

A proposed Court Doctrine concerning the nature of this case

The Doctrine of Operative Facts in the Rule of Law

“An unconstitutional law, code or policy has an effect before being declared unconstitutional.”



Under the Operative Facts Doctrine, the law or policy is recognized as unconstitutional but the effects of the unconstitutional law, code or policy; *prior to its declaration of nullity*, may be left undisturbed as a matter of equity, due process or from impairing the Obligation of Contracts.

As a general rule, any act declared by the court to be unconstitutional has no legal effect whatsoever – “An unconstitutional act is not a law; it confers no rights; it imposes no duties; it affords no protection; it creates no office; it is in legal contemplation as inoperative as though it had never been passed.” *Norton v. Shelby County*, 118 U.S. 425 (1886)