

Congressional Delegation through an "Intelligible Principle": Views of the Supreme Court and Academia

On April 9, 1928, the Supreme Court decided *J.W. Hampton, Jr., & Co. v. United States*, 276 U.S. 394 (1928) by a vote of 9 to 0. The decision upheld Congressional authority to delegate legislative power to the executive branch via the “intelligible principle” and upheld the use of tariffs to protect industries within the United States.

Since *J.W. Hampton, Jr., & Co. v. United States*, 276 U.S. 394 (1928), the United States Supreme Court has used the “intelligible principle” as precedent in eleven majority opinions. The use of this principle has been very important for the field of public administration, especially the administrative law sector, because the principle is very vague, allowing for Congress to delegate powers without many specific standards or guidelines. In other words, the “intelligible principle” was a major victory for administrative discretion.

The purpose of this study is to examine how the Supreme Court has used the “intelligible principle” as precedent over the past seventy-five years, along with observing how members of academia in the fields of political science and public administration have initiated and responded to such expansive delegation of authority across the branches of government. More precisely, have the Supreme Court rulings using the “intelligible principle” followed the views of academia, been contrary to the views of academia, and what were the responses of academics following the cases?