

Under article I, section 7 of the Constitution, Congress cannot by law make or alter any regulations as to the times, places, and manner of holding congressional elections except by a specific bill which has been introduced and enacted into law, signed by the President, or passed over his veto.

The phrase "by law" has been many times judicially construed.

The term "by law" as used in Kentucky statutes means a statute (*Commonwealth v. Wade* (125 Ky. 791; 104 S.W. 965, 966)).

The statutory provision that no money shall be paid out of the treasury except in pursuance of an appropriation "by law" means appropriation by a valid law (*State v. Davidson* (114 Wisc. 563; 90 N.W. 1067, 1068)).

The phrase "by law" refers exclusively to statute law (*Board of Education etc. v. Greenough* (13 N.E. 2d 768, 770; 277 N.Y. 193)).

The phrase "by law" construed as meaning statewide legislation, and not ordinance (*United States Fidelity & Guaranty Co. v. Guenther* (31 F. 2d 919 (per Circuit Judge Hickenlooper))).

The phrase "by law" as used in the constitutional provision authorizing Congress "by law" to vest appointment of inferior officers in the courts of law means by specific legislation (*Cain v. United States* (73 F. Supp. 1019)).

The Congress cannot delegate to a Commission of three men, or any other member, its constitutional power to set the time and place and fix the manner of holding congressional elections. Even the stronger, the Congress, cannot authorize a Commission to conduct a congressional election which under article I, sections 2 and 4, is conducted by the State, except as the time, place, and manner of holding it may have been altered by Congress by law.

A few recent instances should suffice to demonstrate the invalidity of the delegation of power here attempted:

(a) *Panama Refining Co. v. Ryan* (293 U.S. 388, 55 S. Ct. 241, 79 L. Ed. 446);

(b) *Schechter v. United States* (295 U.S. 495, 55 S. Ct. 837, 79 L. Ed. 1570).

Is the attempt in these bills to provide for registration of voters in congressional elections by Federal registrars valid?

Except for the war amendments, the power of Congress over congressional elections is limited to provisions made by Congress by law as to the times, places, and manner of holding elections for Senators and Representatives.

The war amendments add nothing to that basic power except to authorize Congress to enact legislation preventing the States from denying the right to vote to Negroes.

Those amendments standing alone would not authorize Congress to enact any law as to the times, places and manner of holding congressional elections.

The registration of voters has nothing to do with either the time or place of holding elections. It has nothing to do with the manner of holding elections for the holding of an election presupposes a group of voters ready and qualified to participate in the election.

That the Founders did not mean by the phrase "manner of holding elections" to empower Congress to enact legislation with respect to the qualifications of voters who might participate in such elections is clearly shown by article I, section 2, paragraph 1 of the Constitution, by the history of the United States, and by adjudicated cases.

And, that the registration to vote may be considered by some courts as a concomitant of the act of actual voting in that it is a prerequisite to voting does not serve to embrace the registration as either a time, place, or manner of holding the election.

An abridgment by the State or a denial by a State of a citizen's right to register may by some courts be considered a denial or abridgement by the State of his right to vote, but such holding will not serve to amend the Constitution of the United States so as to permit Congress to alter State laws or enact new laws as to qualifications of voters.

When the Constitution was adopted, the States expressly delegated to the Congress the power to prescribe the time, places, and manner of holding elections for Senators and Representatives. Before they did that they had provided that the House of Representatives should 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.

And to make certain that all that they intended to empower Congress to do in this field was embraced in article I, section 4, they immediately added the 10th amendment: "The powers not delegated to the United States by the Constitution,