

Under the authority of a federal voting rights statute, some states drew congressional districts in a manner calculated to increase the likelihood that members of historically disadvantaged minority racial groups would be elected. The U.S. Supreme Court declared these districts to be unconstitutional, as improper racial gerrymanders.

In response to this ruling, Congress passed a new statute that explicitly denies the Supreme Court appellate jurisdiction over all future cases challenging the constitutionality of action taken under the authority of the federal voting rights statute.

Which of the following is the most persuasive argument for the constitutionality of the new statute restricting the Supreme Court's appellate jurisdiction?

- A. Article III of the Constitution explicitly states that the Supreme Court's appellate jurisdiction is subject to such exceptions and regulations as Congress shall make.
- B. The constitutional principle of separation of powers authorizes Congress to pass statutes calculated to reduce the effects of Supreme Court decisions that interfere with the exercise of powers that have been delegated to the legislative branch.
- C. The establishment and apportionment of congressional districts directly affect interstate commerce, and the Constitution authorizes Congress to use its plenary authority over such commerce for any purpose it believes will promote the general welfare.
- D. The Fifteenth Amendment authorizes Congress to enforce the amendment's voting rights provisions by appropriate legislation, and Congress could reasonably determine that this restriction on the Supreme Court's appellate jurisdiction is an appropriate means to that end.

Explanation:

Article III exceptions clause

Congress can modify SCOTUS's appellate jurisdiction unless modification would violate:

- separation-of-powers doctrine (eg, by usurping judicial power) *or*
- other constitutional provisions (eg, violating equal protection clause by only allowing men to appeal)

SCOTUS = Supreme Court of the United States

Appellate jurisdiction is a court's authority to overturn, modify, or affirm another court's decision. The **U.S. Supreme Court** (SCOTUS) has **appellate jurisdiction** over decisions by (1) lower federal courts and (2) the highest state courts when the decision turns on federal law. But Article III explicitly provides that this jurisdiction is **subject to such exceptions and regulations as Congress shall make**. Therefore, that is the most persuasive argument supporting the constitutionality of the statute restricting SCOTUS's appellate jurisdiction.

(Choice B) The constitutional principle of **separation of powers** bars each federal government branch from usurping another branch's powers. And since a congressional statute calculated to reduce the effects of SCOTUS decisions may usurp judicial power, this argument does *not* support the statute's constitutionality.

(Choice C) The Article I **commerce clause** grants Congress plenary (ie, absolute) authority to regulate activities that, singly or in the aggregate, have a *substantial* impact on interstate commerce. But since establishing and apportioning congressional districts only has a *mild* impact on interstate commerce, this argument would fail.

(Choice D) The Fifteenth Amendment authorizes Congress to enact legislation to ensure that the federal and state governments do not deny or abridge the right to vote based on race, color, or previous servitude. But Article III specifically allows Congress to alter SCOTUS's appellate jurisdiction, so it provides the *more* persuasive argument.

Educational objective:

Congress has the power to regulate and make exceptions to the U.S. Supreme Court's appellate jurisdiction under Article III of the Constitution.

References

- *Ex parte McCordle*, 74 U.S. 506, 514 (1869) (establishing that Congress has almost unlimited power to regulate and make exceptions to the Supreme Court's appellate jurisdiction).

Copyright © 2019 by the National Conference of Bar Examiners. All rights reserved.

Copyright © UWorld. All rights reserved.

