Leser Vs. Garnett

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Court : US Supreme Court

Decided On : Feb-27-1922

Appeal No. : 258 U.S. 130

Appellant : Leser

Respondent : Garnett

Judgement :

Leser v. Garnett - 258 U.S. 130 (1922)
U.S. Supreme Court Leser v. Garnett, 258 U.S. 130 (1922)

Leser v. Garnett

No. 553

Argued January 23, 24, 1922

Decided February 27, 1922

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ERROR AND CERTIORARI TO THE COURT OF APPEALS

OF THE STATE OF MARYLAND

SYLLABUS

1. A suit by qualified voters of Maryland to require the Maryland Board of Registry to strike the names of women from the register of voters upon the grounds that the state constitution limits the suffrage to men and that the Nineteenth Amendment to the federal Constitution was not validly adopted is maintainable under the Maryland law, and raises the question whether the Nineteenth Amendment has become part of the Constitution. P. 258 U. S. 136 .

2. The objection that a great addition to the electorate, made without a state's consent, destroys its political autonomy and therefore exceeds the amending power applies no more to the Nineteenth Amendment than to the Fifteenth Amendment, which is valid beyond question. P. 258 U. S. 136 .

3. The Fifteenth Amendment does not owe its validity to adoption as a war measure and acquiescence. P. 258 U. S. 136 .

4. The function of a state legislature in passing on a proposed amendment to the federal Constitution is federal, and not subject to limitation by the people of the state. P. 258 U. S. 137 . *Hawke v. Smith,* 253 U. S. 221 , 253 U. S. 231 .

5. Official notice from a state legislature to the Secretary of State, duly authenticated, of its adoption of a proposed amendment to the federal Constitution is conclusive upon him and, when certified to by his proclamation, is conclusive upon the courts. P. 258 U. S. 137 . *Field v. Clark,* 143 U. S. 649 , 143 U. S. 672 -673.

139 Md. 46 affirmed.

Certiorari to a decree of the court below affirming a decision of the state trial court dismissing a petition by

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which the plaintiffs in error sought to require the members of the Maryland Board of Registry to strike the names of specified woman voters from the registration list.

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MR. JUSTICE BRANDEIS delivered the opinion of the Court.

On October 12, 1920, Cecilia Streett Waters and Mary D. Randolph, citizens of Maryland, applied for and were granted registration as qualified voters in Baltimore City. To have their names stricken from the list, Oscar Leser and others brought this suit in the court of common pleas. The only ground of disqualification alleged was that the applicants for registration were women, whereas the Constitution of Maryland limits the suffrage to men. Ratification of the proposed amendment to the federal

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Constitution, now known as the Nineteenth, 41 Stat. 362, had been proclaimed on August 26, 1920, 41 Stat. 1823, pursuant to Revised Statutes, 205. The Legislature of Maryland had refused to ratify it. The petitioners contended, on several grounds, that the amendment had not become part of the federal Constitution. The trial court overruled the contentions and dismissed the petition. Its judgment was affirmed by the Court of Appeals of the state, 114 A. 840, and the case comes here on writ of error. That writ must be dismissed; but the petition for a writ of certiorari, also duly filed, is granted. The laws of Maryland authorize such a suit by a qualified voter against the board of registry. Whether the Nineteenth Amendment has become part of the federal Constitution is the question presented for decision.

The first contention is that the power of amendment conferred by the federal Constitution and sought to be exercise does not extend to this amendment because of its character. The argument is that so great an addition to the electorate, if made without the state's consent, destroys its autonomy as a political body. This amendment is in character and phraseology precisely similar to the Fifteenth. For each, the same method of adoption was pursued. One cannot be valid and the other invalid. That the Fifteenth is valid, although rejected by six states, including Maryland, has been recognized and acted on for half a century.

See United States v. Reese, 92 U. S. 214 ; *Neale v. Delaware,* 103 U. S. 370 ; *Guinn v. United States,* 238 U. S. 347 ; *Myers v. Anderson,* 238 U. S. 368 . The suggestion that the Fifteenth was incorporated in the Constitution not in accordance with law, but practically as a war measure which has been validated by acquiescence, cannot be entertained.

The second contention is that, in the constitutions of several of the 36 states named in the proclamation

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of the Secretary of State, there are provisions which render inoperative the alleged ratifications by their legislatures. The argument is that, by reason of these specific provisions, the legislatures were without power to ratify. But the function of a state legislature in ratifying a proposed amendment to the federal Constitution, like the function of Congress in proposing the amendment, is a federal function derived from the federal Constitution, and it transcends any limitations sought to be imposed by the people of a state. *Hawke v. Smith, No. 1,* 253 U. S. 221 ; *Hawke v. Smith, No. 2,* 253 U. S. 231 ; *National Prohibition Cases,* 253 U. S. 350 , 253 U. S. 386 .

The remaining contention is that the ratifying resolutions of Tennessee and of West Virginia are inoperative because adopted in violation of the rules of legislative procedure prevailing in the respective states. The question raised may have been rendered immaterial by the fact that, since the proclamation, the legislatures of two other states -- Connecticut and Vermont -- have adopted resolutions of ratification. But a broader answer should be given to the contention. The proclamation by the Secretary certified that, from official documents on file in the Department of State, it appeared that the proposed amendment was ratified by the legislatures of 36 states, and that it "has become valid to all intents and purposes as a part of the Constitution of the United States." As the Legislatures of Tennessee and of West Virginia had power to adopt the resolutions of ratification, official notice to the Secretary, duly authenticated, that they had done so, was conclusive upon him, and, being certified to by his proclamation, is conclusive

upon the courts. The rule declared in *Field v. Clark,* 143 U. S. 649 , 143 U. S. 669 -673, is applicable here. *See also Harwood v. Wentworth,* 162 U. S. 547 , 162 U. S. 562 .

Affirmed.