We negate; resolved: The Supreme Court rightly decided that Section Four of the Voting Rights Act violated the Constitution.

Observation One: In order to evaluate whether or not the Supreme Court made the right decision, the Pro must defend the tenets that were grounded in the decision. If not, then the Supreme Court did not rightly decide so because **Merriam-Webster defines** 'rightly' as **a way or manner that is correct**.

Observation Two: In the decision, the **Supreme Court explained** its purpose regarding voting discrimination as to

"The stated purpose of the Civil War Amendments was to arm Congress with the power and authority to protect all persons within the Nation from violations of their rights by the States. In exercising that power, then, use "all means which are appropriate, which are plainly adapted" to the constitutional ends declared by these Amendments. McCulloch, 4 Wheat., at 421. So when Congress acts to enforce the right to vote free from racial discrimination, we **ask not whether Congress has chosen the means most wise, but whether Congress has rationally selected means appropriate to a legitimate end.** "It is not for us to review the congressional resolution of [the need for its chosen remedy]. It is enough that we be able to perceive a basis upon which the Congress might resolve the conflict as it did." Katzenbach v. Morgan, 384 U. S. 641, 653 (1966).

In doing so, the Pro cannot have an advocacy of alternatives to Section Four of the Voting Rights Act. Additionally, the Con merely has to provide merits for the VRA, not necessarily prove that it's the ideal method.

Observation Three: Section Five is debatable ground for both sides. **Adam Liptak warrants** **The decision did not strike down Section 5, but without Section 4, the later section is without significance** — unless Congress passes a new bill for determining which states would be covered. It was hardly clear, at any rate, that the court's conservative majority would uphold Section 5 if the question returned to the court in the unlikely event that Congress enacted a new coverage formula. **In a concurrence, Justice Thomas called for striking down Section 5 immediately**, saying that the majority opinion had provided the reasons and had merely left "the inevitable conclusion unstated."

Contention One: The Supreme Court overreached their power.

Harry Reid initializes

Finally, **the bicameral legislative system** envisioned by the Framers and enshrined in our Constitution **ensures that "[n]o law or resolution can . . . be passed without the concurrence, first, of a majority of the people** [as represented by the House of Representatives], **and then, of a majority of the states** [as represented by the Senate]." THE FEDERALIST NO. 62 (James Madison). The 2006 reauthorization of Section 5 was approved overwhelmingly by both chambers, with not a single Senator voting against it. In other words, **the 2006 reauthorization was approved unanimously by the States through their elected representatives, including those most directly affected by Section 5.** That provides further reason for the Court to reject Petitioner's argument that the reauthorization violates constitutional principles of federalism.

The American Constitution Society continues

One of the most prominent charges by opponents of the Voting Rights Act is that – notwithstanding this mountain of evidence of racial discrimination in voting persisting in covered jurisdictions – **the Voting Rights Act is now out of date and unconstitutional because Congress did not update the Act's coverage provision, which has captured and still captures the jurisdictions with the worst record of adhering to the Constitution's promise of a multi-racial democracy.** Shelby County and its supporters have made a number of policy arguments about why a new coverage formula should have been designed. But they are exactly that – policy arguments. **The Constitution specifically entrusts to Congress the power to select the means to eliminate the scourge of racial discrimination in voting. The question whether or**

use or amend the coverage formula was one for Congress to decide, using the broad power specifically conferred in the Constitution.

What the Supreme Court did was unintended. **The Hastings Constitutional Law Quarterly furthers**
Had a broader reviewing power been intended, Thayer argued, **the judiciary would have been allowed to hand down advisory opinions prior to the enactment of legislation.** The Philadelphia convention, however, declined to equate the Court with a council of revision. The absence of an immediate judicial judgment of an act's constitutionality reinforced the legislature's duty, imposed by the oath provision of article VI of the Constitution, to make that original and possibly final judgment. By the time constitutional questions reach the judiciary, the legislative decision might have accomplished results of the "profoundest importance" throughout the country. Thayer concluded that a power as momentous as the legislature's primary authority to interpret entitles the actual determination of the legislature "to a corresponding respect; and this not on mere grounds of courtesy or conventional respect, but on very solid grounds of policy and law

The Supreme Court cannot override Congress if doubt looms. **The Harvard Law Review corroborates**
"I have accumulated these citations and run them back to the beginning, in order that it may be clear that the rule in question is something more than a mere form of language, a mere expression of courtesy and deference. It means far more than that. The courts have perceived with more or less distinctness that this exercise of the judicial function does in truth go far beyond the simple business which judges sometimes describe. If their duty were in truth merely and nakedly to ascertain the meaning of the text of the constitution and of the impeached Act of the legislature, and to determine, as an academic question, whether in the court's judgment the two were in conflict, it would, to be sure, be an elevated and important office, one dealing with great matters, involving large public considerations, but yet a function far simpler than it really is. Having ascertained all this, yet **there remains a question** -- the really momentous question—whether, after all **the court can disregard the Act. It cannot do this** as a mere matter of course, -**merely because it is concluded that upon a just and true construction the law is unconstitutional.** That is precisely the significance of the rule of administration that the courts lay down. **It can only disregard the Act when those who have the right to make laws have not merely made a mistake, but have made a very clear one**, -so clear that it is not open to rational question. **That is the standard of duty to which the courts bring legislative Acts; that is the test which they apply, -not merely their own judgment as to constitutionality, but their conclusion as to what judgment is permissible to another department which the constitution has charged with the duty of making it.** This rule recognizes that, having regard to the great, complex, ever-unfolding exigencies of government, much which will seem unconstitutional to one man, or body of men, may reasonably not seem so to another; that the constitution often admits of different interpretations; that there is often a range of choice and judgment; that in such cases the constitution does not impose upon the legislature any one specific opinion, but leaves open this range of choice; and that whatever choice is rational is constitutional. This is the principle, which the rule that I have been illustrating affirms and supports. The meaning and effect of it are shortly and very strikingly intimated by a remark of Judge Cooley, to the effect that one who is a member of a legislature may vote against a measure as being, in his judgment, unconstitutional; and, being subsequently placed on the bench, when this measure, having been passed by the legislature in spite of his opposition, comes before him judicially, may there find it his duty, although he has in no degree changed his opinion, to declare it constitutional."

Judicial activism has undermined constitutionality. **The Marquette Law Review continues**
In other words, **the judge forms a conclusion or has a result in mind, and then reasons backwards .to justify the desired result.** Another name for this process is judicial activism. **By using judicial activism, a court may reach what it believes to be a 'right' or 'just' result in a particular case. However,** the effects of this process on the Constitution and defendant's rights are not so 'right' or 'Just.' **The Constitution was written to protect citizen's individual rights and make everyone aware of those rights and the corresponding responsibilities. By altering the meaning of the Constitution to achieve the result the Court wants to reach, neither law enforcement, lower courts, nor the people know the scope of their rights and responsibilities. The Supreme Court must interpret the Constitution, not rewrite it according to the Justices' own agendas or revise it to reach a certain result.** Part II of this Comment will focus on the constitutional problems created when the Supreme Court engages in the backward reasoning which constitutes judicial activism, focusing specifically on the area of criminal procedure. This part examines some of the Court's landmark cases and how the Court's judicial activism has undermined the constitutional requirements in the area of criminal procedure. Part III suggests ideas to correct the problems created by the Court's judicial activism and offers measures to help prevent judicial activism in the future. Part III also discusses ways in which to limit the damage already done by judicial activism.

Contention Two: Voter discrimination persists.

The Legal Information Institute initializes

Although **the VRA** wrought dramatic changes in the realization of minority voting rights, the Act, to date, surely **has not eliminated all vestiges of discrimination against the exercise of the franchise by minority citizens. Jurisdictions covered by the preclearance requirement continued to submit, in large numbers, proposed changes to voting laws** that the Attorney General declined to approve, auguring that barriers to minority voting would quickly resurface were the preclearance remedy eliminated. City of Rome v. United States, 446 U. S. 156, 181 (1980). Congress also found that as "registration and voting of minority citizens increas[ed], other measures may be resorted to which would dilute increasing minority voting strength." Ibid. (quoting H. R. Rep. No. 94–196, p. 10 (1975)). See also Shaw v. Reno, 509 U. S. 630,640 (1993) ("[I]t soon became apparent that guaranteeing equal access to the polls would not suffice to root out other racially discriminatory voting practices" such as voting dilution). Efforts to reduce the impact of minority votes, in contrast to direct attempts to block access to the bal-lot, are aptly described as "second-generation barriers" to minority voting.

Following the ruling, several states made efforts to enact previously blocked voter ID laws. **PBS shows Within 24 hours of the Supreme Court's decision to strike down the law requiring nine states to submit voting law changes to the federal government for pre-clearance, five*** are **already [moved]** moving **ahead with voter ID laws, some of which had already been rejected as discriminatory under the Voting Rights Act.**

Contention Three: Equal state sovereignty violations are irrelevant to constitutionality.

As established in *Eldred v. Ashcroft*, **the Supreme Court notes**

As an alternative to their various arguments that extending existing copyrights violates the Copyright Clause per se, petitioners urge heightened judicial review of such extensions to ensure that they appropriately pursue the purposes of the Clause. See Brief for Petitioners 31–32. Specifically, **petitioners ask us to apply the "congruence and proportionality" standard described in cases evaluating exercises of Congress' power under §5 of the Fourteenth Amendment.** See, e.g., City of Boerne v. Flores, 521 U. S. 507 (1997). But **we have never applied** that **[the] standard [of congruence and proportionality] outside the §5 context;** it does not hold sway for judicial review of legislation enacted, as copyright laws are, pursuant to Article I authorization.

Eric Posner from the University of Chicago Law School furthers

Still, it is worth looking at this principle. What exactly is wrong with the singling out of states by the federal government? Is the idea that when Alabama is on the playground with the other states, they're going to make fun of it because it had to ask its mama for permission before going out to play? In fact, **the federal government doesn't treat states equally and couldn't possibly. Nearly all laws affect different states differently. Disaster-relief laws benefit disaster-prone states at the expense of disaster-free states. Pollution-control laws burden industrial states. Progressive taxes burden states where the rich are concentrated.** Thanks to Congress, the Environmental Protection Agency can single out states with serious pollution problems, the Justice Department can keep an eye on states with serious corruption problems, and immigration authorities can single out border states for surveillance. Indeed, **Section 2 of the Voting Rights Act will continue to burden states with substantial minority populations relative to other states**, just because you can't discriminate against a minority population that doesn't exist. Many more Section 2 claims will be brought in Alabama than in Montana, and so even under Section 2, Alabama has vastly less control over its election law than Montana has over its election law. Yes, Section 5 places an incremental burden on Alabama—but on top of an already unequal burden that Roberts cheerfully tolerates. So whatever explains the court's decision today, the putative principle of equal sovereignty can't be it.