

In the former of these two cases, the Court unanimously held that in an action against election officers of the State of South Carolina for refusing the plaintiff's vote at an election for Members of Congress, the declaration was faulty in that it did not allege that the plaintiff was a registered voter under the laws of South Carolina. The latter follows it.

In *Mason v. Missouri* (179 U.S. 328), the Supreme Court of the United States unanimously affirmed a judgment of the Supreme Court of Missouri, and unanimously held:

"The general right to vote in the State of Missouri is primarily derived from the State; and the elective franchise, if one of the fundamental privileges and immunities of the citizens of St. Louis, as citizens of Missouri and of the United States, is clearly such franchise, as regulated and established by the laws or constitution of the State in which it is to be exercised."

The courts of no State in the Union have more firmly and thoroughly proclaimed the constitutional doctrine of States rights than have the courts of Missouri.

In *Lehew v. Brummell* (103 Mo. 546, 15 S.W. 765 (1890)), the Missouri Supreme Court upheld the constitutionality of school segregation statutes enacted by her legislature many years before.

In *Blair v. Ridgely* (41 Missouri 63, 97 Am. Dec. 243), that court said: "Prior to adoption of Federal Constitution, States possessed unlimited and unrestricted sovereignty, and retained the same afterward, except so far as they granted powers to the general government, or prohibited themselves from doing certain acts. Every State reserved to itself the exclusive right of regulating its own internal government and police."

There the Court upheld the validity of a provision in the State constitution requiring that an oath of loyalty be taken by all voters as a condition precedent to their exercise of the right of suffrage at any election held in the State. In so doing, it cited approvingly the decision of Justice Washington while on circuit, in *Corfield v. Coryell* (4 Wash. C.C. 371), speaking of the elective franchise as one of the fundamental franchises under our form of government, to be regulated and established by the laws or constitution of the State in which it is to be exercised. (That case has been cited approvingly by the Supreme Court (179 U.S. 58).)

At page 257, the Missouri court uses these cogent words: "There is not to be found in that instrument a single sentence, paragraph or word which gives the National Government power over the qualifications of voters in any of the States. But the direct opposite is affirmed in that clause * * * which declares 'that 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.'"

Those words are as true today as they were when they were written in 1867, with one exception. The war amendments prohibit the State denying or abridging the right to vote on the basis of race, color, or previous condition of servitude.

The 15th amendment provides that 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.

Assuming (see *Reddix v. Lucky* (252 F. 2d 930)) that the right to vote includes the right to register as a prerequisite to voting, and that therefore, a State cannot abridge or deny a citizen's right to register on account of race, color, or previous condition of servitude, it does not follow that Congress has the right to usurp the field of registration even in congressional regulations merely because the war amendments prevent discrimination in that field. The congressional power in that respect is measured not by the war amendments, but by article I, sections 2 and 4, as restricted by the 10th amendment.

Fortunately the Supreme Court of the United States has spoken with unanimity on the subject recently. In *Lassiter v. Northampton County Board of Elections* (360 U.S. 45, 50-51; 79 S. Ct. 985, 989), Justice Douglas said: "We come then to the question whether the State may consistently with the 14th and 17th amendments apply a literacy test to all voters irrespective of race or color. The Court in *Guinn v. United States*, supra (238 U.S. 366, 35 S. Ct. 931), disposed of the question in a few words: 'No time need be spent on the question of the validity of the literacy test, considered alone, since, we have seen its establishment was but the exercise by the State of a lawful power vested in it not subject to our supervision, and indeed its validity is admitted.' The States have long been held to have broad powers to determine the conditions under which the right