Per Curiam

SUPREME COURT OF THE U

No. 23–

DONALD J. TR
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Per Curiam

President Trump's defeat in the 2020 Presidential
he disrupted the peaceful transfer of power by
organizing and inciting the crowd that bre
as Congress met to certify the electio
6, 2021. One consequence of those
maintain, is that former Presi
ally ineligible to serve as Pr

Their theory turns on S
ment. Section 3 provid

> "No person shal
> gress, or ele
> hold any
> States, o
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States" and the President is not an "officer of th
States" within the meaning of that provision
Pet. for Cert. 184a–284a.

In December, the Colorado Suprem
part and affirmed in part by a 4 t
District Court's operative holdi
that for purposes of Section
under the United States
the United States. Th
(1) that the Colorado
ents' challenge ba
not pass implem
der Section 3
trine did no
Trump's el
its discr
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did, we now reverse.

II

A

Proposed by Congress in 1866 ar
in 1868, the Fourteenth Amend
power at the expense of state
mentally altered the bala
struck by the Constituti
ida, 517 U. S. 44, 59 (
U. S. 339, 345 (188
stance, bars the
liberty, or pr
"deny[ing] t
laws." And
those pro
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a wide array of offices—rather than by granting
all. It is therefore necessary, as Chief Justi
cluded and the Colorado Supreme Court
to "'ascertain[] what particular indivi
by the provision. App. to Pet. for
fin's Case, 11 F. Cas. 7, 26 (No. 5
Circuit Justice)). Chase wen
plish this ascertainment
ceedings, evidence, de
sions, more or less f
For its part, the C
that there must
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cation holds
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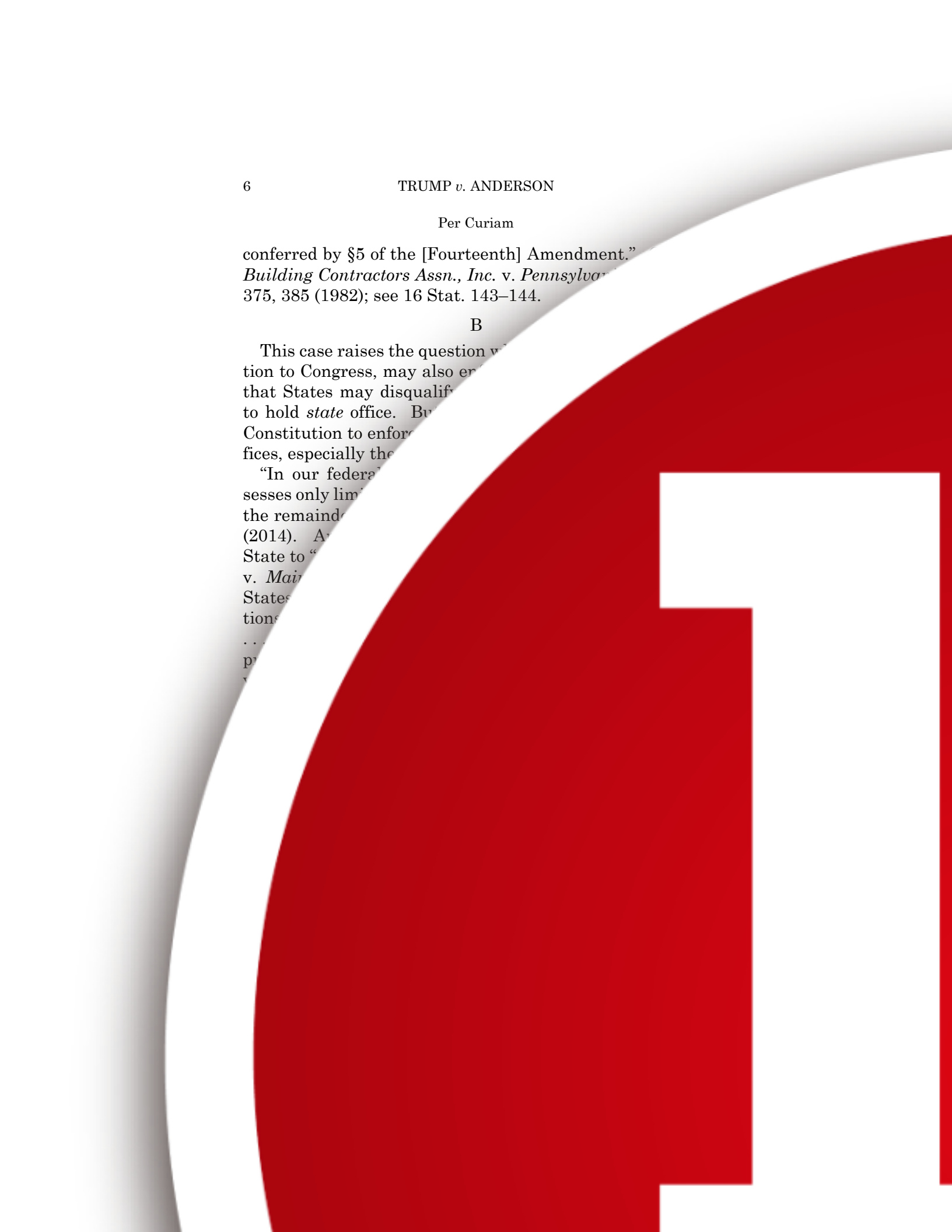
conferred by §5 of the [Fourteenth] Amendment." *Building Contractors Assn., Inc.* v. *Pennsylva* 375, 385 (1982); see 16 Stat. 143–144.

B

This case raises the question w tion to Congress, may also en that States may disqualif to hold *state* office. Bu Constitution to enfor fices, especially the

"In our federa sesses only lim the remaind (2014). A State to " v. *Mai* State tion . . . p



Limits, Inc. v. *Thornton*, 514 U. S. 779, 803–80
(quoting 1 J. Story, Commentaries on the C
the United States §627, p. 435 (3d ed. 185
in the Constitution delegates to the St
force Section 3 against federal offic

As an initial matter, not ev
that the Constitution author
sitting federal officeholder
Such a power would fl
tion guarantees 'the
Government from
Trump v. *Vance*
and Mechanic
U. S. 516, 5
ple, State
mandam
pus rel
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Wal

provisions of the Amendment against the States. I
be incongruous to read this particular Am
granting the States the power—silently no
ify a candidate for federal office.

The only other plausible constit
delegation are the Elections a
authorize States to conduct
Presidential elections, re
Art. II, §1, cl. 2.[1] But
these Clauses implic
tion 3 against fede
ing the States t
Amendment's

The text
nal senten
"disabili
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forced to exercise its disability removal power befo
begins if it wished for its decision to have any
current election cycle. Perhaps a State
gressional authority in such a way wh
clusive" sovereign power over its
178 U. S., at 571. But it is imp
Constitution affirmatively d
thority to impose such a
with respect to candida
v. *Maryland*, 4 Wh
power . . . to retard
trol, the operati
Congress").

Nor have t
enforceme
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teenth
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59
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U. S., at 826.

Instead, it is Congress that has long given
tion 3 with respect to would-be or existi
holders. Shortly after ratification of t
gress enacted the Enforcement A
authorized federal district attor
federal court to remove any
fice—federal or state—in
holding or attempting t
a federal crime. §§1
Stat. 1153–1154, 6
ratification, the
powers under
that certain
or retain t
2; 1 A. F
§§459–
of 18
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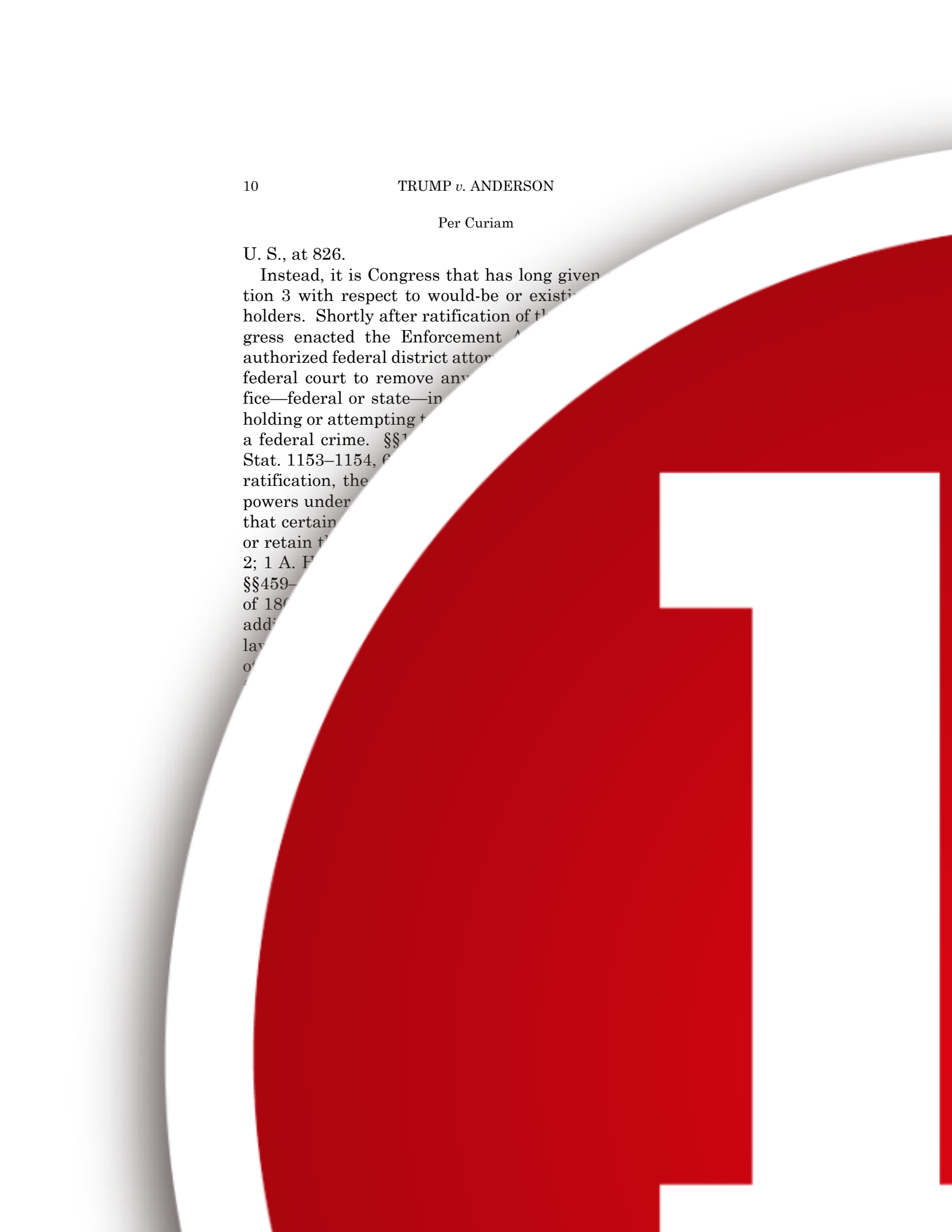

taking a qualifying oath and then engaging in insu
or rebellion—nothing more. Any congressio
enforcing Section 3 must, like the Enforce
and §2383, reflect "congruence and
tween preventing or remedying
means adopted to that end." C
520. Neither we nor the resp
legislation by Congress to
Arg. 123.

Any state enforcer
holders and candi
tion 5, which co
result, such s
more broadl
our preced
the State
should
impla

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others might require a heightened showing. Cer
dence (like the congressional Report on wh
courts relied here) might be admissible i
inadmissible hearsay in others. Disc
possible only through criminal pr
expedited civil proceedings, in
some States—unlike Colora
tary of state recently issue
ident Trump from the
cluding an ineligibl
exist at all. The re
would be declar
based on the s
tual record).

The "pa
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found s
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Supreme Court therefore cannot stand.

All nine Members of the Court agree with
Our colleagues writing separately further
of the reasons this opinion provides f
post, Part I (joint opinion of SO
JACKSON, JJ.); see also *post*, p
So far as we can tell, they ob
count the distinctive way
Section 5 vests *in Con*
are not the only rea
this particular cor
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some of our
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reasons
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SUPREME COURT OF THE UNITED ST

No. 23–719

DONALD J. TRUMP, P
NORMA ANDE

ON WRIT OF CERTIOR
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JUSTICE BARR
the judgment.

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SOTOMAYOR, KAGAN, and JACKSON, JJ., concurring in judgment

SUPREME COURT OF THE UNITED ST

No. 23–719

DONALD J. TRUMP, P
NORMA ANDE

ON WRIT OF CERTIOR
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JUSTICE SOTO
JACKSON, conc

"If it is no
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five Justices go on. They decide novel constitutio
tions to insulate this Court and petitioner fro
troversy. *Ante,* at 13. Although only an i
action is at issue here, the majority op
actors can enforce Section 3, and h
majority announces that a disq
can occur only when Congr
legislation pursuant to Se
ment. In doing so, the
tential means of fed
opinion that decid
essarily, and we

Our Cor
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. . . represent[s] *all* the voters in the Nation.'" *Ar*
(quoting *Anderson*, 460 U. S., at 795). That is
the majority adds, because different States
flicting . . . outcomes concerning the sa
just from differing views of the me
in state law governing the proc
3. *Ante*, at 11.

The contrary conclusio
few States could decid
be especially surpris
construction Amer
expansion of fed
eignty." *City*
(1980). Sec
placed sub
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hold t
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Ante, at 5 (quoting *Griffin's Case*, 11 F. Cas
(No. 5,815) (CC Va. 1869) (Chase, Circuit Jus
musings are as inadequately supported a
tous.

To start, nothing in Section 3's
ity's view of how federal disqua
ate. Section 3 states simpl
certain positions and offic
rectionists. Amdt. 14.
gests that implemen
5 is "critical" (or, f
this context). *A*
way. Section
rectionist is
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It simply creates a special rule for the insurrectio
ity in Section 3.

The majority is left with next to no supp
ment that a Section 3 disqualification
ant to legislation enacted for that
Case, but that is a nonpreceden
a single Justice in his capaci
at 5 (quoting 11 F. Cas.
tioner's lawyer distanc
case as probative of
Arg. 35–36. The
statements that
ing'" itself. *A*
Sess., 626 (1
tion the
[A]mend
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J
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Bush v. *Gore*, 531 U. S. 98, 158 (2000) (Breyer, J
ing). The Court today needed to resolve only
tion: whether an individual State may ke
candidate found to have engaged in in
lot. The majority resolves much m
us. Although federal enforcem
at issue, the majority anno
enforcement must operat
3 questions not before
disqualify a Presider
a sensitive case cr
that course.

Section 3 se
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