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APPRAISAL OF SMITH V. ALLWRIGHT

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It is familiar history that in 1927 the first "Texas white primary" case, Nixon v. Herndon,[1] invalidated the exclusion of Negroes from primary elections as accomplished by statutory mandate; that in 1932 Nixon v. Condon[2] disapproved the same result as achieved by a party Executive Committee pursuant to statutory authorization; that in the third case, Grovey v. Townsend,[3] decided in 1935, the Court found the same result constitutionally unobjectionable when authorized by a statewide party convention; and that in 1944 Smith v. Allwright[4] overruled Grovey v. Townsend.

More than a year has now elapsed since the decision of Smith v. Allwright. The things the Court said and did on that occasion, as well as things it elected not to say and do, appear even more important now than in 1944. The potential of this decision, both in its effect upon political institutions and in analogical projections into other fields, is a matter of substantial interest and consequence.

I. Political Potential

For the student of statecraft Smith v. Allwright provides occasion for fresh discussion of the wisdom and efficacy of judicial decisions which impose sanctions contrary to what seems to be the

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1. 273 U.S. 536 (1927).
2. 286 U.S. 73 (1932).
3. 295 U.S. 45 (1935).
4. 321 U.S. 649 (1944).