



SUPREME COURT VOTING RIGHTS CASES

(45 minutes)

OBJECTIVE

Students study Supreme Court voting rights decisions to gain a greater appreciation for what shapes the right to vote.

MATERIALS

Dunn v. Blumstein handout; *Reynolds v. Sims* handout; *Kramer v. Union Free School District* handout

GET READY

- ✓ Duplicate copies of *Dunn v. Blumstein* for a third of your students, copies of *Reynolds v. Sims* for the second third, and *Kramer v. Union Free School District* for the last third.
- ✓ Divide the class into three sets of “Justices.”

INSTRUCTIONS

- ✓ Review concepts important to the handouts: required residency, apportionment, majority and dissenting opinions in the Supreme Court.
- ✓ Assign one case to each of the three groups and distribute the case handouts.
- ✓ Assign each group to review the facts and arguments of the case they received. Each group should prepare to present these facts and arguments to the class.
- ✓ Give group members one of three tasks: a few group members will give the facts of the case; a few will present the majority opinion; the last few will sum up the dissent.

DISCUSSION QUESTIONS

- ★ *How did these voting rights cases impact the right to vote?*
- ★ *In these three cases, did the Court act to extend or to limit the power of an individual’s vote?*
- ★ *In all three of these cases, did the Court act to extend or limit the power of the states to restrict voting?*
- ★ *How would you have decided each case? Why should ordinary citizens like you and me understand the decisions of the Supreme Court?*

MORE!

Have a law professor speak with your class about the Supreme Court and voting cases. Send the speaker this lesson and the handouts ahead of time, so he/she is familiar with the cases. Follow some Supreme Court cases currently on the docket, through news magazines and newspapers. Post articles on a bulletin board.

VOTE QUOTE

“When nothing seems to help, I go and look at a stonecutter hammering away at his rock perhaps a hundred times without so much as a crack showing in it. Yet at the hundred and first blow it will split in two, and I know it was not that blow that did it—but all that had gone before.”
– Jacob Riis



DUNN V. BLUMSTEIN

Dunn v. Blumstein, 405 U.S. 330, 92 S.Ct. 995 (1972):
Durational Voting Rights and the Right to Travel

James Blumstein moved to Tennessee on June 12, 1970, to begin working as a law professor at Vanderbilt University. When he attempted to register to vote on July 1, 1970, the county registrar refused to let him register because he had not resided in the state or county for the amount of time required by Tennessee law. Blumstein challenged this requirement in court. After exhausting all of his remedies, a three-judge federal court ruled that this Tennessee law was unconstitutional because it impermissibly interfered with the right to vote and because the state had created a “suspect” classification penalizing some Tennessee residents because of recent interstate movement. The United States Supreme Court affirmed the lower court’s decision and held that it is illegal for a state to require that an individual reside for any length of time in that particular state, or particular county in that state, in order to exercise their right to vote.

The Tennessee law required that in order for a person to vote, “a would-be voter must have been a resident for one year in the state and three months in the county.” The Court struck down the additional durational residence requirements because they violated the Equal Protection Clause and, in effect, penalized those persons who travel from one place to another for jobs or for any other reasons. According to the majority, such laws discriminate against new residents as a class because they deny them the opportunity to vote altogether. By denying some citizens the right to vote, the state denied this group of new residents the constitutionally protected right to participate in elections on an equal basis with other citizens in the jurisdiction.

In rendering the majority opinion for the Court, Justice Marshall reasoned that the Tennessee legislature did not have a substantial or compelling reason for imposing durational residence requirements. By impinging on “a second fundamental right, the right to travel, the durational residence laws single out the

class of bona fide state and county residents who have recently exercised this constitutionally protected right of travel, and penalize those travelers directly.” Such laws force a person who wishes to travel and change residences to choose between travel and the basic right to vote. A state may not do this without a compelling interest using the least restrictive means possible.

Tennessee argued that the durational requirements were necessary in order to insure against voter fraud — to insure the purity of the ballot box by protecting against fraud through colonization and the inability to identify persons offering to vote — and to afford some assurance that the voter will be a knowledgeable voter and exercise the right to vote intelligently. Justice Marshall reasoned that voter fraud is best avoided by requiring that people register to vote 30 days before the election, which Tennessee already required, and that the additional durational requirements do nothing to further deter voter fraud.

He further stated that in light of modern technology, it is relatively simple to check the validity of a person’s voter registration, and 30 days is sufficient time to check. Also, it is impossible for a state to determine intelligent and knowledgeable voters simply by duration of residency; there are always some voters who are more informed than others, regardless of how long they have resided in the state. Because the state failed to show a compelling enough interest, Justice Marshall held that the Tennessee law was unconstitutional and violated the new resident’s right to vote.

As the lone dissent, Justice Burger reasoned that it is “no more a denial of equal protection for a state to require newcomers to be exposed to state and local problems for a reasonable period, such as one year before voting, than it is to require children to wait 18 years before voting.” It is permissible for the individual state to draw a line where it wants to regarding who is allowed to vote, because in all cases “some informed and responsible persons are denied the vote, while others less informed and less responsible are permitted to vote.”



REYNOLDS V. SIMS

Reynolds v. Sims, 377 U.S. 533, 84 S.Ct. 1362 (1964): One Person, One Vote

In 1964, the United States Supreme Court decided two major cases which determined that voters of the United States had the right of one person to one vote, and that a state could not reapportion voting districts so as to substantially dilute individual votes. The case which decided this for federal elections was *Wesberry v. Sanders*, 376 U.S. 1, 84 S.Ct. 526 (1964), which stated that Article I of the United States Constitution required that, as much as possible, one's vote in a congressional election is worth the same as another's vote. The case which established this for state elections was *Reynolds v. Sims*.

The Alabama legislature had not reapportioned voting districts since 1901, even though it was required to do so every 10 years. This resulted in malapportioned voting districts where only 25% of the state's total population resided in districts represented by a majority of the members of the House and Senate. The Court struck down the Alabama apportionment scheme based on grounds that it violated the Equal Protection Clause of the 14th Amendment.

Chief Justice Warren reasoned in the majority opinion that the "Equal Protection Clause requires that the seats in both houses of a bicameral state legislature

must be apportioned on a population basis" because "legislators represent people, not trees or acres. Legislators are elected by voters, not farms or cities or economic interests." If a state's districting scheme gave unequal weight to the votes of citizens from one area of the state over those of another, then those citizens' right to vote would be unconstitutionally impaired.

Chief Justice Warren went on to say, "Diluting the weight of votes because of place of residence impairs basic constitutional rights under the 14th Amendment just as much as invidious discriminations based upon factors such as race or economic status." Our representative democratic system is based upon the provision that the majority vote will derive from the majority population, and that the legislature will be elected by the majority of the population through their exercise of the right to vote.

Justice Harlan, in his dissenting opinion, stated that the 14th Amendment did not restrict the states from apportioning their voting districts in any way they wanted. He feared that the majority opinion gave the federal courts the unwarranted power to regulate an individual state's own voting scheme. He believed the states themselves should have the sole power to determine how to apportion voting districts for state elections.



KRAMER V. UNION FREE SCHOOL DISTRICT

Kramer v. Union Free School District No. 15,
395 U.S. 621 (1969): Voting Rights Restrictions
and “Interested Voters”

If a state determines that only a select group of voters will be affected by the outcome of an election on specific issues, the state may limit voting access to those people affected. The New York legislature passed a law that in certain New York school districts residents who are otherwise eligible to vote in state and federal elections may vote in the school district election only if they own or lease taxable real property in the district or have children enrolled in local public schools. The United States Supreme Court found that this type of voting restriction violates the Equal Protection Clause of the 14th Amendment.

Chief Justice Warren, writing the majority opinion, declared that the New York law limiting the right to vote to those two particular classes for school district elections was not necessary to further compelling state interests when the scheme was reviewed with strict scrutiny by the Court. While the state may restrict the right to vote in some instances to “those primarily interested or primarily affected” by the election, the New York law was not sufficiently tailored to the alleged goal of limiting the vote to those people primarily interested in school affairs.

For example, a person who resides in the district with his parents, pays taxes, and is interested in and affected by the school board decisions, has no vote. However, “an uninterested, unemployed young man” who pays no taxes but rents in the district, can participate in the vote. In fact, the law excluded many with distinct and direct interest in school meeting decisions, such as “senior citizens and others living with children or relatives and parents who neither own nor lease qualifying property whose children are too young to attend school or who attend private school.” The classification restrictions were not tailored narrowly enough so that the state could achieve its goal of limiting the vote to those primarily affected and interested. Because of this, the New York law violated the Equal Protection Clause and was found unconstitutional by a majority of the Court.

The dissent, led by Justice Stewart, argued that the New York State Legislature had every right to draw the line at whatever requirements it reasonably believed should apply. He stated, “So long as the classification is rationally related to a permissible legislative end,” then there has been no denial of equal protection. He went on to say that because all of the voters elected the state legislature fairly through their participation in the vote, that they in effect agreed to abide by the legislature’s determinations and were not denied the right to participate in the representative system.