

Case Brief

Con law, Checks on Judicial Power

Carlson, 2/12/15

Identity of Case

Powell v. McCormack, 395 U.S. 486, (1969)

Page 139 of the casebook

Summary of Facts/Procedural History

Powell was a popular, African-american, liberal representative for the state of New York. Although he was incredibly active his first few years, over time he spent less time at congress and more time in the Bahamas, and misused his committees funds (including paying for a job for his wife that did not exist). Yet he was still incredibly popular in his district; after winning the 1966 elections, his fellow representatives voted to exclude him from his seat. Powell sues, and it gets appealed to the Supreme Court where they decide that it is a political question and therefore not justiciable.

Statement of the Issue

Whether Congress's authorization to "judge the qualifications of their members" is a political question and therefore not justiciable.

Holding

This is not a political question. Goes on to hear the case on the merits, final outcome not relevant to this class, really.

Reasoning

The speaker of the house (McCormick) makes two main arguments in favor of the house's position:

1. Textually demonstrable commitment to congress
Art 1 sec 5: Each house shall be the judge of the elections, qualifications, and returns of its members. This seems pretty clear, but we have to decide what the "qualifications" are. The constitution lists only 3 qualifications: age, citizenship, and residency. The constitution also lists a number of disqualifying factors: treason, for one.
Is this really a commitment just to congress? Basically the court concludes that congress can decide the qualifying factors exclusively, but that there is not a clear textually demonstrable commitment giving congress the power to judge disqualifying factors.
Treason, for example. If Congress could try its members for treason, would they honestly get a fair trial? Doubt it.
2. Prior practice of doing the same
This argument is not convincing on any level. Just because a branch has a history of doing something a certain way does not mean that it is right to do so. Regardless, Congress does not have the final say on what the constitution allows them to do – there are checks and balances for a reason.

Evaluation

