

Securing the Right to Vote for All

“If suffrage was necessarily one of the absolute rights of citizenship, why confine the operation of the limitation to male inhabitants? Women and children are, as we have seen, people.”

*-Chief Justice Morrison Waite, Concurring in *Minor v. Happersett*¹*

The right to vote is not only a fundamental right, but a privilege, in which we are rewarded with the opportunity to impact who makes decisions for not only our local regions, but our country. Dating back to the concept of popular sovereignty, which details a government by consent of the people, the right of U.S. citizens to have a say in who represents them has been apparent for centuries. This is part of what makes America the promise land, offering equal representation of its citizens and voting rights for all. This is largely thanks to the judicial branch of the United States government, which has the powerful hand of judicial review, working to determine the validity and constitutionality of various legislation. Bringing a microscope to civil rights issues throughout the 1800's and 1900's, the judicial branch (along with overpowering public action) has worked to address and solve court cases concerning racial, sex, and economical discrimination within voting rights with urgency, implementing national policies to be solidified over time.

Enacted in the 1890's, a new form of Black Codes inducing hurtful racial segregation was summoned within the Southern states- the Jim Crow Laws. New tests and requirements, which minorities were unable to pass or qualify within, were spread across the states, eliminating many minority groups' right to vote. Narrowing the terms of a person of color's right to freedom, this demeaning legislation serves as a representation of the countless barriers which rose to restrict specific groups from voting throughout history. As can be seen in *Elk v. Wilkins*, John Elk, an American Indian who gave up his tribal affiliation, was deprived of his right to vote due solely to his past affiliations with American Indian tribes.² Elk was not naturalized or taxed, giving defendant Charles Wilkins a case to defend why he refused Elk the right to vote as a U.S. citizen.

Kicking off the momentous movement to end sexual segregation, the Supreme Court case *Minor v. Happersett* considered whether the right of suffrage is protected under the Privileges and Immunities Clause (Article IV, Section 2, Clause 1) of the 14th amendment.³ The plaintiff, Virginia Minor, was denied the right to vote in St. Louis based on a Missouri law that restricted the right to suffrage to men only. Minor sued, claiming that the Missouri law denied her of the “privileges and immunities of citizenship” guaranteed by the 14th amendment.⁴ In a unanimous decision, the court ruled that although Minor was a citizen of the United States, the constitutionally protected privileges of citizenship did not include the right to vote. Missouri

wouldn't go on to deplete sexual segregation in voting until it ratified the 19th amendment in 1920.⁵

From an economic standpoint, a significant restriction on voters has been taxing. By implementing poll taxes on prospective voters, many states attempted to restrict the class wealth status which would have an impact on the polls. If only the wealthy, who are not impacted by the tax, are able to vote, the general idea of an equal election is quickly diminished. When Virginia attempted to implement a poll tax of \$1.50, plaintiff Annie Harper quickly sued in *Harper v. Virginia Board of Elections* in 1966.⁶ Claiming the poll tax violated the Equal Protection Clause of the 14th amendment, Harper won the case in a 6-3 decision. The court ruled that the tax did violate the Equal Protection Clause of the 14th amendment because it had no rational connection to the wealth of the individual. Bringing light to the economical discrimination in Virginia, Harper paved a steppingstone to bring America closer to voter equality.

While tremendous strides have been made to overcome the inevitable barriers in voting history, there is still room to grow. Colorado's Voter Access and Modernized Elections Act (2013) represents a progressive bill which expands the time during which a person may register to vote in an election, and describes the deadlines associated with the various methods of voter registration.⁷ This bill was vital to increasing voter turnout in Colorado's elections, kindling stronger political participation throughout the United States. Colorado has seen voter turnout increase by 3% from 2010 to 2014, relative to their implementation of legislation making voter registration more accessible. While it is encouraging that we have overcome racial, sexual, and economical obstacles in voting in the past, we have yet to solidify an entirely equal voting requirement system nationwide. Of the most common formal barriers are requirements according to ID's and absentee restrictions. Absentee voting, which is "by-mail voting", is incredibly important to include the votes of those who are unable to get out to the polls to cast their ballot. While twenty-seven states offer no-excuse absentee voting, twenty-one states still require a valid excuse to vote absentee, likely where many votes are lost.

In the future, I hope to see that American voting rights become consistent across the board- regardless the state you reside in, the color of your skin, your ethnicity, etc. An instance that suggests that the United States is on the right path can be seen when its methods are compared to those of China. The flaws in China's political system are painfully obvious. The government doesn't even make a pretense of holding national elections and punishes those who openly call for multiparty rule. The press is heavily censored, the Internet is blocked, and top leaders are unconstrained by the rule of law. This can be easily compared to the United States, in which we have freedom of press to certain extents (*New York Times v United States*), restrictive rule of law for the President, open general and national elections, and no political punishment.⁸ Although there have been strides made, we still have room to grow in the fight for voting equality.

¹Minor v. Happersett. 88 U.S. 174 (1874)

²Elk v. Wilkins. 112 U.S. 94 (1884)

³Minor v. Happersett. 88 U.S. 162 (1874)

⁴U.S. Const. amend. XIV, *Legal Information Institute*, Cornell Law School, www.law.cornell.edu/constitution/amendmentxiv.

⁵U.S. Const. amend. XIX, *Legal Information Institute*, Cornell Law School, www.law.cornell.edu/constitution/amendmentxix.

⁶Harper v. Virginia Bd. of Elections. 383 U.S. 663 (1966)

⁷Voter Access and Modernized Elections Act 2013, c.185. Available at: leg.colorado.gov/sites/default/files/images/olls/2013a_sl_185.pdf (Accessed: 28 February 2020).

⁸New York Times Co. v. United States. 403 U.S. 713 (1971)

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