

## **Baker v. Carr (1962)**

**Argued:** April 19–21, 1961

**Re-argued:** October 9, 1961

**Decided:** March 26, 1962

### **Background**

In the U.S. each state is responsible for determining its legislative districts. For many decades states drew districts however they wanted. By the 1950s and 1960s, questions arose about whether the states' division of voting districts was fair. Many states had not changed their district lines in decades. During that time many people moved from rural areas to cities. As a result, a significant number of legislative districts became uneven—for example, a rural district with 500 people and an urban district with 5,000 people each would have only one representative in the state legislature. Some voters filed lawsuits to address the inequities, but federal courts deferred to state laws and would not hear these cases.

Federal courts did not hear these cases because they were thought to be “political” matters. Courts were reluctant to interfere when another branch of government (the executive or legislative) made a decision on an issue that was assigned to it by the Constitution. For example, if the president negotiated a treaty with another country (a power granted to the president by the Constitution), the courts would generally not decide a case questioning the legality of the treaty. The power of state legislatures to create voting districts was one of those “political questions” that the courts traditionally had avoided.

This is a case about whether federal courts could rule on the way states draw their state boundaries for the purpose of electing members of the state legislature.

### **Facts**

In the late 1950s, Tennessee was still using boundaries between electoral districts that had been determined by the 1900 census. Each of Tennessee's 95 counties elected one member of the state's General Assembly. The problem with this plan was that the population of the state changed substantially between 1901 and 1950. The distribution of the population had changed too. Many more people lived in Memphis (and its district—Shelby County) in 1960 than had in 1900. But the entire county was still only represented by one person in the state legislature, while rural counties with far fewer people also each had one representative.

In fact, the state constitution required revising the legislative district lines every 10 years to account for changes in population. But state lawmakers ignored that requirement and refused to redraw the districts.

An eligible voter who lived in an urban area of Shelby County (Memphis), Charles Baker, believed that he and similar residents of more heavily populated legislative districts were being denied “equal

protection of the laws” under the 14th Amendment because their votes were “devalued.” He argued that his vote, and those of voters in similar situations, would not count the same as those of voters residing in less populated, rural areas. He sued the state officials responsible for supervising elections in the U.S. District Court for the Middle District of Tennessee.

The state of Tennessee argued that courts could not provide a solution for this issue because this was a “political question” that federal courts could not decide. The state said that its political process should be allowed to function independently. The District Court dismissed Baker’s complaint on the grounds that it lacked authority to decide the case. Baker appealed that decision up to the U.S. Supreme Court, which agreed to hear his case.

### **Issue**

Do federal courts have the power to decide cases about the apportionment of population into state legislative districts?

### **Constitutional Articles and Amendments and Supreme Court Precedents**

- **Article III, section 2 of the U.S. Constitution**

“The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority. . . .”

- **14th Amendment to the U.S. Constitution**

No State shall . . . deny to any person within its jurisdiction the equal protection of the laws.”

- ***Colegrove v. Green (1946)***

An Illinois resident sued Illinois officials to prevent them from holding an upcoming election. He argued that the boundaries for congressional districts drawn by the Illinois legislature were irregularly shaped and did not include the same number of people in each. The Supreme Court was asked to decide whether Illinois’ congressional districts violated constitutional requirements for fair districting.

The Court dismissed the case, concluding that federal courts lack the competence to decide whether a state’s districting decisions are consistent with the Constitution. The Court decided that, because the legislative districting process is inherently political in nature, the courts cannot second-guess the political judgment of a state as to how best to draw districts or order a state to draw its districts any particular way.

### **Arguments for Baker (petitioner)**

- The courts should be able to decide this issue. The text of Article III, section 2 of the U.S. Constitution is clear: “judicial Power shall extend to all Cases, in Law and Equity, arising

under this Constitution.” This is an issue that arises under the Constitution because the right of the residents of Tennessee to “equal protection of the law” under the 14th Amendment was in question.

- “Political questions” that the courts should not address are not neatly defined and are determined by a number of factors. Just because an issue involves politics does not mean it is a “political question” that courts cannot decide. By refusing to decide political questions, courts are trying to avoid a situation where a co-equal branch of government is telling another what to do. But the courts would not be drawing new districts (that is the legislature’s responsibility). The courts would simply be instructing the legislature to fix any constitutional violations.
- Courts should not follow a long-held practice merely because it is a tradition. There needs to be an important and constitutional reason why the courts should not decide a case.
- Baker’s complaint—that his vote does not count equally—is a very serious violation of his rights. Many states have been unwilling to address this violation. In a case like this, the courts must get involved to protect people’s rights and prevent the harm that would happen if the situation is not addressed immediately.
- The states suggest that voters’ concerns can be remedied by elected officials—that voters can lobby for state laws and practices. That solution is flawed. Most of the members of the Tennessee legislature benefited from the districting plan as it existed.

### **Arguments for Carr (respondent)**

- The federal courts do not have the constitutional authority to review legislative districts. One branch of the government should not tell another what to do on a question that is committed to the discretion of that branch alone. All three branches—legislative, judicial, and executive—are equal in the Constitution, and co-equal bodies cannot interfere with each other’s basic functions.
- If the courts decide this case, they will overstep their authority and abuse their power. The state of Tennessee can enforce its own laws and decide what legislative districts it thinks achieve the fairest representational system. The federal government should respect the state’s sovereignty and not force uniformity in an area where the Constitution left it to the states to decide how best to draw districts.
- Federal courts have always viewed districting as a uniquely political function that states do not have to carry out in any particular way.
- Even if the courts had authority to hear the case, there is nothing in the Constitution that says that state legislative districts must each have the same number of people. Nor is there any objective way to decide whether a state’s districting decisions are sufficiently “fair.”

- The courts do not need to interfere with the democratic process. If the residents of Tennessee want to change how their legislature draws the state’s districts, they can encourage their elected officials to make that change through the existing democratic process.

### **Decision**

In a 6–2 decision, the U.S. Supreme Court decided in favor of Baker. Justice Brennan wrote the opinion of the Court and was joined by Justice Black and Chief Justice Warren. Justices Douglas, Clark, and Stewart also joined in Justice Brennan’s majority opinion and wrote separate concurring opinions. Justice Frankfurter and Justice Harlan wrote dissenting opinions.

### **Majority**

The Supreme Court decided that the lower court’s decision that courts could not hear this case was incorrect. In a dramatic break with tradition and practice, the majority concluded that federal courts have the authority to enforce the requirement of equal protection of the law against state officials—including, ultimately, the state legislature itself—if the legislative districts that the state creates are so disproportionately weighted as to deny the residents of the overpopulated districts equivalent treatment with underpopulated districts. The majority concluded that there is no inherent reason why courts cannot determine whether state districts are irrationally drawn in ways that result in substantially differing populations. Even though politics may enter into the drawing of districts, the constitutional guarantee of equal protection is judicially enforceable. A challenge to the differing populations of legislative districts does not present a “political question” that courts are unable to decide.

The Court did not decide whether Tennessee’s districts actually were unconstitutional, however. Instead, the justices instructed the District Court to allow a hearing on the merits of Baker’s claim that the state’s legislative districts violated his 14th Amendment rights. That course established a precedent that dozens of federal courts later followed in allowing disgruntled residents to try to prove that legislative districts are unconstitutionally unbalanced.

### **Dissents**

Justices Frankfurter and Harlan disagreed with the majority. They asserted that the Court’s own precedents were clear and consistent in refusing to review a state’s districting decisions, and they saw no reason for federal courts to decide these types of cases. This case was seen as an entirely “different matter from denial of the franchise [right to vote] to individuals because of race, color, religion or sex.” Because they found nothing in the Constitution that would require states to draw districts in a particular manner, there was no basis for federal courts to interfere with a political task that the Constitution left to the state legislatures.

Justice Harlan’s dissent highlighted just how significant the majority decision was. As he noted:

“I can find nothing in the Equal Protection Clause or elsewhere in the Federal Constitution which expressly or impliedly supports the view that state legislatures must be so structured as to reflect with approximate equality the voice of every voter. Not only is that proposition refuted by history ... but it strikes deep into the heart of our federal system. Its acceptance would require us to turn our backs on the regard which this Court has always shown for the judgment of state legislatures and courts on matters of basically local concern.”