents of the Amendment stated or assumed that it would not reach voting qualifications in Ark.H.R.J. 288—289 (1866); Fla.S.J. 8—9 (1866); Report of the Joint Committee on Federal Relations, Md. H.R.Doc. MM, p. 15 (Mar. 18, 1867); Mass.H.R.Doc.No.149, pp. 7—9, 16—17 (1867); and Wis.S.J. 102—103 (1867). Fla.H.R.J. 76—78 (1866); Ind.H.R.J. 102—103 (1867); and N.H.S.J. 71—72 (1866) are equivocal.

74 'Are not all persons born or naturalized in the United States and subject to its jurisdiction, rightfully citizens of the United States and of each State, and justly entitled to all the political and civil rights citizenship confers? and should any State possess the power to divest them of these great rights except for treason or other infamous crime?' Ill.H.R.J. 40 (1867).

75 Ind.H.R.J. 47—48 (1867); Kan.S.J. 45 (1867); Maine S.J. 23 (1867); Mass.H.R.Doc.No.149, pp. 25—26 (1867); Nev.S.J.App. 9 (1867); Vt.S.J. 28 (1866); W.Va.S.J. 19 (1867); Wis.Assembly J. 33 (1867).

76 H.R.Rep.No.30, 39th Cong, 1st Sess., XIII—XIV (1866).

77 I have found references to only two such speeches, one by Senator Hendricks and the other by one George M. Morgan, a candidate for Congress in Ohio. Cincinnati Daily Commercial, Aug. 9, 1866, p. 1, col. 4, quoted in Fairman, supra, n. 14, at 72; Cincinnati Daily Commercial, Aug. 23, 1866, p. 2, col. 3, quoted in Fairman, supra, at 75.

78 See Gillette, supra, n. 3, at 25—27.

79 Reynolds v. Sims, 377 U.S. 533, 589, 84 S.Ct. 1362, 1395—1396, 12 L.Ed.2d 506 (1964) (dissenting opinion).

80 Art. IV, s 4. See n. 6, supra, for the text.

81 The contention that Congress has power to override state judgments as to qualifications for voting in federal elections is discussed infra, at 307—309.

82 Amdt. XV: 'Section 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.

'Section 2. The Congress shall have power to enforce this article by appropriate legislation.'

Amdt. XIX: 'The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of sex.

'Congress shall have power to enforce this article by appropriate legislation.'

Amdt. XXIV: 'Section 1. The right of citizens of the United States to vote in any primary or other election for President or Vice President, for electors for President or Vice President, or for Senator or Representative in Congress, shall not be denied or abridged by the United States or any State by reason of failure to pay any poll tax or other tax.

'Sec. 2. The Congress shall have power to enforce this article by appropriate legislation.'

83 See, e.g., Harper v. Virginia State Board of Elections, 383 U.S. 663, 670, 86 S.Ct. 1079, 1083, 16 L.Ed.2d 169 (1966): 'Our conclusion, like that in Reynolds v. Sims, (377 U.S. 533, 84 S.Ct. 1362, 12 L.Ed.2d 506 (1964),) is founded not on what we think governmental policy should be, but on what the Equal Protection Clause requires.'

84 Most of the cases in which this Court has used the Equal Protection Clause to strike down state voter qualifications have been decided since 1965. Eight such cases have been decided by opinion. Carrington v. Rash, 380 U.S. 89, 85 S.Ct. 775, 13 L.Ed.2d 675 (1965); Louisiana v. United States, 380 U.S. 145, 85 S.Ct. 817, 13 L.Ed.2d 709 (1965); Harper v. Virginia State Board of Elections, 383 U.S. 663, 86 S.Ct. 1079 (1966); Katzenbach v. Morgan, 384 U.S. 641, 86 S.Ct. 1717, 16 L.Ed.2d 828 (1966); Kramer v. Union Free School Dist. No. 15, 395 U.S. 621, 89 S.Ct. 1886, 23 L.Ed.2d 583 (1969); Cipriano v. City of Houma, 395 U.S. 701, 89 S.Ct. 1897, 23 L.Ed.2d 647 (1969); Evans v. Cornman, 398 U.S. 419, 90 S.Ct. 1752, 26 L.Ed.2d 370 (1970); City of Phoenix, Ariz. v. Kolodziejski, 399 U.S. 204, 90 S.Ct. 1990, 26 L.Ed.2d 523 (1970). Other cases have been summarily disposed of. In none of these cases did the Court advert to the argument based on the historical understanding.

Before 1965, although this Court had occasionally entertained on the merits challenges to state voter qualifications under the Equal Protection Clause, only two cases had sustained the challenges. Nixon v. Herndon, 273 U.S. 536, 47 S.Ct. 446, 71 L.Ed. 759 (1927), held that a Texas statute limiting participation in the Democratic Party primary to whites violated the Fourteenth Amendment. Nixon v. Condon, 286 U.S. 73, 52 S.Ct. 484, 76 L.Ed. 984 (1932), held that Texas did not avoid the reach of the Herndon decision by transferring to the party's executive committee the power to set qualifications

for participation in the primary. In neither of the Nixon cases was the history of the Fourteenth Amendment suggested to the Court. Both cases were argued on the assumption that racial prohibitions on voting in state general elections would violate the Fourteenth as well as the Fifteenth Amendment. This potential line of decisions proved abortive when United States v. Classic, 313 U.S. 299, 61 S.Ct. 1031, 85 L.Ed. 1368 (1941), laid the groundwork for holding that participation in party primaries was included within the 'right * * * to vote' protected by the Fifteenth Amendment. See Reynolds v. Sims, 377 U.S. 533, 614 n. 72, 84 S.Ct. 1362, 1409 (1964) (dissenting opinion). The Nixon opinions were not relied on by the Court in the subsequent white-primary cases, Smith v. Allwright, 321 U.S. 649, 64 S.Ct. 757, 88 L.Ed. 987 (1944), and Terry v. Adams, 345 U.S. 461, 73 S.Ct. 809, 97 L.Ed. 1152 (1953), and they were not even referred to in the recent cases on voter qualifications cited above.

85 In this particular instance the other two branches of the Government have in fact expressed conflicting views as to the validity of Title III of the Act, the votingage provision. See H.R.Doc.No.91—326 (1970).

86 In fact, however, I do not understand how the doctrine of deference to rational constitutional interpretation by Congress, espoused by the majority in Katzenbach v. Morgan, 384 U.S. 641, 86 S.Ct. 1717, (1966). is consistent with this statement of Chief Justice Marshall or with our reaffirmation of it in Cooper v. Aaron, 358 U.S. 1, 18, 78 S.Ct. 1401, 1409,3 L.Ed.2d 5 (1958):

'(Marbury) declared the basic principle that the federal judiciary is supreme in the exposition of the law of the Constitution, and that principle has ever since been respected by this Court and the Country as a permanent and indispensable feature of our constitutional system.'

87 Contrast Metropolitan Cas. Ins. Co. v. Brownell, 294 U.S. 580, 55 S.Ct. 538, 79 L.Ed. 1070 (1935), relied on by my colleagues. In that case the crucial factual issue, on which the record was silent, was whether casualty insurance companies not incorporated in Indiana 'generally keep their funds and maintain their business offices, and their agencies for the settlement of claims outside the state.' 294 U.S., at 585, 55 S.Ct. at 541.

88 It might well be asked why this standard is not equally applicable to the congressional expansion of the franchise before us. Lowering of voter qualifications dilutes the voting power of those who could meet the higher standard, and it has been held that 'the right of suffrage can be denied by a debasement or dilution of the weight of a citizen's vote just as effectively as by wholly prohibiting the free exercise of the franchise.' Reynolds v. Sims, 377 U.S. 533, 555, 84 S.Ct. 1362, 1378 (1964) (footnote omitted). Interference with state control over qualifications for voting in presidential elections in order to encourage interstate migration appears particularly vulnerable to analysis in terms of compelling federal interests.

89 Although Mr. Justice BLACK rests his decision in part on the assumption that the selection of presidential electors is a 'federal' election, the Court held in In re Green, 134 U.S. 377, 379, 10 S.Ct. 586, 587, 33 L.Ed. 951 (1890), and repeated in Ray v. Blair, 343 U.S. 214, 224—225, 72 S.Ct. 654, 659—660, 96 L.Ed. 894 (1952), that presidential electors act by authority of the States and are not federal officials.

90 At the time these suits were filed only two of the 50 States, Georgia and Kentucky, allowed 18-year-olds to vote, and only two other States, Hawaii and Alaska, set the voting age below 21. In subsequent referenda, voters in 10 States declined to lower the voting age; five States lowered the voting age to 19 or 20; and Alaska lowered the age from 19 to 18. See the Washington Post, Nov. 5, 1970, p. A13, col. 5.

91 'The Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States.'

92 At the time the Constitution was adopted, additional restrictions based on payment of taxes and ownership of property, as well as creed and sex, were imposed, making the proposition even clearer.

93 See Art. II: 'Each State retains its sovereignty, freedom and independence, and every power, jurisdiction and right, which is not by this confederation expressly delegated to the United States, in Congress assembled.'

94 The legislative history of the Voting Rights Act Amendments contains sufficient evidence to this effect, if any be needed.

95 Cf. s 4 of the Voting Rights Act of 1965, 79 Stat. 438, which suspended literacy tests only in areas falling within a coverage formula and allowed reinstatement of the tests upon judicial determination that during the preceding five years no tests had been used with discriminatory purpose or effect. 42 U.S.C. s 1973b(a) (1964 ed., Supp. V), amended by Pub.L.No. 91—285 s 3, 84 Stat. 315.

96 I assume that reasonableness is the applicable standard, notwithstanding the fact that the instant legislation is challenged on the ground that it improperly dilutes the votes of literate Arizona citizens. But see Kramer v. Union Free School Dist. No. 15, 395 U.S. 621, 89 S.Ct. 1886 (1969); n. 88, supra.

1 Section 202(a) of the Amendments embodies a congressional finding that

'the imposition and application of the durational residency requirement as a precondition to voting for the offices of President and Vice President, and the lack of sufficient opportunities for absentee registration and absentee balloting in presidential elections—

'(2) denies or abridges the inherent constitutional right of citizens to enjoy their free movement across State lines;
'(6) does not bear a reasonable relationship to any compelling State interest in the conduct of presidential elections.'

2 Section 301(a) of the Amendments provides:
'The Congress finds and declares that the imposition and application of the requirement that a citizen be twenty-one years of age as a precondition to voting in any primary or in any election—
'(1) denies and abridges the inherent constitutional rights of citizens eighteen years of age but not yet twenty-one years of age to vote—a particularly unfair treatment of such citizens in view of the national defense responsibilities imposed upon such citizens;
'(2) has the effect of denying to citizens eighteen years of age but not yet twenty-one years of age the due process and equal protection of the laws that are guaranteed to them under the fourteenth amendment of the Constitution; and
'(3) does not bear a reasonable relationship to any compelling State interest.'

3 Arizona Constitution, Art. 7, s 2, limits the franchise to those 21 years of age and older. Ariz.Rev.Stat.Ann. s 16—101 (Supp. 1970) requires voters to be able to read the Federal Constitution (in English), and to write their names.

4 Idaho Constitution, Art. 6, s 2, requires all voters to be 21 years of age or older, and requires 60 days' residence within the State as a precondition to voting in presidential elections. Idaho Code s 34—408 (1963) further requires that 60-day residents have been citizens of another State prior to their removal to Idaho. Provisions for absentee balloting are contained in id., ss 34—1101 to 34—1125.

5 Section 4(c) of the 1965 Act, 42 U.S.C. s 1973(c) (1964 ed., Supp. V), defines a 'test or device' as 'any requirement that a person as a prerequisite for voting or registration for voting (1) demonstrate the ability to read, write, understand, or interpret any matter, (2) demonstrate any educational achievement or his knowledge of any particular subject, (3) possess good moral character, or (4) prove his qualifications by the voucher of registered voters or members of any other class.'

6 Gaston County was a suit by the county under s 4(a) of the 1965 Act, 42 U.S.C. s 1973b(a) (1964 ed., Supp. V), to reinstate the county's literacy test. The county would have been entitled to do so upon demonstration that, for the preceding five years, no 'test or device' had been there used for the purpose or with the effect of abridging the right to vote on account of race or color.

7 We there reserved only the question of the application of the 1965 Act to suspend literacy tests 'in the face of racially disparate educational or literacy achievements for which a government bore no responsibility.' 395 U.S., at 293, n. 8, 89 S.Ct., at 1724 (emphasis supplied).

8 Hearings on Amendments to the Voting Rights Act of 1965 before the Subcommittee on Constitutional Rights of the Senate Committee on the Judiciary, 91st Cong., 1st and 2d Sess., 675 (1969—1970) (hereafter Senate Hearings). Schooling of Indians has for some time been the responsibility of the Federal Government. See Warren Trading Post Co. v. Arizona State Tax Commission, 380 U.S. 685, 690—691, 85 S.Ct. 1242. 1245—1246, 14 L.Ed.2d 165 (1965).

9 E.g., Senate Hearings, 185—187; Hearings on the Voting Rights Act Extension before Subcommittee No. 5 of the House Committee on the Judiciary, 91st Cong., 1st Sess., ser. 3, pp. 55—57, 223—225 (1969) (hereafter House Hearings).

10 For example, 1960 census data indicate that from 1955 to 1960, 4,388 blacks moved from Southern States to Arizona, 74,804 to California, and 74,821 to New York. Table 100 in 1 1960 Census of Population, pts. 4, 6, and 34.

11 Senate Hearings 399; see id., at 400—407.

12 Senate Hearings 678. Tribal Chairman Nakai viewed Arizona's literacy test as the primary cause of this disparity.

13 The States are permitted, should they desire, to adopt practices less restrictive than those prescribed by the 1970 Amendments. s 202(g).

14 See n. 4, supra.

15 See the opinion of Mr. Justice DOUGLAS, ante, at 277—278.

16 See Shapiro v. Thompson, 394 U.S., at 630, 89 S.Ct., at 1329 and n. 8; United States v. Guest, 383 U.S., at 757—758, 86 S.Ct., at 1177—1178.

17 Senate Hearings 282.

18 116 Cong.Rec. 6991.

19 Ibid. Idaho Code ss 34—1101, 34—1102, 34—1103 appear to allow application to be made at any time. Id., s 34—1121 allows application up to five days before the election for persons in United States service. The ballot may be returned any time prior to noon on election day, id., s 34—1105 (Supp. 1969). Finally, effective January 1, 1971, applications may be made up to 5 p.m. the day before the election. Id., s 34—1002 (Supp. 1970). In such circumstances, the argument of administrative impossibility from the viewpoint of Idaho seems almost chimerical.

20 Idaho, in addition, claims that its interest in setting qualifications for voters in its own elections serves, without more, as a compelling state interest sufficient to justify the challenged exclusion. But there is no state interest in the mere exercise

of power; the power must be exercised for some reason. The only reason asserted by Idaho for the exercise of its power is that already mentioned—promotion of intelligent and responsible voting.

21 116 Cong.Rec. 6970 (Library of Congress, Legislative Reference Service survey).

22 Ibid.

23 Nor does the California statute, Cal.Welf. & Inst'ns Code, s 602 (1966), necessarily evidence a contrary conclusion. California permits its juvenile court to waive jurisdiction of persons over the age of 16 to the regular criminal courts, and state practice appears to be that very few if any felony defendants over the age of 18 are ever tried as juveniles. R. Boches & J. Goldfarb, California Juvenile Court Practice 35—36 (1968). This may well indicate that the California statute reflects merely a legislative conclusion that the slight burden of waiver hearings is outweighed by the possibility, however, slight, that a very few individuals between the ages of 18 and 21 might in fact be more appropriately treated as juveniles.

24 116 Cong.Rec. 6970.

25 For example, in California any woman 18 years old may marry without parental consent, and any man of that age may marry with the consent of one parent. Cal.Civ.Code, s 4101 (1970). Any married person who has attained the age of 18 is treated in precisely the same way as all persons of the age of 21 and over with regard to all provisions of the Civil Code, Probate Code, and Code of Civil Procedure, as well as for the purposes of making contracts or entering into any agreement regarding property or his estate. Cal.Civ.Code, s 25 (Supp.1970). The State Labor Department treats makes of the age of 18 and over as adults. Cal.Labor Code, ss 1172, 3077 (1955). Persons of the age of 18 and over may serve civil process in the State. Cal.Civ.Proc.Code, s 410 (Supp.1970).

26 Some States, of course, do attempt to condition exercise of the franchise upon the ability to pass a literacy test. Presumably some 18-year-old illiterates will be literate at 21. But in light of the fact that 81 percent of the disenfranchised class are high school graduates, it would seem that the number of 18-year-old illiterates who are literate three years later is vanishingly small. See Hearings on S.J.Res. 147 and Others before the Subcommittee on Constitutional Amendments of the Senate Committee on the Judiciary, 91st Cong., 2d Sess., 133 (1970) (Sen. Goldwater). Of course, for reasons that apply as well to 18-year-olds as to others, we have today upheld a nationwide suspension of all literacy tests. Ante, at 261. But in any event, that some 18-year-olds may be illiterate is hardly sufficient reason for disenfranchising the entire class. See Kramer v. Union School District, 395 U.S., at 632—633, 89 S.Ct., at 1892—1893.

27 Eighteen-year-olds as a class are better educated than some of their elders. The median number of school years completed by 18- and 19-year-olds two years ago was 12.2; it was 8.8 for persons 65 to 74. Bureau of the Census, Educational Attainment, table 1 (Current Population Reports, Series P—20, No. 182) (1969).

28 Hawaii and Alaska have, since their admission to the Union in 1959, allowed the vote to 19-year-olds (Alaska) and 20-year-olds (Hawaii).

29 See, e.g., 116 Cong.Rec. 6433—6434 (Sen. Cook), 6929—6930 (Sens. Talmadge and Ervin); Senate Hearings, 343 (Gov. Maddox).

30 The state of facts necessary to justify a legislative discrimination will of course vary with the nature of the discrimination involved. When we have been faced with statutes involving nothing more than state regulation of business practices, we have often found mere administrative convenience sufficient to justify the discrimination. E.g., Williamson v. Lee Optical of Okl., 348 U.S. 483, 487, 488—489, 75 S.Ct. 461, 464—465, 99 L.Ed. 563 (1955). But when a discrimination has the effect of denying or inhibiting the exercise of fundamental constitutional rights, we have required that it be not merely convenient, but necessary. Kramer v. Union School District, 395 U.S., at 627, 89 S.Ct., at 1889; Carrington v. Rash, 380 U.S., at 96, 85 S.Ct., at 780; see United States v. O'Brien, 391 U.S. 367, 377, 88 S.Ct. 1673, 1679, 20 L.Ed.2d 672 (1968); United States v. Jackson, 390 U.S. 570, 582—583, 88 S.Ct. 1209, 1216—1217, 20 L.Ed.2d 138 (1968). And we have required as well that it be necessary to promote not merely a constitutionally permissible state interest, but a state interest of substantial importance. Kramer v. Union School District, supra; Carrington v. Rash, supra; Shelton v. Tucker, 364 U.S. 479, 487—490, 81 S.Ct. 247, 251—253, 5 L.Ed.2d 231 (1960); see United States v. O'Brien, supra.

31 As we emphasized in Katzenbach v. Morgan, supra, 's 5 does not grant Congress power to * * * enact 'statutes so as in effect to dilute equal protection and due process decisions of this Court.'' 384 U.S., at 651 n. 10, 86 S.Ct., at 724. As indicated above, a decision of this Court striking down a state statute expresses, among other things, our conclusion that the legislative findings upon which the statute is based are so far wrong as to be unreasonable. Unless Congress were to unearth new evidence in its investigation, its identical findings on the identical issue would be no more reasonable than those of the state legislature.

32 Brief for the State of Oregon 10—13; Brief for the State of Texas 10—12; Brief for the State of Arizona 19; Brief for the State of Idaho 22, 28—30.

33 Brief amicus curiae for the Commonwealth of Virginia 13—22; see Brief amicus curiae for the State of Mississippi 7—11.

34 Indeed, since the First Amendment is applicable to the States only through the Fourteenth, our Brother HARLAN'S view would appear to allow a State to exclude any unpopular group from the political process solely upon the basis of its political opinions.

35 Republicans explicitly looked upon the Fourteenth Amendment as a political platform. See 2 F. Fessenden, Life and Public Services of William Pitt Fessenden 62 (1907); B. Kendrick, The Journal of the Joint Committee of Fifteen on Reconstruction 302 (1914). See also infra, at 333—334.

36 The language appears earlier in Art. IV, s 2.

37 As the statements of Bingham and Howard in the text indicate, the framers of the Amendment were not always clear whether they understood it merely as a grant of power to Congress or whether they thought, in addition, that it would confer power upon the courts, which the courts would use to achieve equality of rights. Since s 5 is clear in its grant of power to Congress and we have consistently held that the Amendment grants power to the courts, this issue is of academic interest only.

38 According to Paul v. Virginia, 8 Wall. 168, 180, 19 L.Ed. 357 (1869), the Privileges and Immunities Clause in Art. 4, s 2, secured to citizens 'in other States the equal protection of their laws.'

39 Senator Stewart's statement regarding the two-thirds requirement appears to refer to s 3 of the Fourteenth Amendment, which requires such a majority for legislation granting amnesty to former Confederate leaders.

40 This Court had taken such an approach in Conner v. Elliott, 18 How. 591, 15 L.Ed. 497 (1856).

41 Ironically, the same distinction between 'political' and other rights was drawn by this Court in Plessy v. Ferguson, 163 U.S. 537, 545—546, 16 S.Ct. 1138, 1141, 41 L.Ed. 256 (1896). But the Court there concluded, directly contrary to our Brother HARLAN's position, that the Fourteenth Amendment applied to 'political' rights and to those rights only.

42 As Thaddeus Stevens had pointed out in urging passage of the Fourteenth Amendment despite the fact that, he felt, some of its guarantees could be enforced by mere legislative enactment, 'a law is repealable by a majority.' Globe 2459.

43 Radical disenchantment with decisions of this Court had led, prior to the Fifteenth Amendment, to the Act of March 27, 1868, 15 Stat. 44, withdrawing our appellate jurisdiction over certain habeas corpus cases. See Ex parte McCardle, 7 Wall. 506, 508, 514—515, 19 L.Ed. 264 (1868).

44 Breedlove has been overruled by Harper v. Virginia State Board of Elections, 383 U.S. 663, 669, 86 S.Ct. 1079, 1082, 16 L.Ed.2d 169 (1966).

45 For a full collection of the relevant materials, see Note, Legislative History of Title III of the Voting Rights Act of 1970, 8 Harv.J.Legis. 123 (1970).

46 See 88 Cong.Rec. 8312, 8316 (1942).

47 Hearings on S.J.Res. 8, 14, and 78 before the Subcommittee on Constitutional Amendments of the Senate Committee on the Judiciary, 90th Cong., 2d Sess. (1968); Hearings on S.J.Res. 147 and Others before the Subcommittee on Constitutional Amendments of the Senate Committee on the Judiciary, 91st Cong., 2d Sess. (1970) (hereafter 1970 Hearings).

48 Supra, at 323—326.

49 See 116 Cong.Rec. 6955; James, The Age of Majority, 4 Am.J.Legal Hist. 22 (1960); Report of the Committee on the Age of Majority Presented to the English Parliament 21 (1967).

50 116 Cong.Rec. 6435.

51 16 Department of Labor, Bureau of Labor Statistics, Employment and Earnings, table A—3 (June 1970).

52 See also Senate Hearings 323 (Sen. Kennedy), 116 Cong.Rec. 5950—5951 (Sen. Mansfield); 6433 (Sen. Cook). See generally Note, supra, n. 45, at 134—148.

53 1970 Hearings at 223. Dr. W. Walter Menninger, a psychiatrist, and Dr. S. I. Hayakawa agreed. Id., at 23, 36.

54 E.g., 116 Cong.Rec. 5950—5951 (Sen. Mansfield); 6433—6434 (Sen. Cook); 6434—6437 (Sen. Goldwater); 6929—6930 (Sen. Talmadge, joined by Sen. Ervin); 6950—6951 (Sen. Tydings).

55 116 Cong.Rec. 6929.

1 2 M. Farrand, Records of the Federal Convention of 1787, p. 153 (1911).

2 Id., at 164.

3 Id., at 178—179.

4 Id., at 201, 207.

5 Id., at 201.

6 Id., at 202.

7 Id., at 203.

8 Id., at 206.

9 Whether a particular State's durational residency requirement for voters may violate the Equal Protection Clause of the Fourteenth Amendment presents questions that are for me quite different from those attending the constitutionality of s 202. See Howe v. Brown, 319 F.Supp. 862 (N.D.Ohio 1970); Cocanower v. Marston, 318 F.Supp. 402 (Ariz.1970); Burg v. Canniffe, 315 F.Supp. 380 (Mass.1970); Blumstein v. Ellington (M.D.Tenn.1970); Hadnott v. Amos, 320 F.Supp. 107 (M.D.Ala.1970); Bufford v. Holton, 319 F.Supp. 843 (E.D.Va.1970); Lester v. Board of Elections, 319 F.Supp. 505 (D.C.1970).

10 U.S.Const., Amdt. XV.

11 U.S.Const., Amdt. XIX; see also Minor v. Happersett, 21 Wall. 162, 22 L.Ed. 627.

12 Carrington v. Rash, 380 U.S. 89, 85 S.Ct. 775, 13 L.Ed.2d 675 (1965); Louisiana v. United States, 380 U.S. 145, 85 S.Ct. 817, 13 L.Ed.2d 709 (1965); Harper v. Virginia State Board of Elections, 383 U.S. 663, 86 S.Ct. 1079, 16 L.Ed.2d 169 (1966); Katzenbach v. Morgan, 384 U.S. 641, 86 S.Ct. 1717, 16 L.Ed.2d 828 (1966); Kramer v. Union School District, 395 U.S. 621, 89 S.Ct. 1886, 23 L.Ed.2d 583 (1969); Cipriano v. City of Houma, 395 U.S. 701, 89 S.Ct. 1897, 23 L.Ed.2d 647 (1969); Evans v. Cornman, 398 U.S. 419, 90 S.Ct. 1752, 26 L.Ed.2d 370 (1970); Phoenix v. Kolodziejski, 399 U.S. 204, 90 S.Ct. 1990, 26 L.Ed.2d 523 (1970).

13 See, e.g., cases cited supra, n. 12.

14 If the Government is correct in its submission that a particular age requirement must meet the ‘compelling interest’ standard, then, of course, a substantial question would exist whether a 21-year-old voter qualification is constitutional even in the absence of congressional action, as my Brothers point out. Ante, at 323—326. Yet it is inconceivable to me that this Court would ever hold that the denial of the vote to those between the ages of 18 and 21 constitutes such an invidious discrimination as to be a denial of the equal protection of the laws. The establishment of an age qualification is not state action aimed at any discrete and insular minority. Cf. United States v. Carolene Products Co., 304 U.S. 144, 152 n. 4, 58 S.Ct. 778, 783, 82 L.Ed. 1234. Moreover, so long as a State does not the voting age higher than 21, the reasonableness of its choice is confirmed by the very Fourteenth Amendment upon which the Government relies. Section 2 of that Amendment provides for sanctions when the right to vote ‘is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, * * *.’ (Emphasis added.)

Filings (3)

Title	PDF	Court	Date	Type
1. Brief of Youth Franchise Coalition, Fifty Individual Citizens of the United States Over 18 Years Old and Under 21 Years Old, Americans for Democratic Action, National Association for the Advancement of Colored People, National Education Association a nd International Union, United Automobile Workers, Amicus Curiae Oregon v. Mitchell 1970 WL 121905	—	U.S.	Sep. 12, 1970	Brief
2. Brief of Youth Franchise Coalition, Fifty Individual Citizens of the United States Over 18 Years Old and Under 21 Years Old, Americans for Democratic Action, National Association for the Advancement of Colored People, National Education Association a nd International Union, United Automobile Workers, Amicus Curiae Oregon v. Mitchell 1970 WL 122072		U.S.	Sep. 12, 1970	Brief
3. Brief of Youth Franchise Coalition, Fifty Individual Citizens of the United States Over 18 Years Old and Under 21 Years Old, Americans for Democratic Action, National Association for the Advancement of Colored People, National Education Association a nd International Union, United Automobile Workers, Amicus Curiae Oregon v. Mitchell 1970 WL 136323	—	U.S.	Sep. 12, 1970	Brief

Negative Treatment

Negative Citing References (9)

The KeyCited document has been negatively referenced by the following events or decisions in other litigation or proceedings:

Treatment	Title	Date	Type	Depth	Headnote(s)
Superseded by Constitutional Amendment as Stated in	1. National Treasury Employees Union v. Nixon 492 F.2d 587 , D.C.Cir. Action seeking writ of mandamus requiring the President to grant pay adjustments as mandated by Federal Pay Comparability Act. The United States District Court for the District of...	Jan. 25, 1974	Case		—
Superseded by Constitutional Amendment as Stated in	2. Hale v. Mann 219 F.3d 61 , 2nd Cir.(N.Y.) GOVERNMENT - Immunity. State entitled to sovereign immunity in Family and Medical Leave Act lawsuit.	May 25, 2000	Case		3 S.Ct.
Superseded by Constitutional Amendment as Stated in	3. Bay County Democratic Party v. Land 347 F.Supp.2d 404 , E.D.Mich. GOVERNMENT - Elections. Help America Vote Act creates a private right of action enforceable through § 1983.	Oct. 19, 2004	Case		3 4 S.Ct.
Superseded by Constitutional Amendment as Stated in	4. Johnson v. Governor of State of Florida 405 F.3d 1214 , 11th Cir.(Fla.) GOVERNMENT - Elections. Voting Rights Act did not apply to state constitutional provision disenfranchising felons.	Apr. 12, 2005	Case		2 3 S.Ct.
Superseded by Constitutional Amendment as Stated in	5. Texas Democratic Party v. Abbott MOST NEGATIVE 961 F.3d 389 , 5th Cir.(Tex.) GOVERNMENT — Elections. State officials were likely to succeed on merits of their appeal of order preliminarily enjoining enforcement of Texas vote by mail statute.	June 04, 2020	Case		2 S.Ct.
Declined to Extend by	6. Arizona v. Inter Tribal Council of Arizona, Inc. 133 S.Ct. 2247 , U.S. GOVERNMENT - Elections. National Voter Registration Act pre-empted Arizona's proof-of-citizenship voter registration requirement.	June 17, 2013	Case		1 2 4 S.Ct.
Distinguished by	7. Baker v. Cuomo 58 F.3d 814 , 2nd Cir.(N.Y.) Inmates brought civil rights action, alleging that New York statute disenfranchising incarcerated felons but permitting unincarcerated felons to vote unconstitutionally deprived...	May 12, 1995	Case		2 S.Ct.
Distinguished by	8. United States v. Singh 924 F.3d 1030 , 9th Cir.(Cal.)	May 16, 2019	Case		1 2 4 S.Ct.

Treatment	Title	Date	Type	Depth	Headnote(s)
	CRIMINAL JUSTICE — Obstructing Justice. SOX violation did not require proof of defendant's duty to file election campaign reports.				
Distinguished by	9. United States v. Singh 979 F.3d 697 , 9th Cir.(Cal.) CRIMINAL JUSTICE — Immigration. Statutes prohibiting nonimmigrant visa holders from possessing firearms and ammunition, with certain exemptions, were not unconstitutionally vague.	Oct. 28, 2020	Case		1 2 4 S.Ct.

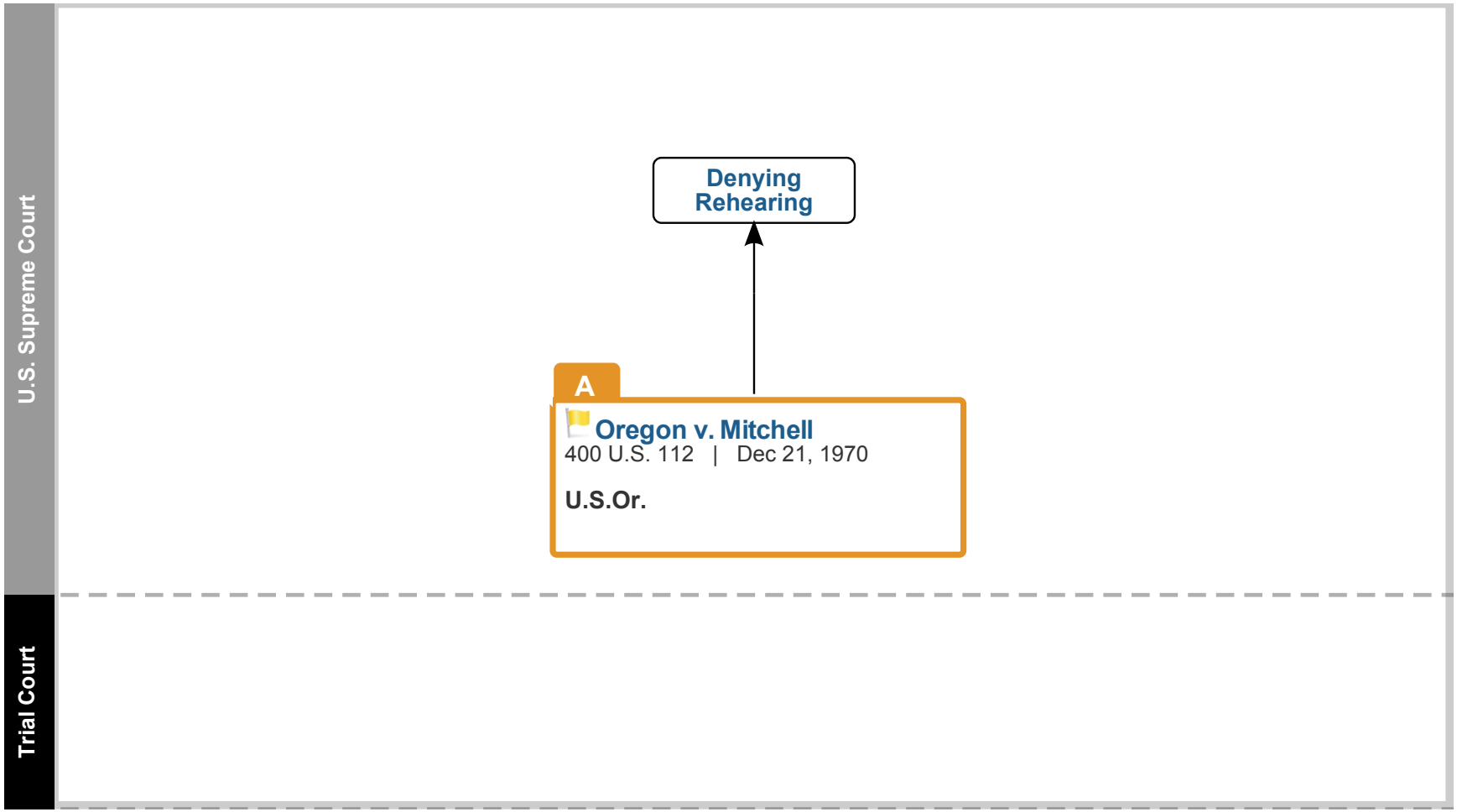
History (2)

Direct History (2)

1. Oregon v. Mitchell
400 U.S. 112 , U.S.Or. , Dec. 21, 1970

Rehearing Denied by

2. Texas v. Mitchell
401 U.S. 903 , U.S.Ariz. , Feb. 22, 1971



Citing References (500)

Treatment	Title	Date	Type	Depth	Headnote(s)
Declined to Extend by NEGATIVE	1. **Arizona v. Inter Tribal Council of Arizona, Inc.** 133 S.Ct. 2247, 2258+ , U.S. GOVERNMENT - Elections. National Voter Registration Act pre-empted Arizona's proof-of-citizenship voter registration requirement.	June 17, 2013	Case		1 2 4 S.Ct.
Examined by	2. **City of Boerne v. Flores** 117 S.Ct. 2157, 2159+ , U.S.Tex. CIVIL RIGHTS - Free Exercise. Religious Freedom Restoration Act exceeds Congress' power under § 5 of Fourteenth Amendment.	June 25, 1997	Case		1 3 4 S.Ct.
Examined by	3. **Tashjian v. Republican Party of Connecticut** 107 S.Ct. 544, 556+ , U.S.Conn. Political party, state chairman of party, and party's federal officeholders brought action challenging validity of Connecticut's closed primary law. The United States District...	Dec. 10, 1986	Case		1 3 4 S.Ct.
Examined by	4. **City of Rome v. U. S.** 100 S.Ct. 1548, 1561+ , U.S.Dist.Col. City and two of its officials filed declaratory judgment action seeking relief from Voting Rights Act. The Three-Judge District Court for the District of Columbia, 450 F.Supp....	Apr. 22, 1980	Case		1 3 4 S.Ct.
Examined by	5. **San Antonio Independent School Dist. v. Rodriguez** 93 S.Ct. 1278, 1296+ , U.S.Tex. Class action was brought on behalf of school children, who were said to be members of poor families residing in school districts having low property tax base, challenging reliance...	Mar. 21, 1973	Case		1 3 4 S.Ct.
Examined by	6. **Dunn v. Blumstein** 92 S.Ct. 995, 1000+ , U.S.Tenn. Action was brought challenging state durational residence laws for voter. A three-judge District Court, 337 F.Supp. 323, held the laws invalid and state officials appealed. The...	Mar. 21, 1972	Case		1 3 4 S.Ct.
Examined by	7. **Romeu v. Cohen** 265 F.3d 118, 129+ , 2nd Cir.(N.Y.) GOVERNMENT - Weapons. Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) did not violate equal protection.	Sep. 06, 2001	Case		1 3 4 S.Ct.
Examined by	8. **Baker v. Pataki** 85 F.3d 919, 927+ , 2nd Cir.(N.Y.) This appeal was reheard in banc to consider the applicability of § 2 of the Voting Rights Act of 1965, Pub.L. No. 89-110, 79 Stat. 437, 437, as amended, 42 U.S.C. § 1973 (the...	May 30, 1996	Case		1 3 4 S.Ct.

Treatment	Title	Date	Type	Depth	Headnote(s)
Examined by	9. U.S. v. Marengo County Com'n 731 F.2d 1546, 1557+ , 11th Cir.(Ala.) Plaintiffs brought Voting Rights Act suit against county commission and others. The United States District Court for the Southern District of Alabama, William Brevard Hand, J.,...	May 14, 1984	Case		1 3 4 S.Ct.
Examined by	10. Northwest Austin Mun. Utility Dist. Number One v. Mukasey 573 F.Supp.2d 221, 238+ , D.D.C. GOVERNMENT - Elections. Voting Rights Act's "preclearance" obligation was facially constitutional.	Sep. 04, 2008	Case		1 3 4 S.Ct.
Examined by	11. Gehrt v. University of Illinois at Urbana-Champaign Co-op. Extension Service 974 F.Supp. 1178, 1183+ , C.D.Ill. Former university employee brought Title VII, Age Discrimination in Employment Act (ADEA) and Equal Pay Act (EPA) action against state university. Adopting in part the Report and...	July 11, 1997	Case		1 3 4 S.Ct.
Examined by	12. Major v. Treen 574 F.Supp. 325, 345+ , E.D.La. Plaintiffs, individually and on behalf of all black persons residing in and registered to vote in Louisiana, brought action seeking declaratory and injunctive relief restraining...	Sep. 23, 1983	Case		1 3 4 S.Ct.
Examined by	13. Fontham v. McKeithen 336 F.Supp. 153, 155+ , E.D.La. Action challenging constitutionality of various Louisiana durational residency requirements as preconditions for voter eligibility in a state general election. A Three-Judge...	Dec. 07, 1971	Case		1 3 4 S.Ct.
Examined by	14. Gaunt v. Brown 341 F.Supp. 1187, 1189+ , S.D.Ohio Seventeen-year-olds brought action attacking constitutionality of statute precluding them from voting in primary elections. The District Court, Porter, J., held that statute...	Apr. 06, 1972	Case		1 3 4 S.Ct.
Examined by	15. Sasnett v. Department of Corrections 891 F.Supp. 1305, 1316+ , W.D.Wis. State prison inmates brought action against Wisconsin Department of Corrections and prison officials, challenging rules restricting inmates' right to possess religious and legal...	June 23, 1995	Case		1 3 4 S.Ct.
Examined by	16. Doherty v. Meisser 321 N.Y.S.2d 32, 34+ , N.Y.Sup. Action for declaratory judgment. The Supreme Court, Special Term, Bertram Harnett, J., held that functions and duties of county committeemen 'pertain' to federal elections within...	May 12, 1971	Case		1 2 3 S.Ct.

Treatment	Title	Date	Type	Depth	Headnote(s)
Examined by	**17.** 35 Or. Op. Atty. Gen. 607, 607+ 35 Or. Op. Atty. Gen. 607, 607+ This opinion is issued in response to questions presented by the Honorable John W. Anunsen, State Representative. Is a person who is 18 years of age, and otherwise qualified to...	Apr. 23, 1971	Administrative Decision		1 2 4 S.Ct.
Superseded by Constitutional Amendment as Stated in NEGATIVE	**18.** Johnson v. Governor of State of Florida 405 F.3d 1214, 1231+ , 11th Cir.(Fla.) GOVERNMENT - Elections. Voting Rights Act did not apply to state constitutional provision disenfranchising felons.	Apr. 12, 2005	Case		2 3 S.Ct.
Superseded by Constitutional Amendment as Stated in NEGATIVE	**19.** Bay County Democratic Party v. Land 347 F.Supp.2d 404, 411+ , E.D.Mich. GOVERNMENT - Elections. Help America Vote Act creates a private right of action enforceable through § 1983.	Oct. 19, 2004	Case		3 4 S.Ct.
Distinguished by NEGATIVE	**20.** United States v. Singh 979 F.3d 697, 710+ , 9th Cir.(Cal.) CRIMINAL JUSTICE — Immigration. Statutes prohibiting nonimmigrant visa holders from possessing firearms and ammunition, with certain exemptions, were not unconstitutionally vague.	Oct. 28, 2020	Case		1 2 4 S.Ct.
Distinguished by NEGATIVE	**21.** United States v. Singh 924 F.3d 1030, 1043+ , 9th Cir.(Cal.) CRIMINAL JUSTICE — Obstructing Justice. SOX violation did not require proof of defendant's duty to file election campaign reports.	May 16, 2019	Case		1 2 4 S.Ct.
Distinguished by NEGATIVE	**22.** Baker v. Cuomo 58 F.3d 814, 825+ , 2nd Cir.(N.Y.) Inmates brought civil rights action, alleging that New York statute disenfranchising incarcerated felons but permitting unincarcerated felons to vote unconstitutionally deprived...	May 12, 1995	Case		2 S.Ct.
Discussed by	**23.** Tennessee v. Lane 124 S.Ct. 1978, 1986+ , U.S. CIVIL RIGHTS - Disabilities. Title II of ADA as applied to access to courts was valid exercise of 14th Amendment enforcement power.	May 17, 2004	Case		1 3 S.Ct.
Discussed by	**24.** Gregory v. Ashcroft 111 S.Ct. 2395, 2401+ , U.S.Mo. Missouri state court judges challenged mandatory retirement provision of State Constitution. The United States District Court for the Eastern District of Missouri, William L....	June 20, 1991	Case		1 4 S.Ct.

Treatment	Title	Date	Type	Depth	Headnote(s)
Discussed by	**25.** Attorney General of New York v. Soto-Lopez 106 S.Ct. 2317, 2320+ , U.S.N.Y. Applicants for state employment, who were denied additional points for service in armed forces by reason that their entry into armed forces was from another state, brought action...	June 17, 1986	Case		4 S.Ct.
Discussed by	**26.** EEOC v. Wyoming 103 S.Ct. 1054, 1069+ , U.S.Wyo. Equal Employment Opportunity Commission brought suit against the state of Wyoming and various officials thereof, challenging, under the Age Discrimination in Employment Act, the...	Mar. 02, 1983	Case		2 3 4 S.Ct.
Discussed by	**27.** Fullilove v. Klutznick 100 S.Ct. 2758, 2760+ , U.S.N.Y. Associations of construction contractors and subcontractors and others brought action seeking preliminary injunction to prevent enforcement of “minority business enterprise”...	July 02, 1980	Case		1 3 4 S.Ct.
Discussed by	**28.** Memorial Hospital v. Maricopa County 94 S.Ct. 1076, 1081+ , U.S.Ariz. Appeal from a decision of the Arizona Supreme Court, 108 Ariz. 373, 498 P.2d 461, vacating a judgment of trial court compelling county board of supervisors to accept an indigent...	Feb. 26, 1974	Case		4 S.Ct.
Discussed by	**29.** Sugarman v. Dougall 93 S.Ct. 2842, 2850+ , U.S.N.Y. Action challenging New York civil service law provision that only citizens may hold permanent positions in the competitive class of the state civil service. A Three-Judge United...	June 25, 1973	Case		1 4 S.Ct.
Discussed by	**30.** O'Brien v. Brown 92 S.Ct. 2718, 2725+ , U.S.Dist.Col. Actions challenging recommendations of credentials committee of Democratic National Convention regarding seating of delegates. The United States District Court for the District of...	July 07, 1972	Case		1 2 4 S.Ct.
Discussed by	**31.** Evansville-Vanderburgh Airport Authority Dist. v. Delta Airlines, Inc. 92 S.Ct. 1349, 1359+ , U.S.Ind. Actions by airlines challenging constitutionality of charges of one dollar levied by a state and by a municipality on persons enplaning a scheduled commercial airliner to help...	Apr. 19, 1972	Case		3 4 S.Ct.
Discussed by	**32.** Mills v. State of Me. 118 F.3d 37, 45+ , 1st Cir.(Me.) State employees sued state for unpaid overtime under Fair Labor Standards Act (FLSA). The United States District Court for the District of Maine, D. Brock Hornby, J., 1996 WL...	July 07, 1997	Case		3 S.Ct.

Treatment	Title	Date	Type	Depth	Headnote(s)
Discussed by	33. Hayden v. Pataki 449 F.3d 305, 326+ , 2nd Cir.(N.Y.) CIVIL RIGHTS - Voting. Voting Rights Act did not apply to felon disenfranchisement statute.	May 04, 2006	Case		2 S.Ct.
Discussed by	34. Muntaqim v. Coombe 366 F.3d 102, 122+ , 2nd Cir.(N.Y.) GOVERNMENT - Elections. Voting Rights Act did not apply to statute that disenfranchised incarcerated felons and parolees.	Apr. 23, 2004	Case		2 S.Ct.
Discussed by	35. Turpin v. Mailet 579 F.2d 152, 174+ , 2nd Cir.(Conn.) Plaintiff had been involved in a previous incident with police officers and was arrested, allegedly illegally and allegedly because of hostile feelings against him encouraged by...	June 05, 1978	Case		1 S.Ct.
Discussed by	36. Texas Democratic Party v. Abbott 978 F.3d 168, 185+ , 5th Cir.(Tex.) GOVERNMENT — Elections. Application of Texas statute requiring voters under 65 to prove disability to vote by mail during COVID-19 did not violate Twenty-Sixth Amendment.	Oct. 14, 2020	Case		1 2 3 S.Ct.
Discussed by	37. Flores v. City of Boerne, Tex. 73 F.3d 1352, 1357+ , 5th Cir.(Tex.) Church brought action against city, claiming that city ordinance violated Religious Freedom Restoration Act (RFRA). The United States District Court for the Western District of...	Jan. 23, 1996	Case		2 3 S.Ct.
Discussed by	38. Jones v. City of Lubbock 727 F.2d 364, 374+ , 5th Cir.(Tex.) Appeal was taken from a judgment of the United States District Court for the Northern District of Texas finding that the city's at-large system for election of city council members...	Mar. 05, 1984	Case		1 3 S.Ct.
Discussed by	39. Little Rock School Dist. v. Mauney 183 F.3d 816, 824+ , 8th Cir.(Ark.) In suit under the Individuals with Disabilities Education Act (IDEA), motion of state and state agency for summary judgment was denied in part by the United States District Court...	June 14, 1999	Case		1 3 4 S.Ct.
Discussed by	40. Hamilton v. Schriro 74 F.3d 1545, 1562+ , 8th Cir.(Mo.) Native American inmate brought suit alleging that prison officials violated his First Amendment right to free exercise of religion by requiring him to cut his hair and by denying...	Jan. 12, 1996	Case		1 3 4 S.Ct.
Discussed by	41. Farrakhan v. Washington 359 F.3d 1116, 1121+ , 9th Cir.(Wash.) The panel has voted to deny the petition for panel rehearing and petition for rehearing en banc. The full court was advised of the petition for rehearing en banc. A judge...	Feb. 24, 2004	Case		2 3 S.Ct.

Treatment	Title	Date	Type	Depth	Headnote(s)
Discussed by	**42.** Attorney General of Territory of Guam on Behalf of All U.S. Citizens Residing in Guam Qualified to Vote Pursuant to Organic Act v. U.S. 738 F.2d 1017, 1020+ , 9th Cir.(Guam) Attorney General of Guam and four individuals brought action against the United States on behalf of American citizens who are residents of Guam registered to vote in territorial...	July 24, 1984	Case		1 2 4 S.Ct.
Discussed by	**43.** Lendall v. Jernigan 424 F.Supp. 951, 956+ , E.D.Ark. Independent candidate for state office brought action challenging constitutionality of state statute establishing petition requirements for persons seeking to run as independent...	Jan. 05, 1977	Case		4 S.Ct.
Discussed by	**44.** Gifford v. Congress 452 F.Supp. 802, 804+ , E.D.Cal. Action was brought wherein plaintiff alleged unconstitutionality of section of the Federal Election Campaign Act including within the definition of "candidate" unofficial...	June 06, 1978	Case		4 S.Ct.
Discussed by	**45.** Baer v. Baer 450 F.Supp. 481, 494+ , N.D.Cal. Action was brought by plaintiff against his parents and foundation allegedly in business of "legal deprogramming" claiming that parents and foundation conspired to and did abduct...	Apr. 14, 1978	Case		3 4 S.Ct.
Discussed by	**46.** Adarand Constructors, Inc. v. Pena 965 F.Supp. 1556, 1572+ , D.Colo. Subcontractor that was not awarded guardrail portion of federal highway project brought action against Department of Transportation officials challenging constitutionality of...	June 02, 1997	Case		3 S.Ct.
Discussed by	**47.** McConnell v. Federal Election Commission 251 F.Supp.2d 176, 715+ , D.D.C.	May 01, 2003	Case		2 3 4 S.Ct.
Discussed by	**48.** Abordo v. State of Hawai'i 902 F.Supp. 1220, 1231+ , D.Hawai'i State prison inmate filed § 1983 civil rights complaint against prison officials alleging that cutting his hair, despite objection on religious grounds, violated various...	Aug. 25, 1995	Case		3 S.Ct.
Discussed by	**49.** Association of Community Organizations for Reform Now (ACORN) v. Edgar 880 F.Supp. 1215, 1218+ , N.D.Ill. Action was brought against state of Illinois and various officials for state's failure to comply with provisions of National Voter Registration Act of 1993. Upon plaintiffs'...	Mar. 31, 1995	Case		1 3 S.Ct.

Treatment	Title	Date	Type	Depth	Headnote(s)
Discussed by	**50.** Blassman v. Markworth 359 F.Supp. 1, 4+ , N.D.Ill. A 19-year-old registered voter, who wished to become elected member of school board, and two registered voters supporting his candidacy sought declaration that Illinois statute...	Apr. 24, 1973	Case		3 S.Ct.
Discussed by	**51.** Jones v. Gusman 515 F.Supp.3d 520, 544+ , E.D.La. CIVIL RIGHTS — Prisons. Court order directing city to submit statement advising of its progress in building facility for special inmate populations did not violate PLRA.	Jan. 25, 2021	Case		—
Discussed by	**52.** Felix v. Milliken 463 F.Supp. 1360, 1373+ , E.D.Mich. Actions were brought challenging constitutionality of constitutional amendment passed by voters of state of Michigan which raised the minimum age for buying and drinking alcoholic...	Dec. 22, 1978	Case		4 S.Ct.
Discussed by	**53.** Human Rights Party of Ann Arbor v. Secretary of State for State of Mich. 370 F.Supp. 921, 923+ , E.D.Mich. Action contesting validity of statute excluding persons under 18 years of age from eligibility for election to local school boards. On motion for summary judgment, a three-judge...	May 11, 1973	Case		1 3 4 S.Ct.
Discussed by	**54.** Carter v. Gallagher 337 F.Supp. 626, 631+ , D.Minn. Action seeking injunctive and declaratory relief in regard to durational residency requirement contained in the Minnesota veterans preference statute. The District Court, Larson,...	Aug. 06, 1971	Case		4 S.Ct.
Discussed by	**55.** Ferguson v. Williams 330 F.Supp. 1012, 1016+ , N.D.Miss. Class action challenging constitutionality of Mississippi's four-month registration requirement for voting in general elections for state and local offices. The three-judge...	Aug. 30, 1971	Case		3 4 S.Ct.
Discussed by	**56.** Romeu v. Cohen 121 F.Supp.2d 264, 278+ , S.D.N.Y. GOVERNMENT - Elections. Absentee ballot statutes did not violate right to travel of citizen who moved to Puerto Rico.	Sep. 07, 2000	Case		4 S.Ct.
Discussed by	**57.** Pennsylvania v. DeJoy 490 F.Supp.3d 833, 873+ , E.D.Pa. GOVERNMENT — Postal Service. States were likely to succeed on merits of claims that Postal Service acted ultra vires in failing to submit policy changes for public hearing.	Sep. 28, 2020	Case		1 2 4 S.Ct.

Treatment	Title	Date	Type	Depth	Headnote(s)
Discussed by	**58.** N.A.A.C.P. v. Philadelphia Bd. of Elections 1998 WL 321253, *3+ , E.D.Pa. Plaintiffs seek a declaratory judgment that the Voting Accessibility of the Elderly and Handicapped Act ("VAEH"), 42 U.S.C. § 1973ee–1 et seq., does not apply to state and local...	June 16, 1998	Case		2 3 S.Ct.
Discussed by	**59.** Republican College Council of Pennsylvania v. Winner 357 F.Supp. 739, 741+ , E.D.Pa. Suit challenging the constitutionality of Pennsylvania statutes which deny to persons under 21 years of age access to alcoholic beverages. A three-judge District Court, Van Dusen,...	Apr. 11, 1973	Case		4 S.Ct.
Discussed by	**60.** Rhode Island Chapter, Associated General Contractors of America, Inc. v. Kreps 450 F.Supp. 338, 349+ , D.R.I. The Rhode Island Chapter of Associated General Contractors of America brought suit seeking declaratory and injunctive relief challenging the constitutionality of the 10% minority...	Feb. 06, 1978	Case		3 S.Ct.
Discussed by	**61.** Condon v. Reno 913 F.Supp. 946, 961+ , D.S.C. In separate actions, state of South Carolina and its officials sought to enjoin enforcement of National Voter Registration Act, while United States and private plaintiffs sought to...	Dec. 12, 1995	Case		1 3 4 S.Ct.
Discussed by	**62.** Britt v. Suckle 453 F.Supp. 987, 999+ , E.D.Tex. Employee brought civil rights action under section of the Ku Klux Klan statute prohibiting conspiracy to obstruct the due course of justice. The District Court, Justice, J., held...	May 11, 1978	Case		1 3 4 S.Ct.
Discussed by	**63.** Raza Unida Party v. Bullock 349 F.Supp. 1272, 1277+ , W.D.Tex. Various plaintiffs, comprised of minor political parties, their candidates for public office and others, brought class actions seeking to have certain provisions of the Texas...	Sep. 15, 1972	Case		3 4 S.Ct.
Discussed by	**64.** Beare v. Smith 321 F.Supp. 1100, 1107+ , S.D.Tex. Action by residents or Texas challenging voter registration requirement. The Three-Judge District Court, Singleton, J., held that provisions of Texas Constitution and implementing...	Jan. 07, 1971	Case		1 3 4 S.Ct.
Discussed by	**65.** T H v. Jones 425 F.Supp. 873, 886+ , D.Utah Class action was brought challenging legality, under federal law, of state regulations prohibiting Utah Planned Parenthood Association from providing minors with family planning...	July 23, 1975	Case		2 S.Ct.

Treatment	Title	Date	Type	Depth	Headnote(s)
Discussed by	**66.** Farrakhan v. Locke 987 F.Supp. 1304, 1308+ , E.D.Wash. Convicted felons filed suit challenging Washington's felon disenfranchisement laws under the Constitution and the Voting Rights Act. State officials moved to dismiss. The...	Nov. 13, 1997	Case		1 3 S.Ct.
Discussed by	**67.** State v. Wylie 516 P.2d 142, 145+ , Alaska Applicant for state employment sought declaratory and injunctive relief against enforcement of durational residency requirements for state employment. The Superior Court, First...	Nov. 23, 1973	Case		4 S.Ct.
Discussed by	**68.** People v. Silagy 461 N.E.2d 415, 435+ , Ill. Defendant was convicted in the Circuit Court, Vermilion County, Paul M. Wright, J., of two murders, and he took direct appeal. The Supreme Court, Ward, J., held that: (1) the...	Feb. 22, 1984	Case		4 S.Ct.
Discussed by	**69.** Opinion of the Justices (Voting Age in Primary Elections II) 973 A.2d 915, 922+ , N.H. GOVERNMENT - Elections. Constitutional provision setting minimum age of 18 for voting does not conflict with associational rights of political parties.	May 06, 2009	Case		3 S.Ct.
Discussed by	**70.** Application of Rabin 325 N.Y.S.2d 180, 182+ , N.Y.Sup. Proceeding on show cause order by prospective voter challenging constitutionality of state constitutional provision and section of Election Law as they related to three month's...	Oct. 12, 1971	Case		4 S.Ct.
Discussed by	**71.** Honorable Max Cleland 1987 Ga. Op. Atty. Gen. 23+ This letter is in response to your request for my official opinion concerning the application of Section 208 of the Voting Rights Act of 1965, as amended, (42 U.S.C. § 1973aa-6) to...	Mar. 13, 1987	Administrative Decision		1 2 S.Ct.
Discussed by	**72.** 1972 WL 137729 (Or.A.G.), *3+ 35 Or. Op. Atty. Gen. 1149, 1149+ This opinion is issued in response to a question submitted by the Honorable Clay Myers, Secretary of State. May Oregon election officials continue to enforce the provisions of Or....	Mar. 30, 1972	Administrative Decision		4 S.Ct.
Superseded by Constitutional Amendment as Stated in NEGATIVE	**73.** Texas Democratic Party v. Abbott 961 F.3d 389, 408 , 5th Cir.(Tex.) GOVERNMENT — Elections. State officials were likely to succeed on merits of their appeal of order preliminarily enjoining enforcement of Texas vote by mail statute.	June 04, 2020	Case		2 S.Ct.

Treatment	Title	Date	Type	Depth	Headnote(s)
Superseded by Constitutional Amendment as Stated in NEGATIVE	**74. Hale v. Mann** 219 F.3d 61, 69 , 2nd Cir.(N.Y.) GOVERNMENT - Immunity. State entitled to sovereign immunity in Family and Medical Leave Act lawsuit.	May 25, 2000	Case		3 S.Ct.
Superseded by Constitutional Amendment as Stated in NEGATIVE	**75. National Treasury Employees Union v. Nixon** 492 F.2d 587, 612 , D.C.Cir. Action seeking writ of mandamus requiring the President to grant pay adjustments as mandated by Federal Pay Comparability Act. The United States District Court for the District of...	Jan. 25, 1974	Case		—
Cited by	**76. Brnovich v. Democratic National Committee** 141 S.Ct. 2321, 2352 , U.S. GOVERNMENT — Elections. Arizona's out-of-precinct ballot policy does not violate Voting Rights Act.	July 01, 2021	Case		—
Cited by	**77. Northwest Austin Mun. Utility Dist. No. One v. Holder** 129 S.Ct. 2504, 2519 , U.S.Dist.Col. GOVERNMENT - Elections. All political subdivisions are eligible to file suit to bail out of Voting Rights Act's preclearance requirements.	June 22, 2009	Case		—
Cited by	**78. Board of Trustees of University of Alabama v. Garrett** 121 S.Ct. 955, 972+ , U.S.Ala. LABOR AND EMPLOYMENT - Discrimination. Congress did not validly abrogate states' Eleventh Amendment immunity from suits for money damages under Title I of the ADA.	Feb. 21, 2001	Case		—
Cited by	**79. U.S. v. Morrison** 120 S.Ct. 1740, 1755 , U.S.Va. CIVIL RIGHTS - Gender. Civil remedy provision of Violence Against Women Act held unconstitutional.	May 15, 2000	Case		—
Cited by	**80. Reno v. Bossier Parish School Bd.** 120 S.Ct. 866, 888 , U.S.Dist.Col. EDUCATION - Desegregation. Redistricting plan enacted with discriminatory but nonretrogressive purpose may be precleared.	Jan. 24, 2000	Case		3 S.Ct.
Cited by	**81. Lopez v. Monterey County** 119 S.Ct. 693, 710 , U.S.Cal. GOVERNMENT - Elections. County was required to obtain preclearance of changes to its voting scheme under Voting Rights Act.	Jan. 20, 1999	Case		3 S.Ct.
Cited by	**82. Seminole Tribe of Florida v. Florida** 116 S.Ct. 1114, 1149 , U.S.Fla. GAMBLING - Native Americans. Congress lacked authority under the Indian commerce clause to abrogate the states' Eleventh Amendment immunity.	Mar. 27, 1996	Case		—

Treatment	Title	Date	Type	Depth	Headnote(s)
Cited by	**83.** J.E.B. v. Alabama ex rel. T.B. 114 S.Ct. 1419, 1433 , U.S.Ala. Jury. Peremptory challenges by state actors may not be based on gender.	Apr. 19, 1994	Case		—
Cited by	**84.** Eu v. San Francisco County Democratic Cent. Committee 109 S.Ct. 1013, 1024 , U.S.Cal. Party central committees brought action challenging sections of California Election Code banning primary endorsements and imposing restrictions on internal policy governance of...	Feb. 22, 1989	Case		4 S.Ct.
Cited by	**85.** Hudson v. Palmer 104 S.Ct. 3194, 3217 , U.S.Va. Inmate brought action against prison officer under federal civil rights statute alleging destruction of his property. The United States District Court for the Western District of...	July 03, 1984	Case		—
Cited by	**86.** Anderson v. Celebrezze 103 S.Ct. 1564, 1575 , U.S.Ohio Independent candidate for office of President of the United States and three voters brought suit challenging constitutionality of Ohio's early filing deadline for independent...	Apr. 19, 1983	Case		4 S.Ct.
Cited by	**87.** Pennhurst State School and Hospital v. Halderman 101 S.Ct. 1531, 1539+ , U.S.Pa. Retarded resident of Pennsylvania hospital for the care and treatment of the mentally retarded brought suit challenging conditions of confinement. The United States District...	Apr. 20, 1981	Case		—
Cited by	**88.** Democratic Party of U. S. v. Wisconsin ex rel. La Follette 101 S.Ct. 1010, 1021 , U.S.Wis. In an original action in the Wisconsin Supreme Court, the Wisconsin Supreme Court, 93 Wis.2d 473, 287 N.W.2d 519, held that the national Democratic Party could not disqualify...	Feb. 25, 1981	Case		—
Cited by	**89.** Regents of University of California v. Bakke 98 S.Ct. 2733, 2748 , U.S.Cal. White male whose application to state medical school was rejected brought action challenging legality of the school's special admissions program under which 16 of the 100...	June 28, 1978	Case		—
Cited by	**90.** Fitzpatrick v. Bitzer 96 S.Ct. 2666, 2672 , U.S.Conn. Present and retired male state employees brought action alleging that state's statutory retirement benefit plan discriminated against them because of their sex. The United States...	June 28, 1976	Case		—

Treatment	Title	Date	Type	Depth	Headnote(s)
Cited by	**91.** Cousins v. Wigoda 95 S.Ct. 541, 552 , U.S.Ill. Elected delegates to national political party convention brought action to enjoin defendants from participating as delegates at convention and from participating in party caucus to...	Jan. 15, 1975	Case		4 S.Ct.
Cited by	**92.** Sosna v. Iowa 95 S.Ct. 553, 568+ , U.S.Iowa A wife whose petition for divorce had been dismissed by an Iowa court because she failed to meet the state statutory requirement that a petitioner in a divorce action be a resident...	Jan. 14, 1975	Case		4 S.Ct.
Cited by	**93.** Richardson v. Ramirez 94 S.Ct. 2655, 2681+ , U.S.Cal. Convicted felons who had completed their sentences and paroles instituted proceeding for writ of mandate compelling election officials to register them as voters. The California...	June 24, 1974	Case		—
Cited by	**94.** Storer v. Brown 94 S.Ct. 1274, 1292 , U.S.Cal. Persons who sought ballot position as independent candidates for members of Congress and president and vice president brought actions to have California statutes declared...	Mar. 26, 1974	Case		—
Cited by	**95.** Kusper v. Pontikes 94 S.Ct. 303, 308 , U.S.Ill. A voter brought action attacking constitutionality of Illinois statute prohibiting a person from voting at primary if he has voted at primary of another political party within...	Nov. 19, 1973	Case		1 S.Ct.
Cited by	**96.** National Ass'n for Advancement of Colored People v. New York 93 S.Ct. 2591, 2598 , U.S.Dist.Col. New York brought action seeking a judgment declaring that during the preceding ten years specified counties did not use State's voting qualifications 'for the purpose or with the...	June 21, 1973	Case		2 S.Ct.
Cited by	**97.** Frontiero v. Richardson 93 S.Ct. 1764, 1771 , U.S.Ala. Suit was brought by a married woman air force officer and her husband against the Secretary of Defense seeking declaratory and injunctive relief against enforcement of federal...	May 14, 1973	Case		—
Cited by	**98.** Marston v. Lewis 93 S.Ct. 1211, 1212 , U.S.Ariz. An injunction was granted by a three-judge district court which held Arizona's 50-day durational voter residency requirement and 50-day voter registration requirement...	Mar. 19, 1973	Case		—

Treatment	Title	Date	Type	Depth	Headnote(s)
Cited by	**99.** Furman v. Georgia 92 S.Ct. 2726, 2844 , U.S.Ga. Certiorari was granted to review decisions of the Supreme Court of Georgia, 225 Ga. 253, 167 S.E.2d 628, and 225 Ga. 790, 171 S.E.2d 501, affirming imposition of death penalty on...	June 29, 1972	Case		—
Cited by	**100.** Schilb v. Kuebel 92 S.Ct. 479, 484 , U.S.Ill. A purported class action was brought against certain county officials by a person who had in accordance with an Illinois bail reform statute put up ten per cent of bail fixed for...	Dec. 20, 1971	Case		—
Cited by	**101.** Palmer v. Thompson 91 S.Ct. 1940, 1949+ , U.S.Miss. Class action by Negro citizens and residents of city to compel city to reopen swimming pools and operate them on a desegregated basis. The United States District Court for the...	June 14, 1971	Case		2 S.Ct.
Cited by	**102.** Ely v. Klahr 91 S.Ct. 1803, 1809+ , U.S.Ariz. Proceeding involving Arizona legislative reapportionment. The United States District Court for the District of Arizona, a three-judge court, 313 F.Supp. 148, ordered that 1970...	June 07, 1971	Case		3 S.Ct.
Cited by	**103.** Whitcomb v. Chavis 91 S.Ct. 1858, 1881+ , U.S.Ind. Legislative apportionment case. A three-judge panel of the United States District Court for the Southern District of Indiana, 305 F.Supp. 1364, determined that residents of Negro...	June 07, 1971	Case		—
Cited by	**104.** Griffin v. Breckenridge 91 S.Ct. 1790, 1800+ , U.S.Miss. Action to recover damages on account of allegedly racially motivated assault committed upon public highway. The United States District Court for the Southern District of...	June 07, 1971	Case		1 4 S.Ct.
Cited by	**105.** Christopher v. Mitchell 91 S.Ct. 892, 892+ , U.S.Dist.Col. Appeal from the United States District Court for the District of Columbia. Former decision, 400 U.S. 809, 91 S.Ct. 29. Facts and opinion, D.C., 318 F.Supp. 994.	Feb. 22, 1971	Case		—
Cited by	**106.** Jimenez v. Naff 91 S.Ct. 448, 448 , U.S.Wash. Appeal from the United States District Court for the Eastern District of Washington. Former decision, 397 U.S. 1005, 90 S.Ct. 1245; 400 U.S. 813, 91 S.Ct. 32. Facts and opinion,...	Jan. 11, 1971	Case		2 S.Ct.

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Cited by	**107.** Igartua v. U.S. 626 F.3d 592, 617 , 1st Cir.(Puerto Rico) GOVERNMENT - Elections. Residents of Puerto Rico could not vote for members of House of Representatives.	Nov. 24, 2010	Case		4 S.Ct.
Cited by	**108.** Simmons v. Galvin 575 F.3d 24, 32 , 1st Cir.(Mass.) GOVERNMENT - Elections. Vote denial claim challenging felon disenfranchisement was not cognizable under the Voting Rights Act.	July 31, 2009	Case		—
Cited by	**109.** Laro v. New Hampshire 259 F.3d 1, 8 , 1st Cir.(N.H.) LABOR AND EMPLOYMENT - Leaves. Creation of FMLA cause of action against states did not validly abrogate Eleventh Amendment immunity.	Aug. 06, 2001	Case		—
Cited by	**110.** Cool Moose Party v. Rhode Island 183 F.3d 80, 82 , 1st Cir.(R.I.) Rhode Island political party, and its chairperson filed § 1983 action seeking declaratory and injunctive relief from various provisions of Rhode Island's primary election laws. The...	Aug. 25, 1999	Case		—
Cited by	**111.** Fortin v. Darlington Little League, Inc. 514 F.2d 344, 350 , 1st Cir.(R.I.) Father and his ten-year-old daughter brought suit for declaratory and injunctive relief alleging that daughter had been unconstitutionally denied right to participate in baseball...	Mar. 31, 1975	Case		—
Cited by	**112.** Walgren v. Howes 482 F.2d 95, 100 , 1st Cir.(Mass.) Action by voters who claim that election date set by town board wilfully discouraged participation by college students who attended colleges located in town but who would not be...	July 18, 1973	Case		—
Cited by	**113.** CSX Transp., Inc. v. New York State Office of Real Property Services 306 F.3d 87, 96 , 2nd Cir.(N.Y.) TRANSPORTATION - Jurisdiction. 4-R Act was valid abrogation of state sovereign immunity under Eleventh Amendment.	Sep. 25, 2002	Case		—
Cited by	**114.** Soto-Lopez v. New York City Civil Service Com'n 755 F.2d 266, 279+ , 2nd Cir.(N.Y.) Applicants for state employment, who were denied additional points for service in armed forces by reason that their entry into armed forces was from another state, brought action...	Feb. 15, 1985	Case		4 S.Ct.
Cited by	**115.** Rosario v. Rockefeller 458 F.2d 649, 654 , 2nd Cir.(N.Y.) Appeal from a decision of the United States District Court for the Eastern District of New York, Jacob Mishler, Chief Judge, declaring unconstitutional a section of the New York...	Apr. 07, 1972	Case		2 S.Ct.

Treatment	Title	Date	Type	Depth	Headnote(s)
Cited by	**116.** Sharrow v. Brown 447 F.2d 94, 95 , 2nd Cir.(N.Y.) The United States District Court for the Southern District of New York, Edward Weinfeld, J., 319 F.Supp. 1012, denied plaintiff's motions for injunctive relief and for convening of...	July 09, 1971	Case		—
Cited by	**117.** Smith v. Follette 445 F.2d 955, 959 , 2nd Cir.(N.Y.) Actions challenging constitutionality of sections of New York Mental Hygiene Law. The United States District Court for the Northern District of New York, Harold P. Burke, J.,...	July 08, 1971	Case		—
Cited by	**118.** Powell v. Power 436 F.2d 84, 86 , 2nd Cir.(N.Y.) Six voters in a Congressional primary election sought a federal remedy for errors of state officials in permitting voting by persons not qualified under state law. The District...	Dec. 23, 1970	Case		2 S.Ct.
Cited by	**119.** Lavia v. Pennsylvania, Dept. of Corrections 224 F.3d 190, 201 , 3rd Cir.(Pa.) LABOR AND EMPLOYMENT - Discrimination. States are immune from ADA employment discrimination claims.	Aug. 08, 2000	Case		3 S.Ct.
Cited by	**120.** College Sav. Bank v. Florida Prepaid Postsecondary Educ. Expense Bd. 131 F.3d 353, 359+ , 3rd Cir.(N.J.) Bank which sold deposit contracts for funding college education brought action against Florida Prepaid Postsecondary Education Expense Board alleging unfair competition under...	Dec. 05, 1997	Case		—
Cited by	**121.** Halderman v. Pennhurst State School & Hospital 612 F.2d 84, 98 , 3rd Cir.(Pa.) Persons confined at school and hospital for the mentally retarded brought action challenging conditions of confinement. The United States District Court for the Eastern District of...	Dec. 13, 1979	Case		—
Cited by	**122.** Vorchheimer v. School Dist. of Philadelphia 532 F.2d 880, 885+ , 3rd Cir.(Pa.) Female high school student who had been denied admission to an all-male academic high school because of sex brought class action to challenge the assertedly unconstitutional...	Mar. 16, 1976	Case		—
Cited by	**123.** Borough of Bethel Park v. Stans 449 F.2d 575, 580 , 3rd Cir.(Pa.) Plaintiffs brought suit raising questions regarding propriety of certain procedures established by Secretary of Commerce and Director of the Bureau of the Census for taking of 1970...	Sep. 30, 1971	Case		—

Treatment	Title	Date	Type	Depth	Headnote(s)
Cited by	**124.** Baten v. McMaster 967 F.3d 345, 377 , 4th Cir.(S.C.) GOVERNMENT — Elections. South Carolina's winner-take-all system for selecting presidential electors does not violate Equal Protection Clause or Voting Rights Act.	July 21, 2020	Case		2 4 S.Ct.
Cited by	**125.** Wessel v. Glendening 306 F.3d 203, 218 , 4th Cir.(Md.) CIVIL RIGHTS - Discrimination. Congress did not validly abrogate Eleventh Amendment immunity of states under the ADA.	Sep. 26, 2002	Case		—
Cited by	**126.** Amos v. Maryland Dept. of Public Safety and Correctional Services 178 F.3d 212, 217+ , 4th Cir.(Md.) Disabled Maryland state prisoners brought suit, alleging violations of Americans with Disabilities Act (ADA) and Rehabilitation Act. The United States District Court for the...	June 24, 1999	Case		—
Cited by	**127.** Brzonkala v. Virginia Polytechnic Institute and State University 169 F.3d 820, 874+ , 4th Cir.(Va.) Woman brought action under the Violence Against Women Act (VAWA) against man who allegedly raped her. Motion to dismiss the VAWA claims was granted by the United States District...	Mar. 05, 1999	Case		3 S.Ct.
Cited by	**128.** Brown v. North Carolina Div. of Motor Vehicles 166 F.3d 698, 705 , 4th Cir.(N.C.) Class of disabled persons commenced action against North Carolina Department of Motor Vehicles under Americans with Disabilities Act (ADA) challenging imposition of fee for...	Feb. 12, 1999	Case		4 S.Ct.
Cited by	**129.** Condon v. Reno 155 F.3d 453, 464 , 4th Cir.(S.C.) State of South Carolina and its Attorney General brought action against United States, challenging constitutionality of Driver's Privacy Protection Act (DPPA), which regulated...	Sep. 03, 1998	Case		—
Cited by	**130.** Abril v. Com. of Virginia 145 F.3d 182, 187 , 4th Cir.(Va.) State employees sued Commonwealth of Virginia for alleged violations of Fair Labor Standards Act (FLSA). The United States District Court for the Western District of Virginia,...	May 21, 1998	Case		3 S.Ct.
Cited by	**131.** Greidinger v. Davis 988 F.2d 1344, 1349 , 4th Cir.(Va.) Action was brought challenging requirement that voter supply social security number when registering to vote, which would then be made available to those purchasing voter...	Mar. 22, 1993	Case		—

Treatment	Title	Date	Type	Depth	Headnote(s)
Cited by	**132.** **Hutchinson v. Miller** 797 F.2d 1279, 1283 , 4th Cir.(W.Va.) Unsuccessful candidates for political office brought action contesting election results and seeking monetary damages. The United States District Court for the Southern District...	Aug. 07, 1986	Case		4 S.Ct.
Cited by	**133.** **Bellamy v. Mason's Stores, Inc. (Richmond)** 508 F.2d 504, 508 , 4th Cir.(Va.) Civil rights action alleging that employer violated plaintiff's right of free association by firing him for his membership in the Ku klux Klan. The United States District Court...	Dec. 27, 1974	Case		4 S.Ct.
Cited by	**134.** **U.S. v. Anderson** 481 F.2d 685, 699 , 4th Cir.(W.Va.) Defendants were convicted in the United States District Court for the Southern District of West Virginia, at Huntington, John A. Field, Jr., Chief Judge, of violating statute which...	June 26, 1973	Case		—
Cited by	**135.** **Veasey v. Abbott** 830 F.3d 216, 315+ , 5th Cir.(Tex.) GOVERNMENT — Elections. Texas's 2011 voter identification law, requiring specific forms of identification at polls, was racially discriminatory under Voting Rights Act.	July 20, 2016	Case		1 2 S.Ct.
Cited by	**136.** **Kazmier v. Widmann** 225 F.3d 519, 536+ , 5th Cir.(La.) LABOR AND EMPLOYMENT - Leaves. Congress did not abrogate states' immunity from FMLA claims regarding leave resulting from illness.	Aug. 25, 2000	Case		—
Cited by	**137.** **Lesage v. State of Tex.** 158 F.3d 213, 217+ , 5th Cir.(Tex.) EDUCATION - Admission. Summary judgment was improperly granted in challenge to race-conscious university admissions policy.	Oct. 13, 1998	Case		—
Cited by	**138.** **League of United Latin American Citizens, Council No. 4434 v. Clements** 999 F.2d 831, 854 , 5th Cir.(Tex.) Action was brought challenging single-district system of electing state trial judges in Texas. The United States District Court for the Western District of Texas, Lucius Desha...	Aug. 23, 1993	Case		—
Cited by	**139.** **League of United Latin American Citizens, Council No. 4434 v. Clements** 986 F.2d 728, 846 , 5th Cir.(Tex.) Voting Rights Act action was brought challenging method for electing district court judges. The United States District Court for the Western District of Texas, Lucius Desha...	Jan. 27, 1993	Case		—

Treatment	Title	Date	Type	Depth	Headnote(s)
Cited by	**140.** League of United Latin American Citizens Council No. 4434 v. Clements 914 F.2d 620, 649 , 5th Cir.(Tex.) Action was brought under Voting Rights Act challenging at-large method of election of trial court judges in certain Texas counties. The United States District Court for the...	Sep. 28, 1990	Case		—
Cited by	**141.** Scott v. Moore 680 F.2d 979, 997 , 5th Cir.(Tex.) Construction company and two of its employees brought action against trades council, its unions, and individual union members, alleging that defendants conspired for purpose of...	July 01, 1982	Case		—
Cited by	**142.** Scott v. Moore 640 F.2d 708, 725 , 5th Cir.(Tex.) Construction company and two of its employees brought action against trades council, its unions, and individual union members, alleging that defendants conspired for purpose of...	Mar. 26, 1981	Case		—
Cited by	**143.** Gamza v. Aguirre 619 F.2d 449, 453 , 5th Cir.(Tex.) Candidate for school board of a Texas independent school district and four of his supporters brought civil rights suit, alleging that election votes were improperly counted and, as...	June 19, 1980	Case		—
Cited by	**144.** Corpus v. Estelle 605 F.2d 175, 180 , 5th Cir.(Tex.) State appealed from judgment of the United States District Court for the Southern District of Texas, Woodrow B. Seals, J., which awarded attorney fees in civil rights action...	Oct. 26, 1979	Case		—
Cited by	**145.** U.S. v. Tonry 605 F.2d 144, 149 , 5th Cir.(La.) Probationer moved for clarification of condition of probation providing that he should not run for political office nor engage in political activity during period of probation. ...	Oct. 09, 1979	Case		—
Cited by	**146.** Scott v. City of Anniston, Ala. 597 F.2d 897, 900 , 5th Cir.(Ala.) A civil rights class action for racial discrimination in employment was brought by black employees in city's public works department. The United States District Court for the...	June 25, 1979	Case		3 S.Ct.
Cited by	**147.** Holley v. Askew 583 F.2d 728, 730 , 5th Cir.(Fla.) Plaintiff brought action seeking declaratory judgment that amendment to Florida Constitution providing for merit retention of state appellate judges contravened Fourteenth...	Nov. 08, 1978	Case		—

Treatment	Title	Date	Type	Depth	Headnote(s)
Cited by	**148.** Harris v. Samuels 440 F.2d 748, 751 , 5th Cir.(Ala.) Suit by students, who had been denied registration as voters in the state in which the college was located, for injunctive relief on the ground of misconstruction, by state...	Mar. 16, 1971	Case		—
Cited by	**149.** Daunt v. Benson 956 F.3d 396, 428+ , 6th Cir.(Mich.) GOVERNMENT — Elections. First Amendment viewpoint-discrimination challenge to Michigan's redistricting commission was unlikely to succeed.	Apr. 15, 2020	Case		1 S.Ct.
Cited by	**150.** Wilson-Jones v. Caviness 99 F.3d 203, 209 , 6th Cir.(Ohio) Employees brought action against Ohio Civil Rights Commission under Fair Labor Standards Act (FLSA). The United States District Court for the Southern District of Ohio, James L....	Oct. 30, 1996	Case		3 S.Ct.
Cited by	**151.** Anderson v. Celebrezze 664 F.2d 554, 560 , 6th Cir.(Ohio) Independent candidate for the United States presidency and others brought suit against the Secretary of State of Ohio to challenge constitutionality of an Ohio statute which...	Nov. 04, 1981	Case		3 S.Ct.
Cited by	**152.** Penick v. Columbus Bd. of Ed. 583 F.2d 787, 802 , 6th Cir.(Ohio) In desegregation suit, following trial on issue of liability the United States District Court for the Southern District of Ohio, Eastern Division, 429 F.Supp. 229, Robert M....	July 14, 1978	Case		—
Cited by	**153.** Scott v. Hill 449 F.2d 634, 636 , 6th Cir.(Ky.) Action for declaratory and injunctive relief directed to preventing state appellate court from hearing appeal from conviction. The United States District Court for the Eastern...	Oct. 07, 1971	Case		—
Cited by	**154.** Krislov v. Rednour 226 F.3d 851, 859 , 7th Cir.(Ill.) GOVERNMENT - Elections. Requirement that circulator of nominating petition be voter registered in district was unconstitutional.	Sep. 05, 2000	Case		4 S.Ct.
Cited by	**155.** Varner v. Illinois State University 150 F.3d 706, 716 , 7th Cir.(Ill.) Class consisting of female teaching faculty at state university brought Title VII and Equal Pay Act claims against university. The United States District Court for the Central...	July 21, 1998	Case		—

Treatment	Title	Date	Type	Depth	Headnote(s)
Cited by	**156.** Jansen v. Packaging Corp. of America 123 F.3d 490, 565 , 7th Cir.(Ill.) Employee sued employer for sex discrimination and retaliation under Title VII, and for intentional infliction of emotional distress. The United States District Court for the...	Aug. 12, 1997	Case		3 S.Ct.
Cited by	**157.** McIntyre v. Fallahay 766 F.2d 1078, 1084 , 7th Cir.(Ind.) After dispute arising out of recount proceedings in Indiana congressional election was removed to federal court, the United States District Court for the Southern District of...	July 02, 1985	Case		2 S.Ct.
Cited by	**158.** U.S. v. Olinger 759 F.2d 1293, 1302 , 7th Cir.(Ill.) Defendant was convicted in the United States District Court for the Northern District of Illinois, James B. Moran, J., of conspiracy to violate federal law through organized acts...	Apr. 15, 1985	Case		—
Cited by	**159.** U.S. v. City of Chicago 573 F.2d 416, 423 , 7th Cir.(Ill.) Appeal was taken from order of the United States District Court for the Northern District of Illinois, Thomas R. McMillen, J., which found that certain practices of the City of...	Feb. 21, 1978	Case		—
Cited by	**160.** Puerto Rican Organization for Political Action v. Kusper 490 F.2d 575, 579 , 7th Cir.(Ill.) Class action was brought to compel city board of election commissioners to provide assistance in Spanish language to United States citizens who were of Puerto Rican birth and...	Dec. 18, 1973	Case		3 S.Ct.
Cited by	**161.** Humenansky v. Regents of University of Minnesota 152 F.3d 822, 828 , 8th Cir.(Minn.) Former employee brought Age Discrimination in Employment Act (ADEA) action against state university. The United States District Court for the District of Minnesota, Paul A....	Aug. 11, 1998	Case		—
Cited by	**162.** Republican Party of Arkansas v. Faulkner County, Ark. 49 F.3d 1289, 1300 , 8th Cir.(Ark.) Political party brought action challenging election laws. The United States District Court for the Eastern District of Arkansas, Stephen M. Reasoner, Chief Judge, denied relief,...	Mar. 02, 1995	Case		—
Cited by	**163.** Ketchum v. City of West Memphis, Ark. 974 F.2d 81, 83 , 8th Cir.(Ark.) Pro se complainant brought civil rights action against city, individual police officers, and others. The United States District Court for the Eastern District of Arkansas,...	Sep. 02, 1992	Case		—

Treatment	Title	Date	Type	Depth	Headnote(s)
Cited by	**164.** Wounded Head v. Tribal Council of Oglala Sioux Tribe of Pine Ridge Reservation 507 F.2d 1079, 1083+ , 8th Cir.(S.D.) Class action seeking declaratory judgment that Twenty-Sixth Amendment to Federal Constitution is applicable to tribal elections and seeking injunction enjoining tribal council from...	Jan. 03, 1975	Case		—
Cited by	**165.** Democratic National Committee v. Hobbs 948 F.3d 989, 1023 , 9th Cir.(Ariz.) GOVERNMENT — Elections. Enactment of Arizona statute criminalizing the collection and delivery of another person's ballot violated of § 2 of the Voting Rights Act.	Jan. 27, 2020	Case		3 S.Ct.
Cited by	**166.** Feldman v. Arizona Secretary of State's Office 843 F.3d 366, 405+ , 9th Cir. GOVERNMENT — Elections. Injunction pending appeal was warranted in suit challenging newly-enacted Arizona law criminalizing collection of ballots by third parties.	Nov. 04, 2016	Case		3 S.Ct.
Cited by	**167.** Feldman v. Arizona Secretary of State's Office 842 F.3d 613, 636+ , 9th Cir.(Ariz.) GOVERNMENT — Elections. Arizona law requiring voters to cast ballots at precinct polling station at which they registered to vote did not violate Voting Rights Act (VRA).	Nov. 02, 2016	Case		3 S.Ct.
Cited by	**168.** Feldman v. Arizona Secretary of State's Office 840 F.3d 1057, 1096+ , 9th Cir.(Ariz.) GOVERNMENT — Elections. Voters failed to show that Arizona law limiting who may possess another's early ballot violated Voting Rights Act.	Oct. 28, 2016	Case		3 S.Ct.
Cited by	**169.** Harvey v. Brewer 605 F.3d 1067, 1078 , 9th Cir.(Ariz.) GOVERNMENT - Elections. Equal Protection Clause permitted states to disenfranchise felons, regardless of whether their offenses were common law felonies.	May 27, 2010	Case		—
Cited by	**170.** Farrakhan v. Gregoire 590 F.3d 989, 997 , 9th Cir.(Wash.) GOVERNMENT - Elections. VRA prevented felons legitimately convicted from being disqualified from voting.	Jan. 05, 2010	Case		3 S.Ct.
Cited by	**171.** U.S. v. Blaine County, Montana 363 F.3d 897, 901+ , 9th Cir.(Mont.) NATIVE AMERICANS - Elections. Montana county's at-large voting system discriminated against Indian voters.	Apr. 07, 2004	Case		3 S.Ct.

Treatment	Title	Date	Type	Depth	Headnote(s)
Cited by	**172.** Hibbs v. Department of Human Resources 273 F.3d 844, 869 , 9th Cir.(Nev.) LABOR AND EMPLOYMENT - Leaves. State was not immune from FMLA action for leave to care for sick family member.	Dec. 11, 2001	Case		3 S.Ct.
Cited by	**173.** Voting Rights Coalition v. Wilson 60 F.3d 1411, 1414 , 9th Cir.(Cal.) After State of California brought lawsuit to enjoin enforcement of the National Voter Registration Act of 1993, the United States and various public interest organizations obtained...	July 24, 1995	Case		—
Cited by	**174.** Geary v. Renne 911 F.2d 280, 286+ , 9th Cir.(Cal.) Voters and members of political party brought action challenging provision of California Constitution prohibiting political parties from endorsing candidates for nonpartisan...	Aug. 14, 1990	Case		4 S.Ct.
Cited by	**175.** Schmidt v. Oakland Unified School Dist. 662 F.2d 550, 557 , 9th Cir.(Cal.) General contractors filed an action against a school district, the school board and individual members of the school board challenging the validity of the affirmative action plan...	Nov. 05, 1981	Case		—
Cited by	**176.** U.S. v. Davis 482 F.2d 893, 912+ , 9th Cir.(Cal.) Defendant was convicted before a magistrate of attempting to board an aircraft while carrying a concealed weapon. The United States District Court for the Northern District of...	June 29, 1973	Case		4 S.Ct.
Cited by	**177.** U.S. v. Duncan 456 F.2d 1401, 1405 , 9th Cir.(Ariz.) The United States District Court for the District of Arizona, William C. Frey, J., entered order holding grand jury witness in contempt of court for her refusal to answer certain...	Mar. 06, 1972	Case		2 S.Ct.
Cited by	**178.** Union Pacific R. Co. v. Utah 198 F.3d 1201, 1204 , 10th Cir.(Utah) TRANSPORTATION - Railroads. State was not entitled to Eleventh Amendment immunity from railroads' suit.	Dec. 03, 1999	Case		—
Cited by	**179.** Migneault v. Peck 158 F.3d 1131, 1138 , 10th Cir.(N.M.) University employee who was laid off and not rehired sued university, its board, and various university employees under the Age Discrimination in Employment Act (ADEA) and § 1983....	Oct. 23, 1998	Case		—

Treatment	Title	Date	Type	Depth	Headnote(s)
Cited by	**180.** Florida State Conference of N.A.A.C.P. v. Browning 522 F.3d 1153, 1189+ , 11th Cir.(Fla.) GOVERNMENT - Elections. Florida voter registration statute was not preempted by federal law.	Apr. 03, 2008	Case		—
Cited by	**181.** Johnson v. Board of Regents of University of Georgia 263 F.3d 1234, 1263 , 11th Cir.(Ga.) EDUCATION - Admission. State university's freshman admissions policy violated equal protection.	Aug. 27, 2001	Case		—
Cited by	**182.** College Sav. Bank v. Florida Prepaid Postsecondary Educ. Expense Bd. 148 F.3d 1343, 1352 , Fed.Cir.(N.J.) Patentee brought action against state agency, alleging infringement of patented apparatus and method for administering college investment program. The United States intervened. The...	June 30, 1998	Case		—
Cited by	**183.** Center for Auto Safety v. Thomas 847 F.2d 843, 862 , D.C.Cir. The en banc court, convened to decide the question of whether petitioners have standing to challenge a rule of the Environmental Protection Agency (EPA) adopting new formulae for...	May 17, 1988	Case		—
Cited by	**184.** In re Sealed Case 838 F.2d 476, 487 , D.C.Cir. Three former government officials brought suit challenging authority of independent counsel appointed under provisions of Ethics in Government Act to issue subpoenas compelling...	Jan. 22, 1988	Case		—
Cited by	**185.** Business Executives' Move for Vietnam Peace v. F.C.C. 450 F.2d 642, 666 , D.C.Cir. Petitions for review of orders from Federal Communications Commission based on determination that policy of broadcast licensee to refuse to sell any of its advertising time to...	Aug. 03, 1971	Case		—
Cited by	**186.** Greater Birmingham Ministries v. State 161 F.Supp.3d 1104, 1115 , N.D.Ala. GOVERNMENT — Elections. Organizations failed to show that anyone would suffer irreparable harm by enforcement of provision in voter identification law.	Feb. 17, 2016	Case		3 S.Ct.
Cited by	**187.** National Federation of Republican Assemblies v. U.S. 218 F.Supp.2d 1300, 1344+ , S.D.Ala. TAXATION - Additions to Tax. Provision denying tax-exempt treatment to political organizations was unconstitutional, in part.	Aug. 27, 2002	Case		1 4 S.Ct.

Treatment	Title	Date	Type	Depth	Headnote(s)
Cited by	**188.** Reynolds v. Alabama Dept. of Transp. 4 F.Supp.2d 1092, 1105+ , M.D.Ala. In two consolidated race discrimination lawsuits, United States and African-American employees and job applicants brought class action against Alabama Department of Transportation,...	June 01, 1998	Case		3 S.Ct.
Cited by	**189.** Hobson v. Pow 434 F.Supp. 362, 366 , N.D.Ala. Action was instituted for declaratory and injunctive relief against allegedly unconstitutional laws of Alabama. The District Court, Guin, J., held that Alabama constitutional and...	June 16, 1977	Case		—
Cited by	**190.** Prigmore v. Renfro 356 F.Supp. 427, 430+ , N.D.Ala. A class action was brought for injunctive relief against enforcement of an Alabama election statute concerning absentee voting. A three-judge District Court, McFadden, J., held...	Sep. 29, 1972	Case		4 S.Ct.
Cited by	**191.** Democratic National Committee v. Reagan 329 F.Supp.3d 824, 874 , D.Ariz. GOVERNMENT — Elections. Arizona law prohibiting third-party collection of early ballots only minimally burdened voters' voting and associational rights.	May 10, 2018	Case		—
Cited by	**192.** Pena v. Nelson 400 F.Supp. 493, 496 , D.Ariz. Plaintiff sued former State Attorney General on account of his action in issuing opinion which disqualified recall petitions circulated by deputy registrars. Plaintiffs moved for...	Sep. 16, 1975	Case		—
Cited by	**193.** Hooper v. Clark 2011 WL 445510, *15 , E.D.Cal. Petitioner Robert Douglas Hooper is a state prisoner proceeding pro se with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. Pursuant to 28 U.S.C. § 636(c)(1),...	Feb. 08, 2011	Case		—
Cited by	**194.** Wilson v. U.S. 878 F.Supp. 1324, 1327+ , N.D.Cal. Government and group of private citizens brought proposed class action seeking to compel state to comply with provisions of National Voter Registration Act (NVRA), and state...	Mar. 02, 1995	Case		—
Cited by	**195.** Cooper v. Molko 512 F.Supp. 563, 571 , N.D.Cal. Member of religious group sued police officer, his parents, and seven deprogrammers, alleging that his civil rights were violated in the course of his abduction and deprogramming. ...	Feb. 03, 1981	Case		—

Treatment	Title	Date	Type	Depth	Headnote(s)
Cited by	**196.** Quadra v. Superior Court of City and County of San Francisco 378 F.Supp. 605, 631+ , N.D.Cal. Action challenging process of selecting members of grand jury for county brought against Superior Court, judges of court and court's executive officer who served as jury...	May 16, 1974	Case		4 S.Ct.
Cited by	**197.** Hodgson v. Local Union 582 350 F.Supp. 16, 21+ , C.D.Cal. Action was brought by the Secretary of Labor to challenge an election of officers of a local union. The District Court, Irving Hill, J., held that even if the union had a large...	Oct. 13, 1972	Case		4 S.Ct.
Cited by	**198.** Hodgson v. Plumbers and Pipefitters, Local Union 582 1972 WL 899, *5+ , C.D.Cal. In this case, the Secretary of Labor, acting under Title IV of the Labor Management Reporting and Disclosure Act of 1959, 29 U. S. C. §§ 401 ff., challenges the May, 1971 election...	Oct. 13, 1972	Case		2 4 S.Ct.
Cited by	**199.** Salyer Land Co. v. Tulare Lake Basin Water Storage Dist. 342 F.Supp. 144, 150 , E.D.Cal. Action by landowners or registered voters challenging constitutionality of sections of California Water Code. The Three-Judge District Court held that section of Water Code...	Feb. 17, 1972	Case		3 S.Ct.
Cited by	**200.** Thompson v. Colorado 29 F.Supp.2d 1226, 1233 , D.Colo. Plaintiffs sought relief on behalf of putative class of individuals who qualified for disability parking placards, claiming that fee charged by state for placards violated the...	Dec. 22, 1998	Case		—
Cited by	**201.** Thompson v. Colorado 1997 WL 1089597, *7 , D.Colo. This matter is before the court on cross motions for summary judgment. Defendant's Motion for Summary Judgment and Plaintiffs' Motion for Summary Judgment were both filed December...	Nov. 25, 1997	Case		—
Cited by	**202.** U.S. v. Costelon 694 F.Supp. 786, 790 , D.Colo. Challenge was made by motion of defendant to constitutionality of Sentencing Reform Act. The District Court, Sherman G. Finesilver, Chief Judge, held that: (1) Sentencing Act...	Aug. 01, 1988	Case		—
Cited by	**203.** Republican Party of State of Conn. v. Tashjian 599 F.Supp. 1228, 1235+ , D.Conn. In action challenging validity of Connecticut's “closed primary law,” which prohibited voters who were not enrolled in a political party from participating in primary elections,...	Dec. 05, 1984	Case		—

Treatment	Title	Date	Type	Depth	Headnote(s)
Cited by	**204.** Ajello v. Schaffer 349 F.Supp. 1168, 1173 , D.Conn. Suit to enjoin enforcement of state superior court's order that election of state senators and representatives be held on November 7, 1972. The District Court, Blumenfeld, Chief...	Sep. 21, 1972	Case		—
Cited by	**205.** Nicholls v. Schaffer 344 F.Supp. 238, 242 , D.Conn. Action challenging validity of Connecticut constitutional and statutory requirements of six months' residence in a town as a condition of right to be admitted as an elector,...	June 01, 1972	Case		3 S.Ct.
Cited by	**206.** Shelby County, Ala. v. Holder 811 F.Supp.2d 424, 453+ , D.D.C. GOVERNMENT - Elections. Voting Rights Act reauthorization was proper response to continuing history and pattern of discrimination.	Sep. 21, 2011	Case		3 S.Ct.
Cited by	**207.** City of Rome, Ga. v. U.S. 472 F.Supp. 221, 239+ , D.D.C. City and others brought action seeking declaration that city's voting changes had neither the purpose nor the effect of denying or abridging the right to vote on the basis of race...	Apr. 09, 1979	Case		3 S.Ct.
Cited by	**208.** Hindes v. Castle 740 F.Supp. 327, 337 , D.Del. Defeated candidate for lieutenant governor brought action against, inter alia, governor and lieutenant governor, alleging that irregularities in campaigns of governor and...	June 26, 1990	Case		4 S.Ct.
Cited by	**209.** Smith v. F. T. C. 403 F.Supp. 1000, 1013 , D.Del. Corporations which were subject to Federal Trade Commission's requirement for filing of annual line of business reports sought preenforcement review of rule requiring the reports. ...	Sep. 22, 1975	Case		—
Cited by	**210.** Bush v. Hillsborough County Canvassing Bd. 123 F.Supp.2d 1305, 1309+ , N.D.Fla. GOVERNMENT - Elections. Rejection of overseas absentee ballots because they lacked postmark conflicted with federal law.	Dec. 08, 2000	Case		—
Cited by	**211.** Donovan v. Local 725, United Ass'n of Journeymen and Apprentices of Plumbing and Pipe Fitting Industry of U.S. and Canada, AFL-CIO,CLC 1982 WL 2046, *21 , S.D.Fla. The above-styled case came on for trial on March 31,1982, before the Court sitting without a jury, upon Plaintiff's complaint alleging that Defendant had violated the Labor...	Aug. 27, 1982	Case		4 S.Ct.

Treatment	Title	Date	Type	Depth	Headnote(s)
Cited by	**212.** Georgia State Conference NAACP v. Georgia 2017 WL 9435558, *4 , N.D.Ga. This case comes before the Court on Plaintiffs' emergency motion for a preliminary injunction [2]. After careful review of the parties' submissions and the benefit of oral...	May 04, 2017	Case		1 S.Ct.
Cited by	**213.** Duncan v. Poythress 515 F.Supp. 327, 337 , N.D.Ga. Civil rights action was instituted under due process clause for alleged denial of right to vote. The District Court, Richard C. Freeman, J., held that: (1) actions of various...	Apr. 28, 1981	Case		2 S.Ct.
Cited by	**214.** Belgard v. State of Hawai'i 883 F.Supp. 510, 513+ , D.Hawai'i Native American prisoner brought civil rights action against prison officials for allegedly violating his constitutional right to free exercise of religion and also requested...	May 01, 1995	Case		3 S.Ct.
Cited by	**215.** Belgard v. State of Hawaii 1995 WL 170221, *3+ , D.Hawai'i Defendants the State of Hawaii, George Sumner, Director of Public Safety for the State of Hawaii, John Smythe, Warden of Halawa Correctional Facility (HCF), and John Vaughn, HCF...	Feb. 03, 1995	Case		3 S.Ct.
Cited by	**216.** Doi v. Bell 449 F.Supp. 267, 273 , D.Hawai'i State brought action under Voting Rights Act for declaratory judgment permitting it to provide English only registration or voting materials or information, including ballots. On...	Mar. 28, 1978	Case		—
Cited by	**217.** Patterson v. Burns 327 F.Supp. 745, 750 , D.Hawai'i Action by resident and voter of state senatorial district in Hawaii, to enjoin appointment of a Senator to fill a vacancy resulting from the death of a nominee just prior to a...	Apr. 28, 1971	Case		—
Cited by	**218.** Kerlin v. Chicago Board of Elections 2017 WL 1208520, *4 , N.D.Ill. Plaintiffs Rebecca Kerlin, William Shipley, Michelle Gale, Katherine Wuthrich, and Claire Tobin (collectively, the “Plaintiff Monitors”) served as election monitors in Chicago...	Apr. 03, 2017	Case		1 S.Ct.
Cited by	**219.** League of Women Voters of U.S. v. Fields 352 F.Supp. 1053, 1054 , E.D.Ill. Action brought under Civil Rights Act challenging procedures of local election officials. The District Court, Foreman, J., held that on motion to dismiss complaint alleging that...	Dec. 11, 1972	Case		4 S.Ct.

Treatment	Title	Date	Type	Depth	Headnote(s)
Cited by	**220.** Kozuszek v. Brewer 2007 WL 2349615, *4+ , N.D.Ind. This matter is before the Court on: (1) Defendants' Motion for Summary Judgment, filed on January 30, 2007; (2) Plaintiffs' Motion to Strike, filed on March 9, 2007; and (3)...	Aug. 15, 2007	Case		4 S.Ct.
Cited by	**221.** Koszusek v. Brewer 2006 WL 1389112, *2 , N.D.Ind. This matter is before the Court on Defendants' Motion to Dismiss, filed on December 22, 2005. For the reasons set forth below, this motion is DENIED. On November 1, 2005,...	May 16, 2006	Case		4 S.Ct.
Cited by	**222.** Bradley v. Work 916 F.Supp. 1446, 1465 , S.D.Ind. Minority voters brought suit alleging that Indiana procedure for selecting members of judicial nominating commission and for electing judges violated Voting Rights Act, equal...	Feb. 13, 1996	Case		3 S.Ct.
Cited by	**223.** Coolman v. Robinson 452 F.Supp. 1324, 1327 , N.D.Ind. Applicant for alcoholic beverage permit brought civil rights action claiming that residency requirement for permit deprived him of rights, privileges and immunities secured by...	June 20, 1978	Case		—
Cited by	**224.** Danaher v. Michaw 435 F.Supp. 717, 723 , N.D.Ind. Action was instituted on complaint alleging that defendant trustees of pension board violated rights of plaintiff to travel and to due process by calling him back for a...	July 25, 1977	Case		—
Cited by	**225.** United States v. Louisiana 196 F.Supp.3d 612, 625 , M.D.La. GOVERNMENT — Elections. Private parties were not virtual representatives of United States in prior litigation, and thus application of preclusion was not warranted.	July 26, 2016	Case		1 S.Ct.
Cited by	**226.** Iberia Parish Government v. Romero 2015 WL 3648771, *5 , W.D.La. This matter was referred to United States Magistrate Judge C. Michael Hill for Report and Recommendation. After an independent review of the record, and noting the absence of any...	June 10, 2015	Case		3 S.Ct.
Cited by	**227.** Johnson v. City of Opelousas 488 F.Supp. 433, 440 , W.D.La. Action was brought challenging nocturnal juvenile curfew ordinance. The District Court, Shaw, J., held that: (1) the ordinance did not unconstitutionally interfere with right of...	Apr. 16, 1980	Case		—
Cited by	**228.** Gremillion v. Rinaudo 325 F.Supp. 375, 378 , E.D.La. Action based primarily on the 1965 Voting Rights Act, 42 U.S.C.A. § 1971 et seq., to set aside the results of the Democratic Party primary election to select a democratic nominee...	Mar. 30, 1971	Case		3 S.Ct.

Treatment	Title	Date	Type	Depth	Headnote(s)
Cited by	**229.** Powell v. Tompkins 926 F.Supp.2d 367, 387+ , D.Mass. CIVIL RIGHTS - Right to Bear Arms. Proscription against licensing adults under twenty-one to carry firearms comported with Second Amendment.	Feb. 28, 2013	Case		2 S.Ct.
Cited by	**230.** Dickie v. Rabbit 956 F.Supp. 67, 70+ , D.Mass. Unsuccessful candidate in city mayoral election brought § 1983 action against other candidates and election officials based on alleged irregularities during election. Defendants...	Mar. 10, 1997	Case		2 S.Ct.
Cited by	**231.** Clough v. Guzzi 416 F.Supp. 1057, 1067 , D.Mass. Candidate for county commissioner brought action against Secretary of the Commonwealth of Massachusetts seeking declaratory judgment that statutes providing that official ballots...	July 09, 1976	Case		2 S.Ct.
Cited by	**232.** Murgia v. Com. of Massachusetts Bd. of Retirement 376 F.Supp. 753, 755 , D.Mass. In action to declare unconstitutional, and obtain injunctive relief against enforcement of, a Massachusetts statute, a three-judge District Court, Aldrich, Senior Circuit Judge,...	May 31, 1974	Case		—
Cited by	**233.** Donahue v. Rand 1973 WL 997, *1 , D.Mass. The plaintiff in this suit sought reinstatement as a teacher following alternate service as a conscientious objector. The defendant school committee members denied his request. ...	Nov. 16, 1973	Case		—
Cited by	**234.** United States v. Diggins 435 F.Supp.3d 268, 273 , D.Me. CRIMINAL JUSTICE — Hate Crimes. Defendants' substantive challenge to certification by Assistant Attorney General under hate crimes act was not reviewable by the court.	Dec. 30, 2019	Case		—
Cited by	**235.** Holtgreive v. Curtis 174 F.Supp.2d 572, 582+ , E.D.Mich. CRIMINAL JUSTICE - Pleas. Claim that guilty plea lacked factual basis did not provide basis for habeas relief.	Oct. 31, 2001	Case		—
Cited by	**236.** Joseph v. City of Birmingham 510 F.Supp. 1319, 1332 , E.D.Mich. Aspiring candidate for office of city commissioner for city of Birmingham, Michigan, challenged constitutionality of provisions of city charter which disqualified any person from...	Mar. 11, 1981	Case		—
Cited by	**237.** Doe v. Irwin 441 F.Supp. 1247, 1255 , W.D.Mich. Parents of minor, unemancipated children brought action for declaratory and injunctive relief from distribution by defendants, under color of state law and regulation, of...	Nov. 23, 1977	Case		—

Treatment	Title	Date	Type	Depth	Headnote(s)
Cited by	**238.** Doe v. Irwin 428 F.Supp. 1198, 1210 , W.D.Mich. Parents of minor, unemancipated children brought action for declaratory and injunctive relief from the distribution by defendants, under color of state law and regulation, of...	Mar. 07, 1977	Case		2 S.Ct.
Cited by	**239.** Barnes v. Board of Trustees, Mich. Veterans Trust Fund 369 F.Supp. 1327, 1335 , W.D.Mich. Suit contesting validity of durational residency requirement applicable to obtaining benefits under Michigan Veterans Trust Fund. A three-judge federal court held that veterans...	Dec. 21, 1973	Case		—
Cited by	**240.** Autio v. State of Minn. 968 F.Supp. 1366, 1369 , D.Minn. State employee brought employment discrimination action against state under the Americans with Disabilities Act (ADA). State filed motion to dismiss. The District Court,...	July 02, 1997	Case		1 S.Ct.
Cited by	**241.** U.S. v. Estrada 680 F.Supp. 1312, 1318 , D.Minn. Defendant was convicted of possession of 600 grams of cocaine with intent to distribute. Defendant challenged constitutionality of sentencing guidelines promulgated by United...	Mar. 31, 1988	Case		—
Cited by	**242.** Minnesota Gas Co. v. Public Service Commission, Dept. of Public Service, State of Minn. 394 F.Supp. 327, 329 , D.Minn. Action was brought by private utility having franchise with City of Minneapolis for declaratory judgment challenging constitutionality of Minnesota statute granting jurisdiction...	Dec. 12, 1974	Case		—
Cited by	**243.** U.S. v. Kroncke 321 F.Supp. 913, 915 , D.Minn. Proceedings on a motion to strike venire of petit and grand jurors. The District Court, Neville, J., held that fact that those who did not vote and those who were between ages of...	Dec. 17, 1970	Case		1 S.Ct.
Cited by	**244.** Welch v. McKenzie 592 F.Supp. 1549, 1557 , S.D.Miss. Plaintiffs brought action against members of county board of election commissioners, county political executive committee, registrar for county and a candidate alleging violation...	Aug. 30, 1984	Case		—
Cited by	**245.** Germann v. Kipp 429 F.Supp. 1323, 1335+ , W.D.Mo. Certain employees of city fire department sought order enjoining city from making certain promotions within fire department under procedures established for implementing fire...	Apr. 07, 1977	Case		—

Treatment	Title	Date	Type	Depth	Headnote(s)
Cited by	**246.** McCarthy v. Kirkpatrick 420 F.Supp. 366, 372 , W.D.Mo. Independent candidate for presidency, along with persons who sought to be presidential electors for that candidate and persons who wished to vote for that candidate, brought action...	Sep. 24, 1976	Case		—
Cited by	**247.** U.S. v. Blaine County 157 F.Supp.2d 1145, 1150+ , D.Mont. GOVERNMENT - Elections. The Voting Rights Act was a valid exercise of congressional power.	July 23, 2001	Case		3 S.Ct.
Cited by	**248.** Brown v. North Carolina Div. of Motor Vehicles 987 F.Supp. 451, 456 , E.D.N.C. Class of disabled persons commenced action against North Carolina Department of Motor Vehicles under Americans with Disabilities Act (ADA) challenging imposition of fee for...	Nov. 28, 1997	Case		1 S.Ct.
Cited by	**249.** Hendon v. North Carolina State Bd. of Elections 633 F.Supp. 454, 469+ , W.D.N.C. Unsuccessful candidate for Congress from North Carolina brought action challenging constitutionality of certain state election laws and seeking a recount. The United States...	Apr. 16, 1986	Case		—
Cited by	**250.** Armstrong v. Howell 371 F.Supp. 48, 52 , D.Neb. Involuntarily retired county hospital employee brought Civil Rights Act suit to have court declare invalid and enjoin enforcement of retirement policy of county civil service...	Feb. 07, 1974	Case		2 S.Ct.
Cited by	**251.** U.S. v. Summerstedt 2007 WL 656442, *2 , D.Nev. Before the Court is Defendant Reinhold V. Sommerstedt's Motion to Dismiss (# 34) filed on June 15, 2006. The Government filed its Brief in Opposition to Defendant Sommerstedt's...	Feb. 27, 2007	Case		—
Cited by	**252.** College Sav. Bank v. Florida Prepaid Postsecondary Educ. Expense Bd. 948 F.Supp. 400, 422+ , D.N.J. Bank brought action against Florida Prepaid Postsecondary Education Expense Board for patent infringement and false advertising under Lanham Act. Board moved to dismiss for lack...	Dec. 13, 1996	Case		3 S.Ct.
Cited by	**253.** Vargas v. Calabrese 634 F.Supp. 910, 922 , D.N.J. Registered voters of city sought declaratory relief and monetary damages against members of county board of elections, superintendent of elections, mayor of city and mayoral...	May 14, 1986	Case		2 S.Ct.

Treatment	Title	Date	Type	Depth	Headnote(s)
Cited by	**254.** United States v. Nissen 2020 WL 1929526, *6 , D.N.M. THIS MATTER comes before the Court on: (i) the Motion for Discovery of Grand Jury Minutes, filed December 30, 2019 (Doc. 98)("Grand Jury Motion"); (ii) the Motion for Leave to...	Apr. 21, 2020	Case		—
Cited by	**255.** Kilcullen v. New York State Dept. of Transp. 33 F.Supp.2d 133, 139 , N.D.N.Y. Disabled person brought employment discrimination action against New York State Department of Transportation, alleging violations of New York Human Rights Law (HRL) and the...	Jan. 19, 1999	Case		—
Cited by	**256.** Auerbach v. Kinley 594 F.Supp. 1503, 1506 , N.D.N.Y. Students who sought to vote in communities where they attended school brought action challenging New York voting residency statute. The District Court, McCurn, J., held that: ...	Oct. 10, 1984	Case		—
Cited by	**257.** Korzenik v. Marrow 401 F.Supp. 77, 85 , S.D.N.Y. Women brought action for declaratory and injunctive relief based on claim that civic association's exclusion of women was violative of Fourteenth and Nineteenth Amendments in view...	May 19, 1975	Case		2 S.Ct.
Cited by	**258.** Torres v. Sachs 381 F.Supp. 309, 313 , S.D.N.Y. Class action by voters who were of Puerto Rican descent, who read, wrote and understood Spanish but who spoke, read, wrote or understood English with severe difficulty or not at...	July 25, 1974	Case		4 S.Ct.
Cited by	**259.** Hershcopf v. Lomenzo 350 F.Supp. 156, 158 , S.D.N.Y. Class action seeking, inter alia, declaratory judgment that boards of elections within state be directed to canvass absentee ballots received by county boards of election by 9:00...	Nov. 06, 1972	Case		4 S.Ct.
Cited by	**260.** Fidell v. Board of Elections of City of New York 343 F.Supp. 913, 916 , E.D.N.Y. Plaintiffs, claiming to represent members of a class, sought a declaratory judgment and an injunction requiring defendants to provide for absentee ballots in a New York primary. ...	June 01, 1972	Case		4 S.Ct.
Cited by	**261.** U.S. v. Waddy 340 F.Supp. 509, 511+ , S.D.N.Y. Criminal prosecution in which defendant moved to dismiss indictment and quash jury arrays. The District Court, Motley, J., held that registered voters between 18 and 21 were not a...	Nov. 16, 1971	Case		1 2 S.Ct.

Treatment	Title	Date	Type	Depth	Headnote(s)
Cited by	**262.** U.S. v. Deardorff 343 F.Supp. 1033, 1042 , S.D.N.Y. Prosecution for conspiracy to violate the Travel Act by agreeing to use interstate facility to promote bribery and for use of interstate facilities to promote bribery in violation...	Oct. 05, 1971	Case		2 S.Ct.
Cited by	**263.** Weiss v. Walsh 324 F.Supp. 75, 77 , S.D.N.Y. Action for injunctive and monetary relief following a university's withdrawal of an alleged offer of employment on ground that plaintiff had passed his sixty-fifth year. The...	Feb. 24, 1971	Case		2 S.Ct.
Cited by	**264.** Summit County Democratic Cent. and Executive Committee v. Blackwell 2004 WL 5550698, *5 , N.D.Ohio This case comes before the Court on Plaintiffs' Motion for a Temporary Restraining Order (TRO) (Doc. 3). For the reasons stated herein, the Court GRANTS IN PART Plaintiffs' Motion....	Oct. 31, 2004	Case		4 S.Ct.
Cited by	**265.** Matteson v. Ohio State University 2000 WL 1456988, *6 , S.D.Ohio This matter is before the Court on Defendants' Motion To Dismiss for lack of subject matter jurisdiction and failure to state a claim upon which relief can be granted, filed...	Sep. 27, 2000	Case		—
Cited by	**266.** Nihiser v. Ohio E.P.A. 979 F.Supp. 1168, 1172 , S.D.Ohio Former state employee brought Americans with Disabilities Act (ADA) and Rehabilitation Act action against Ohio Environmental Protection Agency. Agency moved to dismiss on...	Aug. 06, 1997	Case		—
Cited by	**267.** Pestrak v. Ohio Elections Com'n 670 F.Supp. 1368, 1374 , S.D.Ohio Former candidate for office of county commissioner brought action against members of Ohio Election Commission in their individual and official capacities and members of County...	Oct. 07, 1987	Case		—
Cited by	**268.** Anderson v. Brown 332 F.Supp. 1195, 1196 , S.D.Ohio Action brought by students attacking constitutionality of state statutes with respect to voting. The Three-Judge District Court held that Ohio statutes making voter qualification...	Oct. 15, 1971	Case		—
Cited by	**269.** La Rose v. Northampton County 2017 WL 4770703, *3+ , E.D.Pa. Plaintiff Svend La Rose brings this civil action asserting claims arising under the United States Constitution against Northampton County and Lehigh County. He seeks to proceed in...	Oct. 19, 2017	Case		4 S.Ct.

Treatment	Title	Date	Type	Depth	Headnote(s)
Cited by	**270.** PG Pub. Co. v. Aichele 902 F.Supp.2d 724, 747 , W.D.Pa. GOVERNMENT - Elections. Pennsylvania statute creating a ten-foot buffer zone between voter and polling place did not violate newspaper's First Amendment rights.	Oct. 09, 2012	Case		1 S.Ct.
Cited by	**271.** Project Vote v. Kelly 805 F.Supp.2d 152, 174 , W.D.Pa. CIVIL RIGHTS - Free Speech. Criminal statute, prohibiting payment based on number of voter registrations obtained, did not violate First Amendment.	July 27, 2011	Case		—
Cited by	**272.** U.S. v. Berks County, Pa. 250 F.Supp.2d 525, 532+ , E.D.Pa. GOVERNMENT - Elections. County had to provide assistance to limited-English proficient citizens of Puerto Rican descent.	Mar. 18, 2003	Case		3 S.Ct.
Cited by	**273.** Berg v. Egan 979 F.Supp. 330, 337+ , E.D.Pa. Candidate for district justice who was precluded from running for 49 days sued county officials for civil rights violations. County officials moved for summary judgment. The...	Sep. 25, 1997	Case		—
Cited by	**274.** Smith v. Lower Merion Tp. 1991 WL 152982, *2 , E.D.Pa. Plaintiffs, a group of students residing in Lower Merion Township and owners of property within the Township, bring this action, under 42 U.S.C. §§ 1983 and 1985, asking the court...	Aug. 06, 1991	Case		4 S.Ct.
Cited by	**275.** Bykofsky v. Borough of Middletown 401 F.Supp. 1242, 1265+ , M.D.Pa. Action was brought by a mother and her son to test constitutionality of a nocturnal juvenile curfew ordinance. The District Court, Sheridan, Chief Judge, held that, with deletions...	Aug. 22, 1975	Case		—
Cited by	**276.** Arroyo v. Tucker 372 F.Supp. 764, 767 , E.D.Pa. Class action was brought to compel Philadelphia County Commissioners and Secretary of Commonwealth to implement bilingual English-Spanish electoral process in order to provide...	Mar. 25, 1974	Case		3 S.Ct.
Cited by	**277.** Stanley v. Darlington County School Dist. 879 F.Supp. 1341, 1418 , D.S.C. In a school desegregation case, the District Court, Currie, J., held that: (1) school district had standing to assert claims against state on its own behalf and on behalf of...	Mar. 01, 1995	Case		—

Treatment	Title	Date	Type	Depth	Headnote(s)
Cited by	**278.** Hedgepeth v. Tennessee 33 F.Supp.2d 668, 676 , W.D.Tenn. Handicapped persons brought action under the Americans with Disabilities Act (ADA) challenging assessment of handicapped parking placard fees. On state's motion to dismiss, the...	Dec. 29, 1998	Case		3 S.Ct.
Cited by	**279.** Allen v. Waller County, Texas 472 F.Supp.3d 351, 363+ , S.D.Tex. EDUCATION — Civil Rights. Genuine issue of material fact as to ability of students to access early-voting center and exercise right to vote precluded summary judgment.	July 15, 2020	Case		2 S.Ct.
Cited by	**280.** Texas Supporters of Workers World Party Presidential Candidates v. Strake 511 F.Supp. 149, 154+ , S.D.Tex. Pro se plaintiffs brought an action alleging that sections of the Texas Election Code unconstitutionally deprived them of the right to vote and access to the political process. On...	Jan. 08, 1981	Case		—
Cited by	**281.** In re Alien Children Ed. Litigation 501 F.Supp. 544, 582 , S.D.Tex. Various actions against the state of Texas and the Texas Education Agency challenging Texas statute prohibiting use of a state fund to educate persons who were not citizens of the...	July 21, 1980	Case		—
Cited by	**282.** U.S. v. State of Tex. 445 F.Supp. 1245, 1254 , S.D.Tex. United States brought suit to enjoin a Texas voting registrar from refusing to register college dormitory residents unless they established that they intended to remain in the...	Feb. 16, 1978	Case		—
Cited by	**283.** U.S. v. State of Tex. 430 F.Supp. 920, 928 , S.D.Tex. The United States brought action against the State of Texas, state officials, and county voting registrar for declaratory and injunctive relief, alleging that discriminatory voting...	Mar. 15, 1977	Case		—
Cited by	**284.** Ballas v. Symm 351 F.Supp. 876, 881+ , S.D.Tex. Action by college student seeking to register to vote. The District Court, Noel, J., held that action could not be maintained as class action and was proper case for exercise of...	Nov. 13, 1972	Case		4 S.Ct.
Cited by	**285.** Egner v. Texas City Independent School Dist. 338 F.Supp. 931, 935 , S.D.Tex. Action by a high school student, joined by his parents, challenging action of a school district and certain of its administrators and trustees in suspending the student for...	Feb. 11, 1972	Case		—

Treatment	Title	Date	Type	Depth	Headnote(s)
Cited by	**286.** Lecky v. Virginia State Board of Elections 285 F.Supp.3d 908, 915+ , E.D.Va. GOVERNMENT — Elections. Voters challenging election results did not show likelihood of success on merits of substantive due process claim, as required for preliminary injunction.	Jan. 11, 2018	Case		1 S.Ct.
Cited by	**287.** Moseley v. Price 300 F.Supp.2d 389, 399 , E.D.Va. GOVERNMENT - Elections. Investigating possible voter registration fraud did not violate applicant's constitutional rights.	Jan. 22, 2004	Case		4 S.Ct.
Cited by	**288.** Potomac Elec. Power Co. v. Fugate 341 F.Supp. 887, 891 , E.D.Va. Action brought by two utilities against Virginia State Highway Commissioner to obtain a declaration that they were entitled to reimbursement for the nonbetterment costs of utility...	Apr. 10, 1972	Case		—
Cited by	**289.** Mitchell v. Atkins 483 F.Supp.3d 985, 992+ , W.D.Wash. GOVERNMENT — Weapons. Age provision of Washington initiative was reasonable, and thus passed intermediate scrutiny and did not violate Second Amendment rights.	Aug. 31, 2020	Case		2 S.Ct.
Cited by	**290.** Montes v. City of Yakima 40 F.Supp.3d 1377, 1409 , E.D.Wash. GOVERNMENT - Elections. At-large voting system used for City Council elections in Yakima, Washington, diluted votes of the Latino population.	Aug. 22, 2014	Case		3 S.Ct.
Cited by	**291.** Knox v. Milwaukee County Bd. of Election Com'rs 607 F.Supp. 1112, 1124 , E.D.Wis. Action was brought challenging county redistricting plan under Voting Rights Act on ground that it unlawfully diluted black and Hispanic voting strength. The District Court,...	Apr. 19, 1985	Case		3 S.Ct.
Cited by	**292.** U.S. Equal Employment Opportunity Commission v. Calumet County 519 F.Supp. 195, 198 , E.D.Wis. The Equal Employment Opportunity Commission brought action on behalf of individual who was deputy clerk of court for county and who was required to retire at 65, despite her desire...	June 12, 1981	Case		—
Cited by	**293.** Constitution Party of West Virginia v. Jezioro 2009 WL 10710236, *11 , N.D.W.Va. This case is presently before the Court on plaintiffs' Motion for Judgment on the Pleadings or Summary Judgment [Doc. 24], filed on March 16, 2009; defendants' Response to...	June 03, 2009	Case		—

Treatment	Title	Date	Type	Depth	Headnote(s)
Cited by	**294.** Igartua de la Rosa v. U.S. 842 F.Supp. 607, 610 , D.Puerto Rico Action was brought by residents of Puerto Rico who wished to vote for president and vice president of United States. The District Court, Acosta, J., held that: (1) United States...	Jan. 20, 1994	Case		4 S.Ct.
Cited by	**295.** Kreitzer v. Puerto Rico Cars, Inc. 417 F.Supp. 498, 506 , D.Puerto Rico Plaintiff, a Maryland resident, brought diversity action against owners of rental car to recover for injuries sustained in collision between such vehicle and vehicle in which...	June 03, 1975	Case		—
Cited by	**296.** Williams v. Zobel 619 P.2d 422, 437 , Alaska Suit was brought by taxpayers for declaration that state income tax statute, which completely exempts from taxation income of those individuals who have filed Alaska income tax...	Sep. 19, 1980	Case		—
Cited by	**297.** State v. Van Dort 502 P.2d 453, 455+ , Alaska Action challenging 75-day residency requirement for voting. The Superior Court, First Judicial District, Victor D. Carlson, J., held such requirement unconstitutional, and appeal...	Nov. 03, 1972	Case		4 S.Ct.
Cited by	**298.** State v. Steelman 585 P.2d 1213, 1225 , Ariz. Defendant was convicted in the Superior Court, Pima County, Cause Nos. A-24565 and A-24567, D. L. Greer, J., of burglary, kidnapping for robbery with a gun, robbery armed with a...	Sep. 13, 1978	Case		—
Cited by	**299.** State v. Jackson 519 P.2d 848, 851 , Ariz. Defendant was convicted before the Superior Court of Maricopa County, Cause No. CR 69909, Donald F. Froeb, J., of the crime of sale of heroin, and he appealed. The Supreme Court,...	Mar. 08, 1974	Case		3 S.Ct.
Cited by	**300.** State v. Cordova 511 P.2d 621, 623 , Ariz. Defendant was convicted in Superior Court, Pima County, Cause No. A—19384, Joe Jacobson, J., of unlawful sale of heroin, and he appealed. The Supreme Court, Cameron, V.C.J., held...	June 28, 1973	Case		3 S.Ct.
Cited by	**301.** Lewis v. Tucson School Dist. No. 1 531 P.2d 199, 202 , Ariz.App. Div. 2 Junior high school teacher, whose application to school board for renewal of her employment contract in school year in which she attained the retirement age of 65 was denied,...	Jan. 29, 1975	Case		—

Treatment	Title	Date	Type	Depth	Headnote(s)
Cited by	**302.** Agua Caliente Band of Cahuilla Indians v. Superior Court 52 Cal.Rptr.3d 659, 672 , Cal. NATIVE AMERICANS - Sovereign Immunity. Indian tribe was not immune from suit to enforce state Political Reform Act (PRA).	Dec. 21, 2006	Case		—
Cited by	**303.** Bakke v. Regents of University of California 132 Cal.Rptr. 680, 708 , Cal. Unsuccessful white applicant for admission to medical school of state university brought action challenging constitutionality of special admission program benefiting disadvantaged...	Sep. 16, 1976	Case		—
Cited by	**304.** Young v. Gnoss 101 Cal.Rptr. 533, 540 , Cal. Original mandamus proceeding challenging the constitutionality of laws imposing durational residence requirements of 90 days in county and 54 days in precinct as prerequisite to...	May 04, 1972	Case		4 S.Ct.
Cited by	**305.** Jolicoeur v. Mihaly 96 Cal.Rptr. 697, 699+ , Cal. Proceeding on petition wherein minors sought issuance of writ of mandate ordering registrars to register minors for voting according to same procedures and qualifications followed...	Aug. 27, 1971	Case		—
Cited by	**306.** Agua Caliente Band of Cahuilla Indians v. Superior Court 10 Cal.Rptr.3d 679, 694 , Cal.App. 3 Dist. LITIGATION - Jurisdiction. State had jurisdiction to bring suit against Indian tribe to enforce the Political Reform Act.	Mar. 03, 2004	Case		4 S.Ct.
Cited by	**307.** Kagan v. Kearney 149 Cal.Rptr. 867, 871 , Cal.App. 1 Dist. Injunction action was brought to enjoin registrar of voters of city and county from preventing individuals from voting in election. The Superior Court, City and County of San...	Oct. 31, 1978	Case		4 S.Ct.
Cited by	**308.** People v. Rodriguez 111 Cal.Rptr. 238, 239+ , Cal.App. 2 Dist. Defendant was convicted, on guilty plea, before the Superior Court, Los Angeles County, E. Talbot Callister, J., of violating statute proscribing registration of foreign born...	Dec. 11, 1973	Case		1 4 S.Ct.
Cited by	**309.** Jeffrey v. Colorado State Dept. of Social Services 599 P.2d 874, 877 , Colo. In a class action brought to challenge a provision of the old-age pension statute, the plaintiffs appealed from the judgment of the District Court, City and County of Denver,...	Aug. 20, 1979	Case		3 S.Ct.

Treatment	Title	Date	Type	Depth	Headnote(s)
Cited by	**310.** Colorado Project-Common Cause v. Anderson 495 P.2d 220, 223 , Colo. Proceeding by electors, who had sought to initiate legislation, alleging that General Assembly had seriously harmed their ability to circulate petitions for initiative and to gain...	Mar. 24, 1972	Case		—
Cited by	**311.** Young v. Red Clay Consolidated School District 159 A.3d 713, 756 , Del.Ch. EDUCATION — Finance. School district's conduct in holding family-focused events at polling places on day of school board special election violated state constitution's Elections...	May 24, 2017	Case		3 S.Ct.
Cited by	**312.** Young v. Red Clay Consolidated School District 2017 WL 2271390, *32 , Del.Ch. In February 2015, Red Clay Consolidated School District (“Red Clay”) held a special election in which residents were asked to approve an increase in the school-related property...	May 24, 2017	Case		3 S.Ct.
Cited by	**313.** State v. Johnson 295 A.2d 741, 743 , Del.Super. Homicide prosecution wherein defendant was convicted of first-degree murder. On defendant's motion for new trial, the Superior Court, Quillen, J., held that where defendant could...	Aug. 24, 1972	Case		—
Cited by	**314.** Nelson v. Miwa 546 P.2d 1005, 1008 , Hawai'i The University of Hawaii, its officers, and the State of Hawaii appealed from an order of the Third Circuit Court, Hawaii County, Benjamin Menor, J., enjoining them from...	Feb. 24, 1976	Case		—
Cited by	**315.** Whitehead v. Whitehead 492 P.2d 939, 952 , Hawai'i Divorce proceeding. The Third Circuit Court, hawaii County, Nelson K. Doi, J., entered decree of divorce for plaintiff, and the state appealed. The Supreme Court, Marumoto, J.,...	Jan. 19, 1972	Case		4 S.Ct.
Cited by	**316.** Qualkinbush v. Skubisz 826 N.E.2d 1181, 1196 , Ill.App. 1 Dist. GOVERNMENT - Elections. Statute restricting individuals who may mail voters' absentee ballots was not preempted by federal statutes.	Dec. 28, 2004	Case		4 S.Ct.
Cited by	**317.** Orr v. Edgar 670 N.E.2d 1243, 1253+ , Ill.App. 1 Dist. GOVERNMENT - Elections. State's implementation of two-tier system of voter registration, one for national elections and another for state and local elections, violated Illinois...	Sep. 26, 1996	Case		—

Treatment	Title	Date	Type	Depth	Headnote(s)
Cited by	**318.** Sturrup v. Mahan 290 N.E.2d 64, 67 , Ind.App. 3 Dist. Proceeding for injunction restraining Indiana high school athletic association and principal of high school from declaring plaintiff ineligible to participate in varsity athletics,...	Dec. 13, 1972	Case		—
Cited by	**319.** Chelsea Collaborative v. Galvin 2017 WL 4125039, *31 , Mass.Super. MASS. CONST. amend. art. III ("art. III") dictates that citizens who meet certain qualifications "shall be entitled to vote." This case challenges the Massachusetts statutes which,...	July 25, 2017	Case		1 S.Ct.
Cited by	**320.** Attorney General v. Johnson 385 A.2d 57, 78 , Md. Medical malpractice claimants sought declaratory judgment that health care malpractice claims statute which required submission of certain medical malpractice claims to arbitration...	Apr. 05, 1978	Case		—
Cited by	**321.** Harnish v. Herald-Mail Co. 286 A.2d 146, 151 , Md. Landlords sued newspaper, alleging libel, wilful and malicious violation of right of privacy, and conspiracy to deprive landlords of their reputation, income, and ability to earn a...	Jan. 21, 1972	Case		—
Cited by	**322.** State v. Cugliata 372 A.2d 1019, 1031 , Me. Defendants were convicted before the Superior Court, Lincoln County, of felonious homicide punishable as murder, and they appealed. The Supreme Judicial Court, Wernick, J., held...	Apr. 20, 1977	Case		—
Cited by	**323.** White v. Edgar 320 A.2d 668, 679 , Me. The District Court of the United States, District of Maine, convened as a three-judge court, certified two questions to the Supreme Judicial Court of Maine for 'instructions'...	May 07, 1974	Case		—
Cited by	**324.** Wilkins v. Bentley 189 N.W.2d 423, 428 , Mich. Petition for writ of mandamus by university students seeking right to register and vote. The Circuit Court, Washtenaw County, denied the petition as to plaintiff-appellant and the...	Aug. 27, 1971	Case		3 S.Ct.
Cited by	**325.** In re Proposal C. 185 N.W.2d 9, 28 , Mich. Action for declaratory judgment, against school district, to test validity of Attorney General's opinion construing constitutional prohibition on aid to nonpublic schools. The...	Mar. 31, 1971	Case		—

Treatment	Title	Date	Type	Depth	Headnote(s)
Cited by	**326.** Meyers v. Roberts 246 N.W.2d 186, 188+ , Minn. Nineteen-year-old, who was elected to the office of court commissioner, brought suit to compel the county auditor to certify him as elected to that office. The District Court,...	Sep. 24, 1976	Case		4 S.Ct.
Cited by	**327.** Nielsen v. Social Service Bd. of North Dakota 216 N.W.2d 708, 716 , N.D. Appeal by the Social Service Board of North Dakota from a judgment of the Cass County District Court, Ralph B. Maxwell, J., holding plaintiff eligible to receive medical assistance...	Mar. 27, 1974	Case		—
Cited by	**328.** Appeal of Corporators of Portsmouth Sav. Bank 525 A.2d 671, 701 , N.H. Corporators of savings bank appealed from decision of Board of Trust Company Incorporation granting bank's application for conversion from mutual savings bank to guaranty form of...	Mar. 30, 1987	Case		—
Cited by	**329.** In re Contest of November 8, 2011 General Election of Office of New Jersey General Assembly 40 A.3d 684, 702 , N.J. GOVERNMENT - Elections. State Constitution's durational residency requirement for membership in General Assembly did not violate equal protection.	Feb. 16, 2012	Case		4 S.Ct.
Cited by	**330.** Matthews v. City of Atlantic City 417 A.2d 1011, 1021+ , N.J. Action was brought to declare two-year residency requirement for office of city commissioner unconstitutional. The Superior Court, Appellate Division, affirmed the trial court's...	July 30, 1980	Case		4 S.Ct.
Cited by	**331.** Taxpayers Ass'n of Weymouth Tp., Inc. v. Weymouth Tp. 364 A.2d 1016, 1034+ , N.J. Opponents of zoning ordinance brought action challenging its validity. On appeal from order of trial court dismissing the petition, the Superior Court, Appellate Division, 125...	Sep. 28, 1976	Case		2 S.Ct.
Cited by	**332.** Wurtzel v. Falcey 354 A.2d 617, 618+ , N.J. Action was brought challenging on equal protection grounds the minimum age requirements for certain elective offices in the New Jersey Constitution, which operated to deny...	Mar. 01, 1976	Case		4 S.Ct.
Cited by	**333.** Worden v. Mercer County Bd. of Elections 294 A.2d 233, 237 , N.J. College and university students brought action against county board of elections seeking to establish their right to register and vote in their college or university communities. ...	July 14, 1972	Case		—

Treatment	Title	Date	Type	Depth	Headnote(s)
Cited by	**334.** State v. Moore 385 A.2d 867, 873 , N.J.Super.A.D. Defendant was convicted before the Essex County Court of obtaining unemployment compensation by false representations and failure to disclose facts which he had duty to disclose,...	Mar. 29, 1978	Case		—
Cited by	**335.** In re State in Interest of K. V. N. 283 A.2d 337, 341 , N.J.Super.A.D. After being committed to the Youth Correctional Institution Complex for an indeterminate term not to extend beyond his twenty-first birthday, juvenile moved to limit term of...	Oct. 29, 1971	Case		—
Cited by	**336.** State v. Damiano 361 A.2d 631, 634+ , N.J.Co. Seventeen-year-old was adjudicated guilty in the Madison Municipal Court of operating motor vehicle while under the influence of intoxicating liquor, and driving privileges were...	May 06, 1976	Case		3 S.Ct.
Cited by	**337.** In re Contest of November 8, 2011 General Election of Office of New Jersey General Assembly, Fourth Legislative Dist. 48 A.3d 1164, 1185+ , N.J.Super.L. GOVERNMENT - Elections. State constitutional one»year district residency requirement for candidates for the General Assembly did not violate equal protection.	Jan. 05, 2012	Case		4 S.Ct.
Cited by	**338.** In re Thirteen Ballots Cast in 1985 General Election in Burlington County 507 A.2d 314, 315+ , N.J.Super.L. In proceedings to resolve problems and conduct hearings relating to 1985 general elections in county, the Superior Court, Burlington County, Law Division, Haines, A.J.S.C. and...	Nov. 11, 1985	Case		3 4 S.Ct.
Cited by	**339.** State v. Musto 454 A.2d 449, 475 , N.J.Super.L. The Attorney General brought suit seeking declaratory judgment that state senator, who was also city commissioner and mayor, had forfeited his public offices, and the senator,...	June 16, 1982	Case		4 S.Ct.
Cited by	**340.** Weiland v. Vigil 560 P.2d 939, 943 , N.M.App. Action was brought for injuries sustained by passengers in automobile accident. The District court, Bernalillo County, Maurice Sanchez, D.J., entered judgment for defendants, and...	Jan. 11, 1977	Case		2 S.Ct.
Cited by	**341.** Atkin v. Onondaga County Bd. of Elections 334 N.Y.S.2d 377, 378+ , N.Y. Suit challenging validity of voter registration requirement. The Onondaga Special Term, James P. O'Donnell, J., 67 Misc.2d 754, 325 N.Y.S.2d 180, dismissed the petition, and...	June 07, 1972	Case		4 S.Ct.

Treatment	Title	Date	Type	Depth	Headnote(s)
Cited by	**342.** Palla v. Suffolk County Bd. of Elections 334 N.Y.S.2d 860, 866 , N.Y. Proceedings to review denial of registration to students residing in college dormitories. In the first case, the Supreme Court, Special Term, Suffolk County, Frank P. DeLuca, J.,...	June 07, 1972	Case		4 S.Ct.
Cited by	**343.** Samuels v. New York State Dept. Of Health 811 N.Y.S.2d 136, 144 , N.Y.A.D. 3 Dept. FAMILY LAW - Marriage. There was rational basis for limiting marriage to one man and one woman.	Feb. 16, 2006	Case		—
Cited by	**344.** Kesselbrenner v. ""Anonymous" 334 N.Y.S.2d 738, 757 , N.Y.A.D. 2 Dept. The Supreme Court, Special Term, Arnold L. Fein, J., refused to order civilly committed person committed to hospital operated by Department of Corrections and director of hospital...	July 19, 1972	Case		—
Cited by	**345.** Brody v. Leamy 393 N.Y.S.2d 243, 261 , N.Y.Sup. Plaintiff brought an action in state court against a member of the New York State Police Department, asserting a cause of action under the Civil Rights Act of 1871 on allegations...	Feb. 28, 1977	Case		2 S.Ct.
Cited by	**346.** Matter of Thomas A. F. 381 N.Y.S.2d 392, 395 , N.Y.Fam.Ct. A juvenile was charged with being a juvenile delinquent by virtue of possessing an air gun and committing reckless endangerment in the second degree by discharging that gun and...	Feb. 27, 1976	Case		—
Cited by	**347.** State v. Burke 1979 WL 208813, *4 , Ohio App. 1 Dist. This appeal derives from the judgment entered against the defendant-appellant, Kimberly Burke, upon the jury's finding of guilt under R.C. 4301.69 (Selling intoxicating liquor to a...	Dec. 19, 1979	Case		—
Cited by	**348.** State v. Wagner 752 P.2d 1136, 1153+ , Or. Defendant was convicted of aggravated murder in the Circuit Court for Linn County, William O. Lewis, J., and sentenced to death. On automatic and direct review, the Supreme...	Feb. 26, 1988	Case		—
Cited by	**349.** Starkey v. Smith 283 A.2d 700, 706 , Pa. Appeal from a decree of the Court of Common Pleas, Civil Action, Equity, Centre County, at No. 6, October Term, 1971, R. Paul Campbell, P.J., granting mandatory preliminary...	Nov. 18, 1971	Case		4 S.Ct.
Cited by	**350.** State v. Patriarca 308 A.2d 300, 317+ , R.I. Defendant was convicted before the Superior Court, Providence and Bristol Counties, Bulman, J., of conspiring to murder, and he brought bill of exceptions. The Supreme Court,...	July 20, 1973	Case		—

Treatment	Title	Date	Type	Depth	Headnote(s)
Cited by	**351.** Taylor v. Armentrout 632 S.W.2d 107, 122 , Tenn. An action was filed challenging the results of a city "liquor by the drink" referendum. The Chancery Court, Washington County, Frederick McDonald, Chancellor by Interchange,...	Dec. 30, 1981	Case		—
Cited by	**352.** Tibbetts v. State 494 S.W.2d 552, 556 , Tex.Crim.App. Defendant was convicted in the 108th Judicial District Court, Potter County, Mary Lou Robinson, J., of sale of marihuana, and he appealed. The Court of Criminal Appeals, Onion,...	May 16, 1973	Case		2 S.Ct.
Cited by	**353.** Shelby v. State 479 S.W.2d 31, 33 , Tex.Crim.App. Defendant was convicted in the 140th Judicial District Court, Lubbock County, William R. Shaver, J., of burglary with intent to commit theft, and he appealed. The Court of...	Mar. 08, 1972	Case		2 S.Ct.
Cited by	**354.** Macias v. Department of Labor and Industries of State of Wash. 668 P.2d 1278, 1284 , Wash. Migrant workers filed an administrative appeal from the Department of Labor and Industries' denial of benefits under Workers' Compensation Act, and also filed suit seeking a...	Sep. 08, 1983	Case		—
Cited by	**355.** Puget Sound Gillnetters Ass'n v. Moos 565 P.2d 1151, 1156 , Wash. Commercial gillnet fishermen who harvest salmon in the waters of Washington State sought writ of mandate requiring the Director of Fisheries to issue regulations applying equally...	June 09, 1977	Case		—
Cited by	**356.** Houser v. State 540 P.2d 412, 413 , Wash. Class action was brought challenging constitutionality of legislation establishing minimum age of 21 for the consumption of alcoholic beverages. The Superior Court, Thurston...	Sep. 11, 1975	Case		—
Cited by	**357.** State v. Koome 530 P.2d 260, 267 , Wash. Defendant, a physician, was convicted before the Superior Court, King County, Robert M. Elston, J., of performing an abortion on an unmarried minor without first obtaining the...	Jan. 07, 1975	Case		—
Cited by	**358.** State v. Heming 90 P.3d 62, 65 , Wash.App. Div. 3 CRIMINAL JUSTICE - Sex Offenses. Age distinction in child rape statute did not violate equal protection.	May 11, 2004	Case		—

Treatment	Title	Date	Type	Depth	Headnote(s)
Cited by	**359.** White v. Manchin 318 S.E.2d 470, 490 , W.Va. Residents of and registered voters in two senatorial districts brought mandamus proceedings challenging qualifications of two candidates for nomination to office of state senator....	July 13, 1984	Case		4 S.Ct.
Cited by	**360.** Ramirez de Ferrer v. Mari Bras 144 D.P.R. 141, 170+ , P.R. We must pass upon the constitutionality of Puerto Rico's Electoral Law, insofar as it provides, in secs. 2.003 and 2.023, that to be a voter in Puerto Rico, it is necessary to be a...	Nov. 18, 1997	Case		—
Cited by	**361.** Ortiz Anglero v. Barreto Perez 110 D.P.R. 84, 89 , P.R. JUDGMENT of Peter Ortiz Gustafson, Judge (San Juan), granting a Petition for Injunction against Gerineldo Barreto Pérez, General Administrator of the Commonwealth Election...	June 24, 1980	Case		—
Cited by	**362.** In Re Complaint by SOCIALIST WORKER PARTY 1972, NEW YORK, N.Y. Concerning Equal Opportunity Under Section 315 Re Metromedia, Inc. 1972 WL 26264, *2 , F.C.C. MR. LARRY SEIGLE, National Campaign Manager, Socialist Workers Party 1972, Campaign Committee, 706 Broadway, 8th Floor, New York, N.Y. DEAR MR. SEIGLE: This is in response to your...	Oct. 12, 1972	Administrative Decision		4 S.Ct.
Cited by	**363.** United Mine Workers-Local Union 1269 241 NLRB 231, 234+ , N.L.R.B. This is a proceeding under Section 10(k) of the National Labor Relations Act, as amended, following a charge filed by United Mine Workers of America, Local Union 1600 (hereinafter...	Mar. 20, 1979	Administrative Decision		3 S.Ct.
Cited by	**364.** Constitutional Law-Fourth Amendment Exclusionary Rule-Legislative Proposal 3 U.S. Op. Off. Legal Counsel 489, 500+ This responds to your request that we consider whether Congress may constitutionally limit the scope of the Fourth Amendment exclusionary rule in Federal criminal proceedings....	Dec. 28, 1979	Administrative Decision		—
Cited by	**365.** Implementation of Standards of Professional Conduct for Attorneys (Release Nos. 33-8150; 34-46868; IC-25829; File No. S7-45-02) 2002 WL 32849142 (S.E.C. Misc.), *13 From: FV Anderson@aol.com Sent: Thursday, December 19, 2002 11:40 AM To: rule-comments@sec.gov I apologize for being a day late in my comment. I did not know of the proceeding...	Dec. 19, 2002	Administrative Decision		—
Cited by	**366.** Harry Goldbar 1982 WL 43798 (Alaska A.G.), *4+ The constitutionality of the residency requirements applicable to veterans' benefits under the special mortgage loan purchase program of the Alaska Housing Finance Corporation...	July 14, 1982	Administrative Decision		4 S.Ct.

Treatment	Title	Date	Type	Depth	Headnote(s)
Cited by	**367.** **The Honorable Gilbert Baker** Ark. Op. Atty. Gen. No. 2010-074, 2010-074+ This is in response to your request for my opinion on the following question: Is the Arkansas General Assembly empowered to enact legislation that would authorize the counties of...	Aug. 30, 2010	Administrative Decision		2 S.Ct.
Cited by	**368.** **In the Matter of: Opinion requested by: John Ferraro, Councilman Los Angeles** CA FPPC Op. 78-009, 78-009 BY THE COMMISSION: We have been asked the following question by John Ferraro, President of the Los Angeles City Council, on behalf of three councilmen; Ernani Bernardi, John Gibson...	Nov. 07, 1978	Administrative Decision		—
Cited by	**369.** **McKinnon v. Montclair State College** 1994 WL 1063811, *4 , N.J. Adm. Petitioner appeals the manner in which the respondent, Montclair State College (MSC), assesses tuition to students registered for undergraduate course work who already possess...	Apr. 29, 1994	Administrative Decision		4 S.Ct.
Cited by	**370.** **To: Secretary of State** 1984 Ga. Op. Atty. Gen. 34 This is in response to your recent request for my official opinion concerning the effect of Section 208 of the Voting Rights Act of 1965, as amended, on the conduct of the...	Feb. 23, 1984	Administrative Decision		2 S.Ct.
Cited by	**371.** **The Honorable Melvin D. Synhorst** 1979 Iowa Op. Atty. Gen. 496 You have requested an opinion of the Attorney General regarding the impact of the Overseas Citizens' Voting Rights Act of 1975 (OCVRA), and its 1978 amendments on § 53.49, The Code...	Nov. 13, 1979	Administrative Decision		—
Cited by	**372.** **Honorable Jack E. Woods** 1973 WL 324518 (Iowa A.G.), *1 CONSTITUTIONAL LAW: Residency Requirement for Professional boxing or wrestling license — § 727A.4, Code of Iowa, 1973; H.F. 268. Legislature may require one year residency before a...	May 25, 1973	Administrative Decision		—
Cited by	**373.** **The Honorable Melvin D. Synhorst** 1972 WL 262320 (Iowa A.G.), *3 ELECTIONS: Residency requirements for voting — H.F. 1147, Acts, 64th G.A., 2nd Session (1972). The 30 day residence requirement for voting contained in H.F. 1147 insofar as it...	Apr. 05, 1972	Administrative Decision		4 S.Ct.
Cited by	**374.** **Mr. Max H. Buck** 1971 WL 240802 (Iowa A.G.), *3 ELECTIONS: Eighteen year old voting — 26th Amendment, U. S. Constitution; Art. II, § 1, Constitution of Iowa; §§ 277.12, 277.27, 363.26, Code of Iowa, 1971. (1) With the adoption...	Aug. 04, 1971	Administrative Decision		2 S.Ct.
Cited by	**375.** **Nick A. Tomasic** Kan. Atty. Gen. Op. No. 99-1, 99-1 As District Attorney for the 29th Judicial District, you request our opinion regarding the appointment of precinct committeemen and committeewomen. Specifically, you ask whether a...	Jan. 15, 1999	Administrative Decision		4 S.Ct.

Treatment	Title	Date	Type	Depth	Headnote(s)
Cited by	**376.** Mr. Lea McGehee La. Atty. Gen. Op. No. 84-896 23 Elections—Absentee Voters 28-A Elections—Qualifications of Voters 61-A-1 Laws—Voting Rights La.R.S. 18:103 contravenes portions of the Voting Rights Act amendments of 1970...	Oct. 25, 1984	Administrative Decision		4 S.Ct.
Cited by	**377.** THE HONORABLE MARCH FONG EU 60 Ops. Cal. Atty. Gen. 35, 35+ THE HONORABLE MARCH FONG EU, SECRETARY OF STATE, has requested an opinion on the following question: 'Is the provision of Government Code § 8201(a) requiring that a notary public...	Jan. 21, 1977	Administrative Decision		4 S.Ct.
Cited by	**378.** Honorable Gerald Hill Tex. Atty. Gen. Op. MW-488, MW-488 Re: Whether 47 U.S.C. section 315(b)(1) preempts article 14.09(B) of the Texas Election Code with regard to the rates a broadcaster in Texas may charge for political advertising	July 07, 1982	Administrative Decision		4 S.Ct.
Cited by	**379.** The Honorable W.R. "Bill" Janis 2008 WL 4759875 (Va.A.G.), *7+ I am responding to your request for an official advisory opinion in accordance with § 2.2-505 of the Code of Virginia. You ask whether Virginia law requires an overseas military...	Oct. 27, 2008	Administrative Decision		4 S.Ct.
Cited by	**380.** Honorable A. N. Shinpoch Wash. AGLO 1977 NO. 14 Legislation requiring the establishment of a program at the University of Washington Medical School giving preferential treatment to Washington residents who are attending or have...	Apr. 05, 1977	Administrative Decision		—
—	**381.** Michigan Technological University Board of Control v Deputy Commissioner of Patents 1982 WL 495135, *1 , HCA These two matters raise for decision important questions as to the validity of certain sections of the Racial Discrimination Act 1975 (Cth) as amended (the Act). In the first...	June 08, 1982	Case	—	—
—	**382.** Koowarta v Bjelke-Petersen 1982 WL 493909, *1 , HCA These two matters raise for decision important questions as to the validity of certain sections of the Racial Discrimination Act 1975 (Cth) as amended (the Act). In the first...	May 11, 1982	Case	—	—
Mentioned by	**383.** Nevada Dept. of Human Resources v. Hibbs 123 S.Ct. 1972, 1983+ , U.S. LABOR AND EMPLOYMENT - Discrimination. State employees may recover money damages in federal court for violation of the FMLA.	May 27, 2003	Case		3 S.Ct.

Treatment	Title	Date	Type	Depth	Headnote(s)
Mentioned by	**384.** Florida Prepaid Postsecondary Educ. Expense Bd. v. College Sav. Bank 119 S.Ct. 2199, 2206 , U.S.N.J. INTELLECTUAL PROPERTY - Patent Practice. Congress lacked authority under Enforcement Clause to abrogate states' immunity from patent infringement claims.	June 23, 1999	Case		4 S.Ct.
Mentioned by	**385.** Trafficante v. Metropolitan Life Ins. Co. 93 S.Ct. 364, 368 , U.S.Cal. Action by tenants of apartment complex challenging allegedly racially discriminatory practices of landlord. The United States District Court for the Northern District of...	Dec. 07, 1972	Case		2 S.Ct.
Mentioned by	**386.** Graham v. Richardson 91 S.Ct. 1848, 1854 , U.S.Ariz. Two cases involving application of equal protection clause to state welfare laws discriminating against aliens were consolidated on appeal. In one case, alien resident of Arizona...	June 14, 1971	Case		—
Mentioned by	**387.** Baird v. State Bar of Ariz. 91 S.Ct. 702, 707 , U.S.Ariz. Proceeding for writ of certiorari to the Supreme Court of Arizona which had denied applicant's petition for admission to practice law in Arizona courts. The Supreme Court, Mr....	Feb. 23, 1971	Case		—
Mentioned by	**388.** U.S. v. City of Philadelphia 644 F.2d 187, 200 , 3rd Cir.(Pa.) Suit was brought by the United States, through its Attorney General, for broad declaratory and equitable relief against allegedly unconstitutional practices and policies of the...	Dec. 29, 1980	Case		2 S.Ct.
Mentioned by	**389.** Duncan v. Poythress 657 F.2d 691, 702 , 5th Cir.(Ga.) Voters brought action against state officials challenging appointment of person to fill vacancy in state Supreme Court judgeship. The United States District Court for the Northern...	Sep. 28, 1981	Case		—
Mentioned by	**390.** Potter v. Meier 458 F.2d 585, 589 , 8th Cir.(N.D.) Suit by North Dakota residents seeking declaration that selected provisions of the state election law violated the Twenty-Sixth Amendment and other provisions of the United States...	Apr. 04, 1972	Case		—
Mentioned by	**391.** Bates v. Jones 131 F.3d 843, 851 , 9th Cir.(Cal.) State legislator and voters brought action for declaratory and injunctive relief against Secretary of State of California, challenging state constitutional amendment establishing...	Dec. 19, 1997	Case		—

Treatment	Title	Date	Type	Depth	Headnote(s)
Mentioned by	**392.** Kimel v. State Bd. of Regents 139 F.3d 1426, 1443 , 11th Cir.(Fla.) In separate cases, the United States District Court for the Northern District of Florida, No. 95–40194–MP, Maurice M. Paul, J., and No. 5:96–CV–207–RH, Robert L. Hinkle, J., found...	Apr. 30, 1998	Case		—
Mentioned by	**393.** Nipper v. Smith 39 F.3d 1494, 1549 , 11th Cir.(Fla.) Black registered voters and association of black attorneys brought action against Florida officials under Voting Rights Act, asserting claim of vote dilution in connection with...	Dec. 02, 1994	Case		3 S.Ct.
Mentioned by	**394.** Whig Party of Alabama v. Siegelman 500 F.Supp. 1195, 1206 , N.D.Ala. A political party and certified class of qualified electors sought relief against allegedly unconstitutional election statutes of Alabama. The District Court, Clemon, J., held...	Oct. 09, 1980	Case		—
Mentioned by	**395.** Construction Industry Ass'n of Sonoma County v. City of Petaluma 375 F.Supp. 574, 581 , N.D.Cal. Action by construction association against city, challenging constitutionality of city's plan for limiting its growth by limiting number of people who would henceforth be permitted...	Apr. 26, 1974	Case		4 S.Ct.
Mentioned by	**396.** Thoms v. Smith 334 F.Supp. 1203, 1212 , D.Conn. Class action for declaration that Connecticut statute making misuse of flag a criminal offense was unconstitutional because vague and overly broad, and for an injunction. The...	Nov. 09, 1971	Case		—
Mentioned by	**397.** Sosna v. State of Iowa 360 F.Supp. 1182, 1185+ , N.D.Iowa Wife who had resided in Iowa less than one year brought class action seeking to have declared unconstitutional Iowa Dissolution of Marriage Act sections imposing one-year residency...	July 16, 1973	Case		4 S.Ct.
Mentioned by	**398.** Sanchez v. Roden 2015 WL 461917, *9 , D.Mass. This is an action by a state prisoner seeking a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Petitioner Dagoberto Sanchez was convicted in Suffolk County of second-degree...	Feb. 04, 2015	Case		—
Mentioned by	**399.** Operation Rescue Nat. v. U.S. 975 F.Supp. 92, 111 , D.Mass. Anti-abortion organization brought state court defamation action against senator for statements made in response to question from media following fund-raising event in which...	Aug. 27, 1997	Case		—

Treatment	Title	Date	Type	Depth	Headnote(s)
Mentioned by	**400.** Com. of Mass. v. Mosbacher 785 F.Supp. 230, 253 , D.Mass. Commonwealth of Massachusetts and two of its registered voters brought action before a three-judge district court challenging manner by which Congress apportioned seats in United...	Feb. 20, 1992	Case		—
Mentioned by	**401.** Keeler v. Mayor & City Council of Cumberland 928 F.Supp. 591, 596 , D.Md. Archbishop and church sought relief from city denial of application to demolish church building and associated structures which were designated part of city's historic district. ...	June 10, 1996	Case		4 S.Ct.
Mentioned by	**402.** Bayley's Campground Inc. v. Mills 463 F.Supp.3d 22, 32 , D.Me. HEALTH — Communicable Disease. Irreparable harm arising from governor's executive orders closing border did not outweigh concern for public health posed by COVID-19 pandemic.	May 29, 2020	Case		—
Mentioned by	**403.** Goodloe v. Madison County Bd. of Election Com'rs 610 F.Supp. 240, 242 , S.D.Miss. Action was brought challenging the invalidation of approximately 250 absentee ballots in general election by county board of election commissioners. The District Court, Barbour,...	June 06, 1985	Case		—
Mentioned by	**404.** National Right to Life Political Action Committee v. McGrath 982 F.Supp. 694, 697 , D.Mont. Political action committee filed suit to challenge constitutionality of state election law prohibiting placement of advertisements on election day. On parties' cross-motions for...	Oct. 17, 1997	Case		—
Mentioned by	**405.** Lake v. State Bd. of Elections of North Carolina 798 F.Supp. 1199, 1207 , M.D.N.C. Candidate for Associate Justice of State Supreme Court and two voters brought claims for injunctive relief against state and county boards of elections, governor and secretary of...	Mar. 31, 1992	Case		—
Mentioned by	**406.** Bartlett v. New York State Bd. of Law Examiners 970 F.Supp. 1094, 1134 , S.D.N.Y. Bar examination applicant brought action against state board of law examiners and its members, alleging that board's failure to accommodate her learning disability during...	July 03, 1997	Case		—
Mentioned by	**407.** Farrell v. Board of Elections in City of New York 1985 WL 2339, *5 , S.D.N.Y. Plaintiffs seek a preliminary injunction requiring the Board of Elections in the City of New York ('Board of Elections' or 'Board') to place the name of Herman D. Farrell, Jr. on...	Aug. 20, 1985	Case		4 S.Ct.

Treatment	Title	Date	Type	Depth	Headnote(s)
Mentioned by	**408.** Peck v. U.S. 470 F.Supp. 1003, 1010 , S.D.N.Y. Civil action was brought against FBI agents and the United States to recover for alleged violations of plaintiff's constitutional rights based on agents' alleged failure to attempt...	Apr. 25, 1979	Case		4 S.Ct.
Mentioned by	**409.** Hardy v. Lomenzo 349 F.Supp. 617, 619 , S.D.N.Y. Action was brought for declaratory relief in regard to the plaintiffs' right to participate in the presidential election. The District Court, Cannella, J., held that the Voting...	Oct. 02, 1972	Case		4 S.Ct.
Mentioned by	**410.** Lukens v. Brown 368 F.Supp. 1340, 1343 , S.D.Ohio A potential candidate for the office of United States Senator from Ohio brought an action challenging the constitutionality of an Ohio statute prohibiting the political candidacy...	Jan. 03, 1974	Case		—
Mentioned by	**411.** Com. of Pa. v. Local Union No. 542, Intern. Union of Operating Engineers 347 F.Supp. 268, 294 , E.D.Pa. Proceeding on plaintiffs' petition for an injunction pendente lite on ground that union and some of its members, officers, and agents were pursuing a course of violence, harassment...	Aug. 04, 1972	Case		—
Mentioned by	**412.** Moore v. Harris County Com'rs Court 378 F.Supp. 1006, 1008 , S.D.Tex. Action wherein plaintiffs sought an injunction on constitutional grounds against effect of Texas statute governing changes in boundaries of justice of the peace precincts. The...	Feb. 08, 1974	Case		—
Mentioned by	**413.** Graves v. Barnes 343 F.Supp. 704, 749 , W.D.Tex. Consolidated actions attacking redistricting plan. A three-judge District Court held that the plan was unconstitutional but, with exception of Dallas and Bexar Counties,...	Jan. 28, 1972	Case		—
Mentioned by	**414.** Winfield v. Trottier 2011 WL 4442933, *11 , D.Vt. Plaintiffs Marie and Jason Winfield bring this civil rights action under 42 U.S.C. § 1983 against Trooper Daniel Trottier of the Vermont State Police. Plaintiffs allege that...	Sep. 21, 2011	Case		—
Mentioned by	**415.** Aitken v. City of Aberdeen 393 F.Supp.3d 1075, 1083 , W.D.Wash. GOVERNMENT — Injunction. Balance of equities and public interest did not favor injunction barring enforcement of city ordinance that would evict occupants of homeless camp.	July 02, 2019	Case		—

Treatment	Title	Date	Type	Depth	Headnote(s)
Mentioned by	**416.** Gonzalez-Cancel v. Partido Nuevo Progresista 2012 WL 12949357, *4 , D.Puerto Rico Before the Court stand two Motions to Dismiss filed by co-defendants Puerto Rico State Electoral Commission ("CEE" by its Spanish acronym) and the New Progressive Party ("NPP")....	Feb. 10, 2012	Case		—
Mentioned by	**417.** Granados-Navedo v. Acevedo 703 F.Supp. 170, 175 , D.Puerto Rico Ostensibly defeated mayoral candidate and others filed actions under § 1983 to challenge a mayoral election. Plaintiffs sought, inter alia, decertification of the ostensibly...	Dec. 29, 1988	Case		—
Mentioned by	**418.** Skafte v. Rorex 553 P.2d 830, 834 , Colo. Permanent resident alien brought suit seeking declaratory judgment that Colorado statutes which deny aliens right to vote in school elections are unconstitutional. The District...	Aug. 23, 1976	Case		—
Mentioned by	**419.** Leech v. Veterans' Bonus Division Appeals Bd. 426 A.2d 289, 292 , Conn. Appeal was taken from denial by Veterans' Bonus Division Appeals Board of application for veterans' bonus for Vietnam era veteran. The Court of Common Pleas, Hartford County,...	Dec. 11, 1979	Case		4 S.Ct.
Mentioned by	**420.** Sanchez v. Department of Human Services 713 A.2d 1056, 1062 , N.J.Super.A.D. GOVERNMENT - Public Assistance. Work First New Jersey Program was unconstitutional.	July 08, 1998	Case		4 S.Ct.
Mentioned by	**421.** Strunk v. New York State Bd. of Elections 950 N.Y.S.2d 722, 722 , N.Y.Sup. The following papers numbered 1 to 25 read on this motion:Papers Numbered: Notice of Motion and Notice of Cross–Motion and and Affidavits (Affirmations) 1–13 Opposing Affidavits...	Apr. 11, 2012	Case		—
Mentioned by	**422.** In re Mario 317 N.Y.S.2d 659, 667 , N.Y.Fam.Ct. Proceeding under Family Court Act involving question of the appropriate and constitutional treatment for a 13-year-old boy who was an habitual truant and beyond parental control in...	Jan. 19, 1971	Case		—
Mentioned by	**423.** Monroe v. Monroe 289 N.E.2d 915, 917 , Ohio Com.Pl. Declaratory judgment action filed by Ohio domiciliary of some six months on behalf of herself and all others similarly situated seeking to have declared invalid the statutory...	May 17, 1972	Case		—

Treatment	Title	Date	Type	Depth	Headnote(s)
Mentioned by	**424.** P.P.D. v. Admor. Gen. de Elecciones 111 D.P.R. 199, 258 , P.R. Resolución de la Junta Revisora Electoral de Puerto Rico en la que declara electo para el cargo de Representante a la Cámara por el Distrito Representativo Núm. 35 al señor Osvaldo...	June 23, 1981	Case		—
Mentioned by	**425.** CONSTITUTIONALITY OF LEGISLATION LIMITING THE REMEDIAL POWERS OF THE INFERIOR FEDERAL COURTS IN SCHOOL DESEGREGATION LITIGATION 6 U.S. Op. Off. Legal Counsel 1, 7 This responds to your request concerning those portions of S. 951, the Senate-passed version of the Department of Justice appropriation authorization bill for fiscal year 1982,...	May 06, 1982	Administrative Decision		—
Mentioned by	**426.** The Honorable William M. Schuelein 13 Okl. Op. Atty. Gen. 423 The Attorney General has received your request for an official opinion in which you ask, in effect, the following questions: 1. Does the language of 68 O.S. Supp. 1981, § 1511,...	Feb. 02, 1982	Administrative Decision		4 S.Ct.
Mentioned by	**427.** Honorable A. Ludlow Kramer ATTN: Donald F. Whiting Wash. AGLO 1972 NO. 24, 1972 NO. 24 This is in response to your recent request for our opinion as to the legal rules regarding the impact upon voting residence which results from a voter's absence from his home, and...	Apr. 19, 1972	Administrative Decision		—
Mentioned by	**428.** Honorable E. Hans McCourt Honorable Lewis N. McManus 54 W. Va. Op. Atty. Gen. 84 This opinion has been prepared in response to your joint request which reads as follows: "The Joint Committee on Government and Finance of the West Virginia Legislature has...	Sep. 29, 1971	Administrative Decision		—
Mentioned by	**429.** Regulations Restricting the Sale and Distribution of Cigarettes and Smokeless Tobacco to Protect Children and Adolescents 61 FR 44396-01 The Food and Drug Administration (FDA) is issuing regulations governing access to and promotion of nicotine-containing cigarettes and smokeless tobacco to children and adolescents....	Aug. 28, 1996	Federal Register		—
—	**430.** Victoria v Commonwealth 1975 WL 150509, *1 , HCA The State of Victoria and its Attorney-General in this action, commenced in this Court, challenge the validity of an appropriation of $5,970,000 of the Consolidated Revenue Fund of...	Oct. 29, 1975	Case	—	—

Treatment	Title	Date	Type	Depth	Headnote(s)
—	**431.** DEFERENCE TO CONGRESSIONAL FACT-FINDING IN RIGHTS-ENFORCING AND RIGHTS-LIMITING LEGISLATION 88 N.Y.U. L. Rev. 878 , 957+ This Article examines the difficult question of the deference congressional fact-findings merit when they support legislation expanding or limiting individual rights. The deference...	2013	Law Review	—	1 S.Ct.
—	**432.** TIERS OF SCRUTINY IN ENUMERATED POWERS JURISPRUDENCE 80 U. Chi. L. Rev. 575 , 656+ This Article identifies and analyzes the recent emergence of a "tiers of scrutiny" system in Supreme Court jurisprudence respecting the boundaries of Congress's enumerated...	2013	Law Review	—	2 S.Ct.
—	**433.** CERT. DENIED: BRIEF COMMENTARY ON SWANNER V. ANCHORAGE EQUAL RIGHTS COMMISSION AND CITY OF BOERNE V. FLORES 1998 Ark. L. Notes 87 , 91+ It is first-year-of-law-school dogma: When the Supreme Court denies certiorari to a case, it does not express itself on the merits of the case. It answers the question neither yes...	1998	Law Review	—	—
—	**434.** BUYING THE ELECTORATE: AN EMPIRICAL STUDY OF THE CURRENT CAMPAIGN FINANCE LANDSCAPE AND HOW THE SUPREME COURT ERRED IN NOT REVISITING CITIZENS UNITED 61 Clev. St. L. Rev. 443 , 488 The Article discusses how the Supreme Court erred by summarily reversing the Montana Supreme Court's decision in Western Tradition Partnership v. AG and not revisiting its holding...	2013	Law Review	—	1 S.Ct.
—	**435.** DEBUNKING FIVE GREAT MYTHS ABOUT THE FOURTH AMENDMENT EXCLUSIONARY RULE 211 Mil. L. Rev. 211 , 262 I would like to begin by expressing what a great honor it is to be invited to speak before such a distinguished group of jurists. I especially want to thank Colonel Diner,...	2012	Law Review	—	—
—	**436.** TECHNIQUE: A LEGAL METHOD TO THE MADNESS 75-JUN N.Y. St. B.J. 64 , 64+ Legal writers must know more than writing. They must know how to write in a legal context. To do that they must know how to research. Researching is less about finding authority...	2003	Law Review	—	—
—	**437.** CAROLENE PRODUCTS AND CONSTITUTIONAL STRUCTURE 2012 Sup. Ct. Rev. 321 , 377 Justice Harlan Fiske Stone's opinion for the majority in the U.S. Supreme Court's 1938 decision in United States v Carolene Products is well known for its statement of two...	2012	Law Review	—	—

Treatment	Title	Date	Type	Depth	Headnote(s)
—	**438. CROSSING THE FINAL BORDER: SECURING EQUAL GENDER PROTECTION IN IMMIGRATION CASES** 21 Wm. & Mary Bill Rts. J. 957 , 988 Power without justice is soon questioned. Justice and power must be brought together, so that whatever is just may be powerful, and whatever is powerful may be just. -Blaise Pascal...	2013	Law Review	—	—
—	**439. KEEP 'EM SEPARATED: ARTICLE I, ARTICLE V, AND CONGRESS'S LIMITED AND DEFINED ROLE IN THE PROCESS OF AMENDING THE CONSTITUTION** 113 Colum. L. Rev. 1051 , 1095 In August 2011, President Barack Obama signed the Budget Control Act, allowing the United States to continue borrowing money to fulfill its legal obligations. The Act includes a...	2013	Law Review	—	—
—	**440. LESS THAN FUNDAMENTAL: THE MYTH OF VOTER FRAUD AND THE COMING OF THE SECOND GREAT DISENFRANCHISEMENT** 34 Wm. Mitchell L. Rev. 483 , 532 I. Introduction. 484 II. The Right to Vote. 487 III. The Specter of Voter Fraud. 492 A. The Legacy of Florida 2000. 492 B. Documenting Voter Fraud. 494 C. Assessing the...	2008	Law Review	—	—
—	**441. SIXTEEN AND PREGNANT: MINORS' CONSENT IN ABORTION AND ADOPTION** 25 Yale J.L. & Feminism 99 , 158 ABSTRACT: A minor girl's decision about how to handle an unplanned pregnancy is a highly contested issue. Especially contentious is the minor's ability to consent to an abortion...	2013	Law Review	—	—
—	**442. Validity, Construction, and Application of National Voter Registration Act, 42 U.S.C.A. ss1973gg et seq** 185 A.L.R. Fed. 155 Concerned about low voter participation in federal elections and believing that the difficulty encountered by eligible voters in becoming registered to vote could be addressed...	2003	ALR	—	—
—	**443. Validity of statute imposing durational residency requirements for divorce applicants** 57 A.L.R.3d 221 This annotation collects cases dealing with the validity of statutes which impose durational residency requirements for divorce applicants. Within this general scope, the...	1974	ALR	—	4 S.Ct.
—	**444. Validity of requirement that candidate or public officer have been resident of governmental unit for specified period** 65 A.L.R.3d 1048 This annotation collects the cases, both federal and state, wherein broad, fundamental attacks have been made upon the validity of state or local laws establishing durational...	1975	ALR	—	1 2 3 4 S.Ct.

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—	**445.** **Residence of students for voting purposes** 44 A.L.R.3d 797 It is the purpose of this annotation to collect and systematically discuss those decisions in which the courts have specifically dealt with the question of where a student...	1972	ALR	—	—
—	**446.** **Construction and effect of absentee voters' laws** 97 A.L.R.2d 257 This annotation collects and discusses all the cases dealing with the construction and application of absentee voters' laws, and it supersedes on this point the earlier annotations...	1964	ALR	—	—
—	**447.** **Validity of absentee voters' laws** 97 A.L.R.2d 218 This annotation collects and discusses all the cases dealing with the validity of absentee voters' laws, and it supersedes on this point the earlier annotations in 14 A.L.R. 1256,...	1964	ALR	—	—
—	**448.** **THINNING THE JUDICIAL THICKET: FURTHER POSSIBLE STEPS TO MEET THE CONTINUING CASELOAD PROBLEM** 74 F.R.D. 477 , 496 The search for answers to the problem of congested federal court dockets has elicited a generous response from Bench and Bar, which has largely resulted in proposals for creation...	1976	Law Review	—	—
—	**449.** **20140513 AHLA Seminar Papers 7, Big Issues in Payer Litigation: Themes, Issues and Contradictions** Antitrust enforcers and the courts have long recognized that most favored nation (MFN) clauses can reduce competition. This paper identifies a set of mechanisms through which...	2021	Other Secondary Source	—	—
—	**450.** **89 Causes of Action 2d 127, Cause of Action Challenging Purging of Voter Rolls** In some states, statutes may authorize the removal, from registered voter lists, of the names of those persons who have moved without notifying the voter registration board; who...	2021	Other Secondary Source	—	—
—	**451.** **Constitutional Law Deskbook s 7:23, § 7:23. Voting Rights Act of 1965** State of S.C. v. Katzenbach, 383 U.S. 301, 86 S. Ct. 803, 15 L. Ed. 2d 769 (1966), upheld the Voting Rights Act of 1965. South Carolina v Katzenbach explored how the Fifteenth...	2021	Other Secondary Source	—	2 S.Ct.
—	**452.** **Federal Civil Rights Acts s 2:5, § 2:5. The Voting Rights Act of 1965, as amended—The History of the Act and its amendments—The 1970 extensions** Federal Civil Rights Acts In 1970, Congress extended the provisions of the Act for five additional years, and broadened the formula for invoking automatic coverage, including states in which the percentage...	2021	Other Secondary Source	—	2 S.Ct.

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—	**453.** **Federal Civil Rights Acts s 1:11, § 1:11. Sources of congressional authority to enforce civil rights—Oregon v. Mitchell and the substantive limits of the enforcement power** Federal Civil Rights Acts Notwithstanding the liberal construction of the enforcement power in cases such as Katzenbach v. Morgan and South Carolina v. Katzenbach, the Supreme Court has been unwilling to...	2021	Other Secondary Source	—	1 2 3 S.Ct.
—	**454.** **Federal Civil Rights Acts s 1:12, § 1:12. Sources of congressional authority to enforce civil rights—The "enforcement versus dilution" distinction** Federal Civil Rights Acts One of the entrenched doctrines governing Congress' use of its enforcement powers is that Congress may use those powers to enforce constitutionally protected rights, but not to...	2021	Other Secondary Source	—	1 3 4 S.Ct.
—	**455.** **Federal Civil Rights Acts s 1:13, § 1:13. Sources of congressional authority to enforce civil rights—New limits on the enforcement power articulated in Boerne v. Flores** Federal Civil Rights Acts In Boerne v. Flores the Supreme Court struck down the Religious Freedom Restoration Act of 1993 (RFRA), at least insofar as the Act is applied against state and local governments....	2021	Other Secondary Source	—	3 S.Ct.
—	**456.** **Federal Civil Rights Acts s 2:53, § 2:53. Constitutional issues concerning the Voting Rights Act—Congressional authority** Federal Civil Rights Acts As explained in Chapter 1, there is no serious constitutional debate concerning Congress' affirmative power to enact voting rights legislation that is puissant and sweeping. Since...	2021	Other Secondary Source	—	2 3 S.Ct.
—	**457.** **Federal Civil Rights Acts s 5:28, § 5:28. Congress's power to enact the act—Congress's reliance on §5 of the Fourteenth Amendment—The legislative history** Federal Civil Rights Acts The House Report to the Religious Freedom Restoration Act explained the constitutional authority for Congress to enact the law as grounded in Congress's power to enforce the...	2021	Other Secondary Source	—	4 S.Ct.
—	**458.** **Federal Civil Rights Acts s 5:29, § 5:29. Congress's power to enact the act—Congress's reliance on §5 of the Fourteenth Amendment—Boerne v. Flores: RFRA unconstitutional as applied to states** Federal Civil Rights Acts In Boerne v. Flores the Supreme Court, in a dramatic and landmark ruling, struck down the Religious Freedom Restoration Act, at least insofar as the Act is applied against state...	2021	Other Secondary Source	—	1 3 4 S.Ct.

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—	**459. Federal Procedure, Lawyers Edition s 20:286, § 20:286. State versus federal officer or agency** The Supreme Court may have original jurisdiction over an action by the State against a federal officer on the basis that the federal officer is a citizen of another state. However,...	2021	Other Secondary Source	—	—
—	**460. Federal Procedure, Lawyers Edition s 20:290, § 20:290. Catalog of illustrative cases** The original jurisdiction of the Supreme Court in actions involving states depends only upon a state's status as a state, and no restriction of subject matter is specified by the...	2021	Other Secondary Source	—	—
—	**461. Gov. Discrim.: Equal Protection Law & Litig. s 13:2, § 13:2. Power to enact** Congress, under Section 5 of the Fourteenth Amendment, Section 2 of the Thirteenth Amendment, Section 2 of the Fifteenth Amendment, the spending power of the welfare clause, and...	2020	Other Secondary Source	—	1 S.Ct.
—	**462. Gov. Discrim.: Equal Protection Law & Litig. s 13:3, § 13:3. Voting rights** Over the years, Congress has passed numerous statutes protecting the franchise and access to voting, particularly laws establishing voting criteria in federal elections or...	2020	Other Secondary Source	—	1 2 3 S.Ct.
—	**463. Labor Law Journal 37070968, RESULTS IN SEARCH OF REASONS: STATE SOVEREIGN IMMUNITY IN THE REHNQUIST COURT** Labor Law Journal By Jon D. Bible Jon Bible is a Professor of Business Law at Southwest Texas State University. He is formerly the Director of Legal Services for the Texas Association of School...	2001	Other Secondary Source	—	—
—	**464. Local Government Law s 3:19, § 3:19. State constitutional limitations on state legislative control over local affairs—Restrictions affecting local elections** It is not uncommon for state constitutions to prescribe regulations governing suffrage and elections which apply to local as well as state elections, in regard to such matters as...	2021	Other Secondary Source	—	2 S.Ct.
—	**465. Modern Constitutional Law s 2:3, § 2:3. Precedent** Precedent and the doctrine of stare decisis play large roles in constitutional adjudication. However, precedent hinders the growth of the law less in constitutional law than in...	2020	Other Secondary Source	—	—
—	**466. Modern Constitutional Law s 14:9, § 14:9. Sex and age requirements** Both gender and age requirements have been specifically limited by constitutional amendment. The Nineteenth Amendment provides that the right of citizens of the United States to...	2020	Other Secondary Source	—	—

Treatment	Title	Date	Type	Depth	Headnote(s)
—	**467.** **Modern Constitutional Law s 20:3, § 20:3. The Commerce Clause and equal protection** Supreme Court Justices have preferred to use the Commerce Clause as a source of congressional power to correct inequalities rather than the Fourteenth Amendment. Nineteenth century...	2020	Other Secondary Source	—	—
—	**468.** **Modern Constitutional Law s 14:25, § 14:25. Qualifications for state office** States may adopt reasonable standards or qualifications for state office as long as they do not discriminate against protected categories of candidates in doing so. Thus, property...	2020	Other Secondary Source	—	—
—	**469.** **Modern Constitutional Law s 35:80, § 35:80. Power flowing from implementing clauses of the Fourteenth and Fifteenth Amendments** Although the Constitution authorizes states to establish the qualifications of voters in federal elections, they must act within the limitations contained in the Fourteenth,...	2020	Other Secondary Source	—	3 S.Ct.
—	**470.** **Modern Constitutional Law s 35:84, § 35:84. Congressional power to determine the scope of the Fourteenth Amendment** Section Five of the Fourteenth Amendment empowers Congress to enforce the preceding provisions, but historically, it had not been clear whether enforcement also implied authority...	2020	Other Secondary Source	—	—
—	**471.** **Modern Constitutional Law s 38:60, § 38:60. Presidential electors** The Constitution provides for election of the President and Vice President by electoral colleges in the states and the District of Columbia. Each state chooses "in such Manner as...	2020	Other Secondary Source	—	4 S.Ct.
—	**472.** **Modern Constitutional Law s 39:29, § 39:29. Congressional power to abrogate Eleventh Amendment immunity** The Supreme Court Justices have noted, "The Eleventh Amendment, and the principle of state sovereignty which it embodies, … [were] necessarily limited by the enforcement...	2020	Other Secondary Source	—	—
—	**473.** **Religious Organizations and the Law s 3:18, § 3:18. RFRA unconstitutional as applied to state law: City of Boerne v. Flores** Four years after the passage of the Religious Freedom Restoration Act (RFRA), the Supreme Court in City of Boerne, Texas v. Flores declared RFRA unconstitutional as applied to...	2021	Other Secondary Source	—	2 3 S.Ct.
—	**474.** **Restatement (Second) of Contracts s 14, § 14. Infants** Restatement (Second) of Contracts Unless a statute provides otherwise, a natural person has the capacity to incur only voidable contractual duties until the beginning of the day before the person's eighteenth...	2021	Other Secondary Source	—	—

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—	**475. Restatement (Third) of Foreign Relations s 701, § 701. Obligation to Respect Human Rights** A state is obligated to respect the human rights of persons subject to its jurisdiction (a) that it has undertaken to respect by international agreement; (b) that states generally...	2021	Other Secondary Source	—	—
—	**476. RIA All States Tax Guide 964, SAN ANTONIO INDEPENDENT SCHOOL DISTRICT, et al., Appellants v. DEMETRIO P. RODRIGUEZ, et al.** RIA All States Tax Guide U.S. Supreme Court 71-1332 Argued October 12, 1972. 411 US 1 93 S Ct 1278 36 L Ed 2d 16 The state may constitutionally finance schools through local property taxes, supplemented by...	1973	Other Secondary Source	—	—
—	**477. Treatise on Constitutional Law s 9.3(c), § 9.3(c). Congressional Powers to Protect the Right to Vote in Federal Elections** Although these clauses refer to state power over congressional elections, the Supreme Court has held that an individual's right vote in a congressional election is derived from the...	2021	Other Secondary Source	—	—
—	**478. Treatise on Constitutional Law s 19.3(a), § 19.3(a). Introduction: the Limits of Morgan** The broad language in Morgan, purporting to give Congress power to define equal protection, was unnecessary to the decision of the case. To be fair, the Court's language appears to...	2021	Other Secondary Source	—	1 3 4 S.Ct.
—	**479. Treatise on Constitutional Law s 19.5(a), § 19.5(a). Introduction: the Limits of Morgan** Although the Court in Morgan found broad congressional power under section 5 to determine that state practice interferes with Fourteenth Amendment rights, it also examined the...	2021	Other Secondary Source	—	—
—	**480. Treatise on Constitutional Law s 9.12(b), § 9.12(b). Limitations on State Power over the Electoral College Process** Article II, section 1, clause 4 is the only provision of the Constitution which expressly gives the federal government power over the appointment of electors. Clause 4 authorizes...	2021	Other Secondary Source	—	1 3 4 S.Ct.
—	**481. Treatise on Constitutional Law s 9.15(c), § 9.15(c). Electoral Pledges and the Fourteenth Amendment** The situation where the state does not require an elector to vote as pledged presents a more difficult problem. Because the state has not required the elector to vote in a certain...	2021	Other Secondary Source	—	—
—	**482. Treatise on Constitutional Law s 9.16(a), § 9.16(a). Proposals for Reform** In the very first election, the states chose electors in a variety of ways: by popular state-wide election, by popular district-wide vote, by the state legislature. Eventually...	2021	Other Secondary Source	—	—

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—	**483.** **Treatise on Constitutional Law s 18.31(a), § 18.31(a). Introduction** The Constitution initially contained two provisions that related to the exercise of the electoral franchise. Article I, section two of the Constitution mandates that electors for...	2021	Other Secondary Source	—	4 S.Ct.
—	**484.** **Treatise on Constitutional Law s 18.31(e), § 18.31(e). Literacy Tests** Traditionally, the most common restriction on the franchise based on "ability" was the literacy test. The Court considered the constitutionality of literacy tests in Lassiter v....	2021	Other Secondary Source	—	3 S.Ct.
—	**485.** **Treatise on Constitutional Law s 18.31(g), § 18.31(g). Residency Requirements** The Supreme Court has recognized that the state may qualify the voting right with reasonable residency restrictions. Several Court decisions have given some insight into what the...	2021	Other Secondary Source	—	4 S.Ct.
—	**486.** **Treatise on Constitutional Law s 19.12(a), § 19.12(a). The Voting Rights Act of 1965, the Katzenbach Case, and its Progeny** Section 2 of the Fifteenth Amendment authorized Congress to enforce the Fifteenth Amendment's guarantee that no state can abridge the rights of citizens of the United States to...	2021	Other Secondary Source	—	3 S.Ct.
—	**487.** **Treatise on Constitutional Law s 18.8(d)(ii)(5), § 18.8(d)(ii)(5). Racial Discrimination and Voting** The constitutional prohibition against burdening members of racial minorities in election systems has also been the focus of a series of Supreme Court decisions. Where a...	2021	Other Secondary Source	—	3 S.Ct.
—	**488.** **Treatise on Constitutional Law s 18.10(b)(iv)(1), § 18.10(b)(iv)(1). Developing the Standards** The Supreme Court has not set clear standards regarding the extent to which governmental entities may act to improve the voting power of racial minorities. The cases concerning...	2021	Other Secondary Source	—	3 S.Ct.
—	**489.** **Treatise on Constitutional Law s 9.19(d)(iii)(1), § 9.19(d)(iii)(1). Introduction** Another question that state term limit legislation raises is whether the states can apply term limits to federal legislators, that is, the U.S. Representatives and Senators elected...	2021	Other Secondary Source	—	—
—	**490.** **1A West's Federal Forms s 162, § 162. The Supreme Court's Original Jurisdiction—Introductory Comment** West's Federal Forms, Supreme Court The forms given here in Chapter 10 of this work, and the accompanying Comment, relate to actions within the Supreme Court's original jurisdiction. The original jurisdiction is...	2021	Other Secondary Source	—	—

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—	**491.** **1A West's Federal Forms s 166, § 166. Complaint** West's Federal Forms, Supreme Court Article I. The boundary line between the two states of New York and New Jersey, from a point in the middle of Hudson river, opposite the point on the west shore thereof, in the...	2021	Other Secondary Source	—	—
—	**492.** **1A West's Federal Forms s 169, § 169. Motion to Expedite Consideration** West's Federal Forms, Supreme Court The first illustration is the Government's motion to expedite consideration (and an excerpt from its brief in support of the complaint and of the motion), which the Court granted...	2021	Other Secondary Source	—	—
—	**493.** **1A West's Federal Forms s 185, § 185. Defendant's Answer to Complaint** West's Federal Forms, Supreme Court The first illustration is the answer filed by New York in New Jersey v. New York, 1998, 118 S.Ct. 1726, 523 U.S. —, 140 L.Ed.2d 993 (for additional material from this case, see §§...	2021	Other Secondary Source	—	—
—	**494.** **Witkin, California Summary 10th Constitutional Law s 266, 18-Year-Old Voters.** Witkin, California Summary 10th Constitutional Law (1) Constitutional Provisions. The Voting Rights Act Amendments of 1970 lowered the voting age to 18 years for both national and local elections. (See supra, § 257.) It was,...	2021	Other Secondary Source	—	2 S.Ct.
—	**495.** **Witkin, California Summary 10th Constitutional Law s 270, Discrimination Against Black Persons.** Witkin, California Summary 10th Constitutional Law (1) Statutes With Grandfather Clauses. Early legislation in southern states imposed literacy tests but added a "Grandfather Clause," exempting persons who had been entitled to...	2021	Other Secondary Source	—	3 S.Ct.
—	**496.** **Witkin, California Summary 10th Constitutional Law s 276, Period of Residence.** Witkin, California Summary 10th Constitutional Law (1) Traditional Lengthy Residence Requirements. Former Cal. Const., Art. II, § 1, contained residence requirements that were struck down in a series of decisions: (a) One year in...	2021	Other Secondary Source	—	—
—	**497.** **Wright & Miller: Federal Prac. & Proc. s 3507, § 3507. The Supreme Court** Wright & Miller: Federal Prac. & Proc. The Supreme Court, alone among the federal courts, is created directly by the Constitution, rather than by choice of Congress. It consists at the present time of the Chief Justice...	2021	Other Secondary Source	—	—
—	**498.** **Wright & Miller: Federal Prac. & Proc. s 3576, § 3576. Elections** Wright & Miller: Federal Prac. & Proc. For many years the role of the federal courts in the political process of elections was quite limited. 28 U.S.C.A. § 1344 "is the only Act of Congress conferring jurisdiction on a...	2021	Other Secondary Source	—	2 S.Ct.

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—	**499.** **Wright & Miller: Federal Prac. & Proc. s 4046, § 4046. State As Party—Introduction—Suits With Citizens Of Other States** Wright & Miller: Federal Prac. & Proc. The judicial power of the United States extends to controversies between a state and citizens of another state or foreign citizens. Such controversies fall within the original...	2021	Other Secondary Source	—	—
—	**500.** **Wright & Miller: Federal Prac. & Proc. s 4048, § 4048. State As Party—Introduction—Suits Between The United States And A State** Wright & Miller: Federal Prac. & Proc. The Constitution does not provide for original Supreme Court jurisdiction merely because the United States is a party to litigation. Litigation between the United States and a...	2021	Other Secondary Source	—	—

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Cited	**1.** **Abbot v. Bayley** 6 Pick. 89, Mass., 1827 Where a feme covert, whose husband by his cruelty drove her from his house without providing any means for her support, came to this commonwealth and maintained herself here for...	Case			297
Cited	**2.** **Anderson v. Martin** 84 S.Ct. 454, U.S.La., 1964 Action against the Secretary of State of Louisiana to enjoin enforcement of Louisiana statute providing that in all primary, general or special elections, the nomination papers and...	Case			287+
Mentioned	**3.** **Avery v. Midland County, Tex.** 88 S.Ct. 1114, U.S.Tex., 1968 Action by taxpayer against county and county commissioners seeking redistricting of county precincts. The District Court of Midland County, Texas, found for the taxpayer, and an...	Case			271
Discussed	**4.** **Baker v. Carr** 82 S.Ct. 691, U.S.Tenn., 1962 Action under the civil rights statute, by qualified voters of certain counties of Tennessee for a declaration that a state apportionment statute was an unconstitutional deprivation...	Case			271+
Cited	**5.** **Baldwin v. G.A.F. Seelig, Inc.** 55 S.Ct. 497, U.S.N.Y., 1935 Appeals from the District Court of the United States for the Southern District of New York. Suit by G. A. F. Seelig, Inc., against Charles H. Baldwin, as Commissioner of...	Case		”	319
Cited	**6.** **Baxstrom v. Herold** 86 S.Ct. 760, U.S.N.Y., 1966 A writ of habeas corpus was sought in a New York court by a state prisoner. The writ was dismissed. On appeal to the Appellate Division, Third Department, the dismissal of the...	Case			278+
Mentioned	**7.** **Benton v. Maryland** 89 S.Ct. 2056, U.S.Md., 1969 Defendant was convicted in Maryland Circuit Court of Burglary and was acquitted of larceny and he appealed. Defendant's case was remanded to the trial court by the Maryland Court...	Case			267

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Cited	**8. Blake v. McClung** 19 S.Ct. 165, U.S.Tenn., 1898 In Error to the Supreme Court of the State of Tennessee.	Case			285
Cited	**9. Breedlove v. Suttles** 58 S.Ct. 205, U.S.Ga., 1937 Appeal from the Supreme Court of the State of Georgia. Mandamus proceeding by Nolen R. Breedlove against T. Earl Suttles, as Tax Collector. From a judgment of the Supreme Court of...	Case			277+
Mentioned	**10. Brown v. Board of Ed. of Topeka, Shawnee County, Kan.** 74 S.Ct. 686, U.S.Kan., 1954 Class actions originating in the four states of Kansas, South Carolina, Virginia, and Delaware, by which minor Negro plaintiffs sought to obtain admission to public schools on a...	Case			266+
Mentioned	**11. Brown v. State of La.** 86 S.Ct. 719, U.S.La., 1966 Defendants, five Negroes who declined request of sheriff that they leave reading room of public library which was maintained on racially segregated basis after they had been there...	Case			327
Mentioned	**12. Bufford v. Holton** 319 F.Supp. 843, E.D.Va., 1970 Action challenging constitutionality of Virginia laws requiring residence of one year for eligibility to vote in a general election. The three-judge District Court, Albert V....	Case			277+
Cited	**13. Burg v. Canniffe** 315 F.Supp. 380, D.Mass., 1970 Class action was brought for injunctive and declaratory relief with respect to residence requirements of Massachusetts voting statute. A Three-Judge Judge District Court, Caffrey,...	Case			277+
Examined	**14. Burroughs v. U.S.** 54 S.Ct. 287, U.S.Dist.Col., 1934 Ada L. Burroughs and James Cannon, Jr., were charged with violation of the Corrupt Practices Act, and to review a judgment of the Court of Appeals of the District of Columbia (62...	Case		”	264+
Cited	**15. Campbell v. Morris** 3 H. & McH. 535, Md.Gen., 1797 IN this case an attachment on warrant issued in virtue of the act of 1795, c. 56. to Prince George's county, and a duplicate thereof to Frederick county. The attachment to Prince...	Case			297

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Mentioned	**16. Cantwell v. State of Connecticut** 60 S.Ct. 900, U.S.Conn., 1940 On Appeal from and Certiorari to the Supreme Court of Errors of the State of Connecticut. Newton, Jesse, and Russell Cantwell were convicted of violating Connecticut statute...	Case			267
Examined	**17. Carrington v. Rash** 85 S.Ct. 775, U.S.Tex., 1965 Mandamus proceeding. The Supreme Court of Texas, 378 S.W.2d 304, entered judgment denying petition for writ of mandamus and certiorari was granted. The Supreme Court, Mr. Justice...	Case			266+
Cited	**18. Chicago, B. & Q.R. Co. v. City of Chicago** 17 S.Ct. 581, U.S.Ill., 1897 In error to the Supreme Court of the State of Illinois.	Case			267
Discussed	**19. Cipriano v. City of Houma** 89 S.Ct. 1897, U.S.La., 1969 Class action was brought by resident of city to enjoin city and others from issuing utility revenue bonds. A three-judge District Court for the Eastern District of Louisiana, 286...	Case		”	266+
Discussed	**20. City of Phoenix, Ariz. v. Kolodziejski** 90 S.Ct. 1990, U.S.Ariz., 1970 Action by city resident, who was otherwise qualified to vote in election to approve issuance of general obligation bonds but who owned no real property, challenging...	Case		”	273+
Mentioned	**21. Cocanower v. Marston** 318 F.Supp. 402, D.Ariz., 1970 Plaintiff brought suit attacking constitutionality of Arizona's durational residency requirement for voting in state general elections. The three-judge District Court, Copple, J.,...	Case			277+
Cited	**22. Colegrove v. Green** 66 S.Ct. 1198, U.S.Ill., 1946 Action by Kenneth W. Colegrove and others against Dwight H. Green, as a member ex officio of the Primary Certifying Board of the State of Illinois, and others, for a decree, with...	Case			263+
Cited	**23. Communist Party of U.S. v. Subversive Activities Control Bd.** 81 S.Ct. 1357, U.S.Dist.Col., 1961 Proceeding for review of an order of the Subversive Activities Control Board declaring the Communist Party a Communist-action organization required to register with the Attorney...	Case		”	327+

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Cited	**24. Concordia Fire Ins. Co. v. People of State of Illinois** 54 S.Ct. 830, U.S.Ill., 1934 Action of debt by the People of the State of Illinois against Concordia Fire Insurance Company. From a judgment of the Supreme Court of Illinois reversing a judgment for the...	Case			278
Cited	**25. Conner v. Elliott** 1855 WL 8210, U.S.La., 1855 THIS case was brought up from the supreme court of Louisiana, by a writ of error issued under the 25th section of the judiciary act. The case is stated in the opinion of the court....	Case			339
Cited	**26. Connolly v. Union Sewer Pipe Co.** 22 S.Ct. 431, U.S.Ill., 1902 IN ERROR to the Circuit Court of the United States for the Northern District of Illinois to review a decision in favor of the plaintiff in an action for the purchase price of goods...	Case			278
Cited	**27. Cooper v. Aaron** 78 S.Ct. 1401, U.S.Ark., 1958 Proceedings on application for permission to suspend for specified period a judicially-approved school integration plan. The United States District Court for the Eastern District...	Case			305+
Discussed	**28. Corfield v. Coryell** 6 F.Cas. 546, C.C.E.D.Pa., 1823 This was an action of trespass for seizing, taking and carrying away, and converting to the defendant's use, a certain vessel, the property of the plaintiff, called the Hiram. ...	Case		”	297+
Mentioned	**29. Crandall v. State of Nevada** 1867 WL 1648, U.S.Nev., 1867 The order remanding the petitioner became, by the certificate of the clerk, a part of the record in this case. MOTION TO DISMISS. The case is stated in the opinion. See...	Case			321+
Mentioned	**30. Crandall v. State of Nevada** 1867 WL 11151, U.S.Nev., 1867 ERROR to the Supreme Court of Nevada. In 1865, the legislature of Nevada enacted that 'there shall be levied and collected a capitation tax of one dollar upon every person leaving...	Case			321+

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Mentioned	**31. Cumberland Coal Co. v. Board of Revision of Tax Assessments in Greene County, Pa.** 52 S.Ct. 48, U.S.Pa., 1931 On Writs of Certiorari to the Supreme Court of the State of Pennsylvania. The Cumberland Coal Company took four appeals, and Henry A. Phillips, the Piedmont Coal Company, and the...	Case			278
Mentioned	**32. Davis v. Mann** 84 S.Ct. 1441, U.S.Va., 1964 Virginia legislative apportionment case. The three-judge United States District Court for the Eastern District of Virginia, at Alexandria, 213 F.Supp. 577, gave relief, and the...	Case			271
Cited	**33. Douglas v. People of State of Cal.** 83 S.Ct. 814, U.S.Cal., 1963 Defendants were convicted in the Superior Court, Los Angeles County, of certain felonies and they appealed. The District Court of Appeal, 187 Cal.App.2d 802, 10 Cal.Rptr. 188,...	Case			279
Cited	**34. Dred Scott v. Sandford** 1856 WL 8721, U.S.Mo., 1857 THIS case was brought up, by writ of error, from the Circuit Court of the United States for the district of Missouri. It was an action of trespass vi et armis instituted in the...	Case		”	335+
Cited	**35. Drueding v. Devlin** 234 F.Supp. 721, D.Md., 1964 Action to have declared unconstitutional and to enjoin enforcement and administration of provisions of the Maryland Constitution and statutes which had the effect of prohibiting a...	Case			277
Mentioned	**36. Duncan v. State of La.** 88 S.Ct. 1444, U.S.La., 1968 Defendant was convicted of simple battery in the Twenty-Fifth Judicial District Court of Louisiana. The Supreme Court of Louisiana denied his application for writ of certiorari,...	Case			267
Mentioned	**37. Edwards v. People of State of California** 62 S.Ct. 164, U.S.Cal., 1941 Appeal from the Superior Court of the State of California in and for the County of Yuba. Fred F. Edwards was convicted of violating St.Cal.1937, p. 1406, s 2615, making it a...	Case			319+

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Mentioned	**38. Edwards v. South Carolina** 83 S.Ct. 680, U.S.S.C., 1963 Prosecution of group of Negroes for breach of the peace. From an adverse judgment of the General Sessions Court of Richland County, South Carolina, the defendants appealed. The...	Case			267
Cited	**39. England v. Louisiana State Bd. of Medical Examiners** 84 S.Ct. 461, U.S.La., 1964 Action for injunction and declaratory relief. The United States District Court for the Eastern District of Louisiana, 194 F.Supp. 521, dismissed the action, and the plaintiffs...	Case			327
Discussed	**40. Evans v. Cornman** 90 S.Ct. 1752, U.S.Md., 1970 Action by individuals living on grounds of federal enclave in Maryland against members of county board of registry to enjoin as unconstitutional the application of Maryland voter...	Case			266+
Cited	**41. Ex parte Commonwealth of Virginia** 1879 WL 16561, U.S.Va., 1879 PETITION for a writ of habeas corpus. The facts are stated in the opinion of the court. 1. A., a judge of a county court in Virginia, charged by the law of that State with the...	Case		”	266+
Cited	**42. Ex parte McCardle** 1868 WL 11093, U.S.Miss., 1868 APPEAL from the Circuit Court for the Southern District of Mississippi. The case was this: The Constitution of the United States ordains as follows: ‘§ 1. The judicial power of the...	Case			340
Cited	**43. Ex parte Siebold** 1879 WL 16559, U.S.Md., 1879 PETITION for writ of habeas corpus.	Case			263+
Mentioned	**44. F.S. Royster Guano Co. v. Commonwealth of Virginia** 40 S.Ct. 560, U.S.Va., 1920 In Error to the Supreme Court of Appeals of Virginia. Proceeding by the F. S. Royster Guano Company against the Commonwealth of Virginia. A judgment for defendant was in effect...	Case			278
Cited	**45. Fay v. People of State of N.Y.** 67 S.Ct. 1613, U.S.N.Y., 1947 Joseph S. Fay and James Bove were convicted of the crimes of conspiracy and extortion. Judgments and orders of the Supreme Court, New York County, were affirmed by the Supreme...	Case			327+

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Cited	**46. Federal constitutional right to confront witnesses--Supreme Court cases** 23 L.Ed.2d 853, 1970	Other			349
Cited	**47. Ferguson v. Skrupa** 83 S.Ct. 1028, U.S.Kan., 1963 Action to enjoin enforcement of a Kansas statute making it a misdemeanor to engage in business of debt adjustment except as incident to lawful practice of law. The United States...	Case			306
Cited	**48. Fitzgerald v. Green** 10 S.Ct. 586, U.S.Va., 1890 Appeal from the circuit court of the United States for the eastern district of Virginia. This was a writ of habeas coipus, granted upon the petition of Charles Green, by the...	Case			309
Mentioned	**49. Galvan v. Press** 74 S.Ct. 737, U.S.Cal., 1954 Habeas corpus proceeding. The United States District Court for the Southern District of California, Southern Division, denied the petition, and the petitioner appealed. The Court...	Case			327
Examined	**50. Gaston County, N. C. v. U.S.** 89 S.Ct. 1720, U.S.Dist.Col., 1969 Action by county for declaratory judgment to reinstate literacy test for voter registration. The United States District Court for the District of Columbia, sitting as a...	Case		”	268+
Cited	**51. Gideon v. Wainwright** 83 S.Ct. 792, U.S.Fla., 1963 The petitioner brought habeas corpus proceedings against the Director of the Division of Corrections. The Florida Supreme Court, 135 So.2d 746, denied all relief, and the...	Case			267
Cited	**52. Gitlow v. People of State of New York** 45 S.Ct. 625, U.S.N.Y., 1925 In Error to the Supreme Court of the State of New York. Benjamin Gitlow was convicted of statutory crime of criminal anarchy. To review a judgment of the Court of Appeals of New...	Case			267
Cited	**53. Glona v. American Guarantee & Liability Ins. Co.** 88 S.Ct. 1515, U.S.La., 1968 Action to recover for wrongful death of child who died as result of automobile accident. The United States District Court for the Eastern District of Louisiana granted defendants'...	Case			279

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Cited	**54. Goesaert v. Cleary** 69 S.Ct. 198, U.S.Mich., 1948 Actions by Valentine Goesaert, Margaret Goesaert, Gertrude Nadroski and Caroline McMahon against Owen J. Cleary and others to restrain the enforcement of Public Acts of Michigan...	Case			272
Mentioned	**55. Gomillion v. Lightfoot** 81 S.Ct. 125, U.S.Ala., 1960 Action challenging validity of local act passed by Alabama legislature redefining city boundaries. The United States District Court for the Middle District of Alabama, 167 F.Supp....	Case			266+
Discussed	**56. Gray v. Sanders** 83 S.Ct. 801, U.S.Ga., 1963 Suit by qualified voter to restrain defendants from using county unit system as basis for counting votes in primary election for statewide offices and for declaratory relief. A...	Case		”	271+
Mentioned	**57. Guinn v. U.S.** 35 S.Ct. 926, U.S.Okla., 1915 ON A CERTIFICATE from the United States Circuit Court of Appeals for the Eighth Circuit presenting questions as to the validity, under the 15th Amendment to the Federal...	Case			272
Cited	**58. Gulf, C. & S.F. Ry. Co. v. Ellis** 17 S.Ct. 255, U.S.Tex., 1897 In Error to the Supreme Court of the State of Texas. On April 5, 1889, the legislature of the state of Texas passed this act: 'Section 1. Be it enacted by the legislature of the...	Case			278+
Mentioned	**59. Hadley v. Junior College Dist. of Metropolitan Kansas City, Mo.** 90 S.Ct. 791, U.S.Mo., 1970 Declaratory judgment action challenging constitutionality of method prescribed by statute for election of trustees of Junior College District of Metropolitan Kansas City. The...	Case			266+
Cited	**60. Hadnott v. Amos** 320 F.Supp. 107, M.D.Ala., 1970 Consolidated cases involving numerous issues concerning elections and voting in the state of Alabama. The Three-Judge District Court, Godbold, Circuit Judge, held that the Alabama...	Case			277+

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Cited	**61. Hall v. Beals** 90 S.Ct. 200, U.S.Colo., 1969 Action to enjoin enforcement and operation of Colorado laws imposing residency requirements for voting in presidential election. The Three-Judge District Court, 292 F.Supp. 610,...	Case			277
Mentioned	**62. Hanover Fire Ins. Co. v. Carr** 47 S.Ct. 179, U.S.Ill., 1926 In Error to the Supreme Court of the State of Illinois. Suit for injunction by the Hanover Fire Insurance Company against Patrick J. Carr, County Treasurer of the County of Cook,...	Case			278
Examined	**63. Harper v. Virginia State Bd. of Elections** 86 S.Ct. 1079, U.S.Va., 1966 Suits by Virginia residents to have poll tax declared unconstitutional. The United States District Court for the Eastern District of Virginia, as a three-judge court, 240 F.Supp....	Case		”	267+
Cited	**64. Hartford Steam Boiler Inspection & Ins. Co. v. Harrison** 57 S.Ct. 838, U.S.Ga., 1937 Mandamus proceeding by the Hartford Steam Boiler Inspection & Insurance Company and another against William B. Harrison, Insurance, Commissioner of the State of Georgia. From a...	Case			278
Cited	**65. Hayes v. Missouri** 7 S.Ct. 350, U.S.Mo., 1887 In Error to the Supreme Court of the State of Missouri. HARLAN, J., dissents.	Case			323+
Cited	**66. Howe v. Brown** 319 F.Supp. 862, N.D.Ohio, 1970 Action to enjoin Secretary of State of Ohio and Cuyahoga County board of elections from preventing plaintiffs from registering and voting in certain statewide nonpresidential...	Case			277+
Mentioned	**67. In re Quarles** 15 S.Ct. 959, U.S.Ga., 1895 These were two motions for leave to file petitions for writs of habeas corpus to Samuel C. Dunlop, marshal of the United States for the Northern district of Georgia. The first...	Case			277
Cited	**68. In re Tarble** 1871 WL 14783, U.S.Wis., 1871 ERROR to the Supreme Court of Wisconsin. This was a proceeding on habeas corpus for the discharge of one Edward Tarble, held in the custody of a recruiting officer of the United...	Case			328

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Mentioned	**69. Iowa-Des Moines Nat. Bank v. Bennett** 52 S.Ct. 133, U.S.Iowa, 1931 On Certiorari to the Supreme Court of Iowa. Separate actions by the Iowa-Des Moines National Bank and by the Central State Bank against E. R. Bennett, Chairman, and others....	Case			278
Cited	**70. Jones v. Alfred H. Mayer Co.** 88 S.Ct. 2186, U.S.Mo., 1968 Action to recover damages and for injunctive relief because of refusal of defendants to sell home in private subdivision to plaintiffs solely because of race. The United States...	Case		"	266
Cited	**71. Katzenbach v. McClung** 85 S.Ct. 377, U.S.Ala., 1964 Action to enjoin enforcement of Civil Rights Act. The three-judge United States District Court for the Northern District of Alabama, 233 F.Supp. 815, granted injunctive relief, and...	Case		"	327
Examined	**72. Katzenbach v. Morgan** 86 S.Ct. 1717, U.S.Dist.Col., 1966 Action by voters of New York City seeking declaratory judgment and injunction restraining compliance with Voting Rights Act of 1965. A statutory three-judge court for the United...	Case		"	267+
Cited	**73. Kentucky Finance Corp. v. Paramount Auto Exch. Corp.** 43 S.Ct. 636, U.S.Wis., 1923 In Error to the Supreme Court of the State of Wisconsin. Replevin by the Kentucky Finance Corporation against the Paramount Auto Exchange Corporation. An order dismissing the...	Case			278
Mentioned	**74. Kilgarlin v. Hill** 87 S.Ct. 820, U.S.Tex., 1967 Action attacking validity of 1965 Texas reapportionment statute. The United States District Court for the Southern District of Texas, 252 F.Supp. 404, held the act unconstitutional...	Case			271
Mentioned	**75. Kirkpatrick v. Preisler** 89 S.Ct. 1225, U.S.Mo., 1969 Action respecting congressional reapportionment. On motion of defendant for approval of 1967 Missouri Redistricting Act and dismissal of the case, the three-judge United States...	Case			271

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Mentioned	**76. Klopfer v. State of N.C.** 87 S.Ct. 988, U.S.N.C., 1967 Proceedings on writ of certiorari to the Supreme Court of North Carolina which, by a decision reported at 266 N.C. 349, 145 S.E.2d 909, affirmed order allowing solicitor to take...	Case			267
Cited	**77. Kotch v. Board of River Port Pilot Com'rs for Port of New Orleans** 67 S.Ct. 910, U.S.La., 1947 Suit by Marion B. Kotch, John L. Richards, Adolph Clark, and others against the Board of River Port Pilot Commissioners for the Port of New Orleans and others for a declaratory...	Case			266+
Examined	**78. Kramer v. Union Free School Dist. No. 15** 89 S.Ct. 1886, U.S.N.Y., 1969 Class action for determination that state statute is unconstitutional, and for injunction against enforcement. On remand following a decision reported at 379 F.2d 491,reversing259...	Case		”	273+
Cited	**79. Lane v. Wilson** 59 S.Ct. 872, U.S.Okla., 1939 On Writ of Certiorari to the United States Circuit Court of Appeals for the Tenth Circuit. Action by I. W. Lane against Jess Wilson and others to recover $5,000 from the defendants...	Case		”	272+
Discussed	**80. Lassiter v. Northampton County Bd. of Elections** 79 S.Ct. 985, U.S.N.C., 1959 Proceeding predicated upon denial by registrar of application of plaintiff for registration as a voter. The Superior Court, Northampton County, North Carolina, entered judgment...	Case		”	275+
Mentioned	**81. Lester v. Board of Elections for District of Columbia** 319 F.Supp. 505, D.D.C., 1970 Class action by residents of the District of Columbia challenging one-year durational residency requirement. The Three-Judge District Court, Corcoran, J., held that fact that...	Case			348
Cited	**82. Levy v. Louisiana** 88 S.Ct. 1509, U.S.La., 1968 Action on behalf of minor illegitimate children for wrongful death of their mother. The Civil District Court for the Parish of Orleans, Louisiana, rendered judgment maintaining...	Case			279+

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Mentioned	**83. Louisiana v. U.S.** 85 S.Ct. 817, U.S.La., 1965 Action brought by United States Attorney General against state of Louisiana under complaint charging that defendants, by following and enforcing unconstitutional state laws, denied...	Case			304+
Mentioned	**84. Louisville Gas & Electric Co. v. Coleman** 48 S.Ct. 423, U.S.Ky., 1928 Mr. Justice Holmes, Mr. Justice Brandeis, Mr. Justice Sanford, and Mr. Justice Stone dissenting. In Error to the Court of Appeals of the State of Kentucky. Action by the Louisville...	Case			278
Cited	**85. Loving v. Virginia** 87 S.Ct. 1817, U.S.Va., 1967 Proceeding on motion to vacate sentences for violating state ban on interracial marriages. The Circuit Court of Caroline County, Virginia, denied motion, and writ of error was...	Case			266
Mentioned	**86. Lucas v. Forty-Fourth General Assembly of State of Colo.** 84 S.Ct. 1459, U.S.Colo., 1964 Colorado legislative reapportionment cases. The three-judge United States District Court for the District of Colorado, at 208 F.Supp. 471, continued the cases without further...	Case			271
Discussed	**87. M'Culloch v. State** 1819 WL 2135, U.S.Md., 1819 United States Bank.—Implied power.—Taxing power. Congress has power to incorporate a bank. The government of the Union is a government of the people; it emanates from them; its...	Case		”	263+
Mentioned	**88. Malloy v. Hogan** 84 S.Ct. 1489, U.S.Conn., 1964 Prisoner, who had been committed to jail for contempt for refusal to answer certain questions in state gambling inquiry, brought habeas corpus proceeding. The Superior Court,...	Case			267
Cited	**89. Mapp v. Ohio** 81 S.Ct. 1684, U.S.Ohio, 1961 Prosecution for possession and control of obscene material. An Ohio Common Pleas Court rendered judgment, and the defendant appealed. The Ohio Supreme Court, 170 Ohio St. 427,...	Case			267

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Cited	**90. Marbury v. Madison** 1803 WL 893, U.S.Dist.Col., 1803 The supreme court of the U. States has not power to issue a mandamus to a secretary of state of the U. States, it being an exercise of original jurisdiction not warranted by the...	Case		”	305
Mentioned	**91. Marsh v. Buck** 61 S.Ct. 969, U.S.Neb., 1941 Action by Gene Buck, individually and as president of the American Society and Composers, Authors and Publishers, and others against Frank Marsh as Secretary of State of Nebraska...	Case			268
Cited	**92. Mayflower Farms v. Ten Eyck** 56 S.Ct. 457, U.S.N.Y., 1936 Mr. Justice CARDOZO, Mr. Justice BRANDEIS, and Mr. Justice STONE, dissenting. Appeal from the Supreme Court of the State of New York. Proceeding in the matter of the application of...	Case			278
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Discussed	**94. Metropolitan Cas. Ins. Co. of New York v. Brownell** 55 S.Ct. 538, U.S.Ind., 1935 On Writ of Certiorari to the Circuit Court of Appeals for the Seventh Circuit. Action by Kenneth V. Brownell, as receiver of the People's National Bank & Trust Company, against the...	Case		”	306+
Discussed	**95. Minor v. Happersett** 1874 WL 17301, U.S.Mo., 1874 ERROR to the Supreme Court of Missouri; the case being thus: The fourteenth amendment to the Constitution of the United States, in its first section, thus ordains: 1. The word...	Case			265+
Mentioned	**96. Moore v. Ogilvie** 89 S.Ct. 1493, U.S.Ill., 1969 Declaratory judgment action seeking determination that sections of Illinois election statute were unconstitutional. The three-judge United States District Court for the Northern...	Case			271

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Cited	**100. Parish School Board of Parish of St. Charles v. Stewart** 91 S.Ct. 136, U.S.La., 1970 Appeal from the United States District Court for the Eastern District of Louisiana. Facts and opinion, D.C., 310 F.Supp. 1172.	Case			273
Cited	**101. Paul v. State of Virginia** 1868 WL 11123, U.S.Va., 1868 ERROR to the Supreme Court of Appeals of the State of Virginia. The case was thus: An act of the legislature of Virginia, passed on the 3d of February, 1866, provided that no...	Case		”	321+
Cited	**102. Piliavin v. Hoel** 320 F.Supp. 66, W.D.Wis., 1970 Action for declaratory judgment and injunctive relief in relation to a state six-months' residency requirement for voting eligibility. On motion for interlocutory injunction, a...	Case			277
Cited	**103. Plessy v. Ferguson** 16 S.Ct. 1138, U.S.La., 1896 In Error to the Supreme Court of the State of Louisiana.	Case			269+
Mentioned	**104. Pointer v. Texas** 85 S.Ct. 1065, U.S.Tex., 1965 The defendant was convicted of robbery in the Criminal District Court, Harris County, Texas, and he appealed. The Court of Criminal Appeals of Texas, 375 S.W.2d 293, affirmed. ...	Case			267

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Cited	**106. Powell v. McCormack** 89 S.Ct. 1944, U.S.Dist.Col., 1969 Action for declaratory and other relief based on claimed unconstitutionality of resolution excluding member-elect from seat in House of Representatives. The United States District...	Case			271+
Cited	**107. Power Mfg. Co. v. Saunders** 47 S.Ct. 678, U.S.Ark., 1927 Mr. Justice Holmes and Mr. Justice Brandeis, dissenting. In Error to the Supreme Court of the State of Arkansas. Action by Harvey Saunders against the Power Manufacturing Company. ...	Case			278
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Cited	**109. Ray v. Blair** 72 S.Ct. 654, U.S.Ala., 1952 Mandamus proceeding by Edmund Blair against Ben F. Ray, as Chairman of the State Democratic Executive Committee of Alabama, to compel respondent to certify to the Secretary of...	Case			309
Cited	**110. Raymond v. Chicago Union Traction Co.** 28 S.Ct. 7, U.S.Ill., 1907 APPEAL from the Circuit Court of the United States for the Northern District of Illinois to review a judgment enjoining the collection of a tax on the property of a corporation,...	Case			329+
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Cited	**112.** Rinaldi v. Yeager 86 S.Ct. 1497, U.S.N.J., 1966 Suit to enjoin the enforcement of New Jersey statute on the ground that it was unconstitutional. A Three-Judge United States District Court for the District of New Jersey, 238...	Case			278
Cited	**113.** Robinson v. California 82 S.Ct. 1417, U.S.Cal., 1962 Defendant was convicted in the Municipal Court of Los Angeles of violation of statute making it a criminal offense for a person to be addicted to the use of narcotics, and his...	Case			267+
Cited	**114.** Roman Catholic Church of St Anthony of Padua v. Pennsylvania R. Co. 35 S.Ct. 729, U.S.N.J., 1915 APPEAL from the United States Circuit Court of Appeals for the Third Circuit to review a decree which affirmed a decree of the Circuit Court for the District of New Jersey,...	Case			278
Mentioned	**115.** Roman v. Sincock 84 S.Ct. 1449, U.S.Del., 1964 Delaware legislative apportionment case. The three-judge District Court for the District of Delaware, at 207 F.Supp. 205, granted a stay of proceedings. At 210 F.Supp. 395, the...	Case			271
Mentioned	**116.** Schlesinger v. State of Wisconsin 46 S.Ct. 260, U.S.Wis., 1926 Mr. Justice Holmes, Mr. Justice Brandeis, and Mr. Justice Stone dissenting. In Error to the Supreme Court of the State of Wisconsin. Proceeding by the State of Wisconsin and the...	Case			278
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Mentioned	**120. Sioux City Bridge Co. v. Dakota County, Neb.** 43 S.Ct. 190, U.S.Neb., 1923 On Writ of Certiorari to the Supreme Court of Nebraska. Appeal by Sioux City Bridge Company against Dakota County, Neb., for review of assessment of property. The assessment, as...	Case			278
Cited	**121. Skinner v. State of Okl. ex rel. Williamson** 62 S.Ct. 1110, U.S.Okla., 1942 On Writ of Certiorari to the Supreme Court of the State of Oklahoma. Proceeding by the State of Oklahoma, on the relation of Mac Q. Williamson, Attorney General of the State of...	Case			272+
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Cited	**123. Smiley v. Holm** 52 S.Ct. 397, U.S.Minn., 1932 On writ of Certiorari to the Supreme Court of the State of Minnesota. Mandamus by the State, on relation of W. Yale Smiley, against Mike Holm, as Secretary of State of Minnesota. ...	Case		”	263+
Cited	**124. Smith v. Allwright** 64 S.Ct. 757, U.S.Tex., 1944 Action by Lonnie E. Smith against S. E. Allwright, Election Judge, and James E. Liuzza, Associate Election Judge, Forty-Eighth Precinct of Harris County, Texas, for a declaratory...	Case			304
Cited	**125. Smith v. Cahoon** 51 S.Ct. 582, U.S.Fla., 1931 Appeal from the Supreme Court of the State of Florida. Habeas corpus proceeding by E. S. Smith against W. B. Cahoon, as Sheriff of Duval County, Fla. From a judgment of the...	Case			278

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Cited	**127.** **Snowden v. Hughes** 64 S.Ct. 397, U.S.Ill., 1944 Action by Joseph E. Snowden against Edward J. Hughes and others for damages for infringement of plaintiff's civil rights. To review a judgment of the Circuit Court of Appeals, 132...	Case		”	277+
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Cited	**129.** **Southern R. Co. v. Greene** 30 S.Ct. 287, U.S.Ala., 1910 IN ERROR to the Supreme Court of the State of Alabama to review a judgment which affirmed a judgment of the Birmingham City Court in that state, sustaining a demurrer to the...	Case			278+
Cited	**130.** **Speiser v. Randall** 78 S.Ct. 1332, U.S.Cal., 1958 Actions to recover taxes paid to California tax authorities under protest and for declaratory relief. From a judgment of the Supreme Court of California, 48 Cal.2d 472, 311 P.2d...	Case			322
Cited	**131.** **Stewart v. Parish School Bd. of St. Charles Parish** 310 F.Supp. 1172, E.D.La., 1970 Action to set aside school bond election and to enjoin school board from offering or selling the bonds. A three-judge court, Wisdom, Circuit Judge, held that Louisiana statutes...	Case			273
Cited	**132.** **Strauder v. State of West Virginia** 1879 WL 16562, U.S.W.Va., 1879 ERROR to the Supreme Court of Appeals of the State of West Virginia. The facts are stated in the opinion of the court. @1. The Fourteenth Amendment of the Constitution of the...	Case		”	270+

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Cited	**134. Swain v. Alabama** 85 S.Ct. 824, U.S.Ala., 1965 Defendant was convicted, in the Circuit Court, Talladega County, for rape, and he appealed. The Alabama Supreme Court, 275 Ala. 508, 156 So.2d 368, affirmed, and certiorari was...	Case			350
Mentioned	**135. Swann v. Adams** 87 S.Ct. 569, U.S.Fla., 1967 Case involving reapportionment of the Legislature of the State of Florida. A three-judge United States District Court for the Southern District of Florida, 258 F.Supp. 819,...	Case			271
Cited	**136. Takahashi v. Fish and Game Commission** 68 S.Ct. 1138, U.S.Cal., 1948 Mandamus proceeding by Torao Takahashi against the Fish and Game Commission, Lee F. Payne, as chairman thereof, and others, to compel the commission to issue petitioner a...	Case			279
Cited	**137. Terrace v. Thompson** 44 S.Ct. 15, U.S.Wash., 1923 Appeal from the United States District Court for the Western District of Washington. Suit in equity by Frank Terrace and others against Lindsay L. Thompson, Attorney General of the...	Case			338
Mentioned	**138. Terry v. Adams** 73 S.Ct. 809, U.S.Tex., 1953 Suit for decree declaring plaintiffs and others similarly situated entitled to vote at political association's elections and to enjoin defendants from refusing to allow plaintiffs...	Case			304
Examined	**139. The Ku Klux Cases** 4 S.Ct. 152, U.S.Ga., 1884 Petition for Writs of Habeas Corpus and Certiorari.	Case		”	263+
Mentioned	**140. Townsend v. Sain** 83 S.Ct. 745, U.S.Ill., 1963 State prisoner's habeas corpus proceeding. From an adverse judgment of the United States District Court for the Northern District of Illinois, the petitioner appealed. The Court...	Case			328

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Mentioned	**142. Twining v. State of N.J.** 29 S.Ct. 14, U.S.N.J., 1908 IN ERROR to the Court of Errors and Appeals of the State of New Jersey to review a judgment which affirmed a judgment of the Supreme Court of that state, affirming a conviction in...	Case			277+
Mentioned	**143. U. S. v. O'Brien** 88 S.Ct. 1673, U.S.Mass., 1968 Defendant was convicted in the United States District Court for the District of Massachusetts for burning his selective service registration certificate. The United States Court...	Case			326
Cited	**144. U.S. v. Carolene Products Co.** 58 S.Ct. 778, U.S.Ill., 1938 The Carolene Products Company was indicted for shipping in interstate commerce a compound of condensed skimmed milk and coconut oil made in imitation or semblance of condensed milk...	Case			327+
Examined	**145. U.S. v. Classic** 61 S.Ct. 1031, U.S.La., 1941 Appeal from the District Court of the United States for the Eastern District of Louisiana. Patrick B. Classic, John A. Morris, Bernard W. Yeager, Jr., William Schumacher, and J. J....	Case		”	263+
Mentioned	**146. U.S. v. Darby** 61 S.Ct. 451, U.S.Ga., 1941 Appeal from the District Court of the United States for the Southern District of Georgia. Fred W. Darby was indicted for alleged violations of section 15(a) (1, 2, 5) of the Fair...	Case			328
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Mentioned	**149. U.S. v. Mosley** 35 S.Ct. 904, U.S.Okla., 1915 IN ERROR to the District Court of the United States for the Western District of Oklahoma to review a judgment sustaining a demurrer to an indictment charging state election...	Case			264+
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Cited	**152. Ward v. State** 1870 WL 12887, U.S.Md., 1870 ERROR to the Court of Appeals of the State of Maryland; the case being this: The Constitution of the United States, in one place, thus ordains: 'ARTICLE IV. Sec. 2. The citizens of...	Case			335
Examined	**153. Warren Trading Post Co. v. Arizona State Tax Commission** 85 S.Ct. 1242, U.S.Ariz., 1965 Action was brought with respect to the levy by Arizona of a tax of 2% on the gross proceeds of sales or gross income of a corporation which did a retail trading business with...	Case			272+
Cited	**154. Watson v. Buck** 61 S.Ct. 962, U.S.Fla., 1941 Appeals from the District Court of the United States for the Northern District of Florida. Action by Gene Buck, individually and as president of the American Society of Composers,...	Case			268

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Discussed	**156. Wesberry v. Sanders** 84 S.Ct. 526, U.S.Ga., 1964 Action, in the United States District Court for the Northern District of Georgia, by qualified voters to strike down Georgia statute prescribing congressional districts. The...	Case		”	263+
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Cited	**159. Williamson v. Lee Optical of Oklahoma Inc.** 75 S.Ct. 461, U.S.Okla., 1955 Proceeding under Federal Declaratory Judgment Act to challenge constitutionality of Oklahoma statute dealing with regulation of visual care. The United States District Court, for...	Case			326
Mentioned	**160. WMCA, Inc. v. Lomenzo** 84 S.Ct. 1418, U.S.N.Y., 1964 New York legislative apportionment case. The Three-judge United States District Court for the Southern District of New York, 208 F.Supp. 368, dismissed the complaint on the...	Case			271
Cited	**161. Yick v. Hopkins** 6 S.Ct. 1064, U.S.Cal., 1886 These two cases were argued as one, and depend upon precisely the same state of facts; the first coming here upon a writ of error to the supreme court of the state of California,...	Case		”	323