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TRYING TO CHECK THE STRIDES OF HIS COURT TOWARDS CENTRALISM.

THE OPINIONS OF MARSHALL, STORY AND HAMILTON COMPARED WITH BRADLEY'S AND STORIE'S—AN ABSTRACT AND SUMMARY.

TUTORIAL LAW.

Official Text of Justice Field's Opinion.

I cannot assent to the decision of the majority of the court in the case of the State of Ohio vs. the State of Maryland.

At an election held in the First Congressional District of Ohio, in October, 1879, at which a Representative in Congress was voted for, the petitioner from that State was appointed under its laws, and acted as a judge of election at a precinct in one of the wards of the city of Cincinnati.

At an election held in the Fourth and Fifth Congressional Districts of Maryland, in November, 1878, at which a Representative in Congress was voted for, the petitioner from that State was appointed under its laws, and acted as a judge of election at a precinct in one of the wards of the city of Baltimore.

For alleged misconduct as such officers the petitioners were indicted in the Circuit courts of the United States for their respective districts, tried, convicted and sentenced to imprisonment for twelve months, and, in some of the cases, also to pay a fine.

THE OHIO CASE CONSIDERED.

In what I have to say I shall confine myself principally to the case of the petitioner from Ohio; the other cases will be incidentally considered.

It is that case in which the petitioner is charged with having violated a law of the State. In the case from Maryland the petitioners are charged with having prevented Federal officers from interfering with them and supervising the election in the city of Baltimore.

THE PENNSYLVANIA CASE CONSIDERED.

In what I have to say I shall endeavor to show that it is not competent for Congress to punish a State officer for the manner in which he discharges duties imposed upon him by the laws of the State, or to subject him in the performance of such duties to the supervision and control of others, and to punish him for resisting their interference.

THE VIRGINIA CASE CONSIDERED.

I am not aware that the doctrine of the majority of the court in the case of the State of Virginia is essential to the Federal Government, as ever been qualified or departed from by this court.

THE PENNSYLVANIA CASE CONSIDERED.

I am not aware that the doctrine of the majority of the court in the case of the State of Pennsylvania is essential to the Federal Government, as ever been qualified or departed from by this court.

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THE VIRGINIA CASE CONSIDERED.

PRINCIPLES, NOT MEN.

election are concerned, the Federal Government has consistently no authority to interfere with the supervision of the State regulations sanctioned by the act of Congress, when Representatives to Congress are voted for, amounting to a supervision of an interference with the election of State officers, and constitute a plain encroachment upon the rights of the States, which is well calculated to create irritation towards the Federal Government.

It was the purpose of the framers of the Constitution to erect a Government which could enforce its own laws, without reliance upon those of the States, and thus avoid the principal defect of the government of the confederation; and they fully accomplished their purpose, for, as said Chief Justice Marshall in the McCulloch case, "no trace is to be found in the Constitution of an intention to create a dependence of the Federal Government on the governments of the States for the execution of the great powers secured to it by the Constitution to its ends, and on those means alone was it expected to rely for the accomplishment of its ends."

When, therefore, the Federal Government desires to compel by coercive measures the performance of any duty devolved upon it by the Constitution, it must appoint its own officers and agents on whom its power can be exerted. If it is to intrust the performance of such duties to the officers of a State, it must take their agency, as already stated, upon the condition which the State may impose. The co-operative scheme to which the majority of the court give their sanction, is, in my opinion, a plain violation of the Constitution.

And again: "If the Governor of Ohio refuse to discharge this duty, there is no precedent for the Federal Government to interfere through the agency of the State officers, and to use any means to compel him."

It is incompetent for the Federal Government to enforce, by coercive measures, the performance of a plain duty imposed upon a State officer by the laws of the State, or to subject him in the performance of such duties to the supervision and control of others, and to punish him for resisting their interference.

It is not competent for Congress to punish a State officer for the manner in which he discharges duties imposed upon him by the laws of the State, or to subject him in the performance of such duties to the supervision and control of others, and to punish him for resisting their interference.

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THE FEDERAL GOVERNMENT.

supervise the execution of the State laws, and of marshals to aid and protect them in such supervision, and he added a new penalty for disobeying those laws. This is not enforcing an alter or a new regulation. Whatever Congress may properly do to enforce the regulations of the State, it must follow: either the strictest or the new regulation remains a State law, or it becomes a law of Congress. If it remains a State law, it must, like other laws of the State, be enforced through its own officers and tribunals, and with such sanctions as Congress may designate. But as Congress has not altered the regulations for the election of Representatives prescribed by the Legislature of Ohio or of any other State, there is nothing for the Federal Government to enforce on the subject. The general authority of Congress to pass laws necessary to carry into execution its granted powers, suppose some attempt to exercise those powers. There must, therefore, be some regulations made by Congress, or by altering those prescribed by the State, or by adopting entirely new ones, as to the time and manner of holding elections for Representatives, before any incidental power can be invoked to compel obedience to them. In other words, the implied power to enforce the laws of the State, by the exercise of the express power of Congress to enforce State laws by imposing penalties for disobedience to them, is not a power to enforce the laws of the State, but a power to enforce the laws of Congress.

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