AMERICAN CONSTITUTIONALISM

VOLUME II: RIGHTS AND LIBERTIES

Howard Gillman • Mark A. Graber • Keith E. Whittington

Supplementary Material

Chapter 9: Liberalism Divided—Democratic Rights/Voting/The Right to Vote

**Kramer v. Union Free School District No. 15, 395 U.S. 621** (1969)

*The state of New York established several methods for selecting the members of local school boards, which had some governing responsibility over the administration of local school districts. In some rural and suburban districts, the school board members were elected at an annual meeting of qualified school district voters. Qualified school district voters were limited to individuals who owned or leased real property in the school district, the spouse of such a person, or the parent of a child enrolled in a public school within the district. Qualified school district voters also participated directly in some policy decisions regarding school budgets and taxes in those districts.*

*Morris Kramer was a childless adult stockbroker who lived in his parents’ home in a wealthy beach town on Long Island that used the annual meeting method to select school board members. Although he was a citizen who voted in federal and state elections, he did not meet the requirements to be a qualified school district voter. He filed a class action lawsuit in federal district court seeking to have the qualified school district voter system declared unconstitutional. A three-judge panel upheld the validity of the New York system. On appeal, the U.S. Supreme Court reversed the lower court in a 6-3 decision. The Court concluded that the restriction on qualified voters in school board elections could not meet the high standard of scrutiny required by the equal protection clause of the Fourteenth Amendment.*

CHIEF JUSTICE WARREN delivered the opinion of the Court.

. . .

. . . . Appellant agrees that the States have the power to impose reasonable citizenship, age, and residency requirements on the availability of the ballot. The sole issue in this case is whether the *additional* requirements of § 2012—requirements which prohibit some district residents who are otherwise qualified by age and citizenship from participating in district meetings and school board elections—violate the Fourteenth Amendment's command that no State shall deny persons equal protection of the laws.

"In determining whether or not a state law violates the Equal Protection Clause, we must consider the facts and circumstances behind the law, the interests which the State claims to be protecting, and the interests of those who are disadvantaged by the classification." *Williams v. Rhodes* (1968). And, in this case, we must give the statute a close and exacting examination. "[S]ince the right to exercise the franchise in a free and unimpaired manner is preservative of other basic civil and political rights, any alleged infringement of the right of citizens to vote must be carefully and meticulously scrutinized." *Reynolds v. Sims* (1964). . . .

. . . . Statutes granting the franchise to residents on a selective basis always pose the danger of denying some citizens any effective voice in the governmental affairs which substantially affect their lives.[[7]](https://scholar.google.com/scholar_case?case=203091371604093253&hl=en&as_sdt=6&as_vis=1&oi=scholarr" \l "[7]) Therefore, if a challenged state statute grants the right to vote to some bona fide residents of requisite age and citizenship and denies the franchise to others, the Court must determine whether the exclusions are necessary to promote a compelling state interest.

. . . .

Besides appellant and others who similarly live in their parents' homes, the statute also disenfranchises the following persons (unless they are parents or guardians of children enrolled in the district public school): senior citizens and others living with children or relatives; clergy, military personnel, and others who live on tax-exempt property; boarders and lodgers; parents who neither own nor lease qualifying property and whose children are too young to attend school; parents who neither own nor lease qualifying property and whose children attend private schools.

. . . .

We do not understand appellees to argue that the State is attempting to limit the franchise to those "subjectively concerned" about school matters. Rather, they appear to argue that the State's legitimate interest is in restricting a voice in school matters to those "directly affected" by such decisions. The State apparently reasons that since the schools are financed in part by local property taxes, persons whose out-of-pocket expenses are "directly" affected by property tax changes should be allowed to vote. Similarly, parents of children in school are thought to have a "direct" stake in school affairs and are given a vote.

. . . .

We need express no opinion as to whether the State in some circumstances might limit the exercise of the franchise to those "primarily interested" or "primarily affected." Of course, we therefore do not reach the issue of whether these particular elections are of the type in which the franchise may be so limited. For, assuming, *arguendo,* that New York legitimately might limit the franchise in these school district elections to those "primarily interested in school affairs," close scrutiny of the § 2012 classifications demonstrates that they do not accomplish this purpose with sufficient precision to justify denying appellant the franchise.

. . . . Section 2012 does not meet the exacting standard of precision we require of statutes which selectively distribute the franchise. The classifications in § 2012 permit inclusion of many persons who have, at best, a remote and indirect interest in school affairs and, on the other hand, exclude others who have a distinct and direct interest in the school meeting decisions.

Nor do appellees offer any justification for the exclusion of seemingly interested and informed residents—other than to argue that the § 2012 classifications include those "whom the State could understandably deem to be the most intimately interested in actions taken by the school board," and urge that "the task of . . . balancing the interest of the community in the maintenance of orderly school district elections against the interest of any individual in voting in such elections should clearly remain with the Legislature." But the issue is not whether the legislative judgments are rational. A more exacting standard obtains. The issue is whether the § 2012 requirements do in fact sufficiently further a compelling state interest to justify denying the franchise to appellant and members of his class. The requirements of § 2012 are not sufficiently tailored to limiting the franchise to those "primarily interested" in school affairs to justify the denial of the franchise to appellant and members of his class.

. . . .

*Reversed*.

JUSTICE STEWART, with whom JUSTICE BLACK and JUSTICE HARLAN join, dissenting.

In *Lassiter v. Northampton Election Board* (1959), this Court upheld against constitutional attack a literacy requirement, applicable to voters in all state and federal elections, imposed by the State of North Carolina. Writing for a unanimous Court, Justice Douglas said:

“The State have long been held to have broad powers to determine the conditions under which the right of suffrage may be exercised, absent of course the discrimination which the Constitution condemns.”

Believing that the appellant in this case is not the victim of any "discrimination which the Constitution condemns," I would affirm the judgment of the District Court.

. . . .

Although at times variously phrased, the traditional test of a statute's validity under the Equal Protection Clause is a familiar one: a legislative classification is invalid only "if it rest[s] on grounds wholly irrelevant to achievement of the regulation's objectives." *Kotch v. Board of River Port Pilot Commissioners* (1947). It was under just such a test that the literacy requirement involved in *Lassiter* was upheld. The premise of our decision in that case was that a State may constitutionally impose upon its citizens voting requirements reasonably "designed to promote intelligent use of the ballot." A similar premise underlies the proposition, consistently endorsed by this Court, that a State may exclude nonresidents from participation in its elections. Such residence requirements, designed to help ensure that voters have a substantial stake in the outcome of elections and an opportunity to become familiar with the candidates and issues voted upon, are entirely permissible exercises of state authority. Indeed, the appellant explicitly concedes, as he must, the validity of voting requirements relating to residence, literacy, and age. Yet he argues—and the Court accepts the argument— that the voting qualifications involved here somehow have a different constitutional status. I am unable to see the distinction.

. . . . Thus judged, the statutory classification involved here seems to me clearly to be valid. New York has made the judgment that local educational policy is best left to those persons who have certain direct and definable interests in that policy: those who are either immediately involved as parents of school children or who, as owners or lessees of taxable property, are burdened with the local cost of funding school district operations. True, persons outside those classes may be genuinely interested in the conduct of a school district's business—just as commuters from New Jersey may be genuinely interested in the outcome of a New York City election. But unless this Court is to claim a monopoly of wisdom regarding the sound operation of school systems in the 50 States, I see no way to justify the conclusion that the legislative classification involved here is not rationally related to a legitimate legislative purpose. "There is no group more interested in the operation and management of the public schools than the taxpayers who support them and the parents whose children attend them."

With good reason, the Court does not really argue the contrary. Instead, it strikes down New York's statute by asserting that the traditional equal protection standard is inapt in this case, and that a considerably stricter standard—under which classifications relating to "the franchise" are to be subjected to "exacting judicial scrutiny"—should be applied. But the asserted justification for applying such a standard cannot withstand analysis.

. . . . The voting qualifications at issue have been promulgated, not by Union Free School District No. 15, but by the New York State Legislature, and the appellant is of course fully able to participate in the election of representatives in that body. There is simply no claim whatever here that the state government is not "structured so as to represent fairly all the people," including the appellant.

Nor is there any other justification for imposing the Court's "exacting" equal protection test. This case does not involve racial classifications, which in light of the genesis of the Fourteenth Amendment have traditionally been viewed as inherently "suspect." And this statute is not one that impinges upon a constitutionally protected right, and that consequently can be justified only by a "compelling" state interest. For "the Constitution of the United States does not confer the right of suffrage upon any one . . . ."

In any event, it seems to me that under *any* equal protection standard, short of a doctrinaire insistence that universal suffrage is somehow mandated by the Constitution, the appellant's claim must be rejected. First of all, it must be emphasized—despite the Court's undifferentiated references to what it terms "the franchise"—that we are dealing here, not with a general election, but with a limited, special-purpose election. The appellant is eligible to vote in all state, local, and federal elections in which general governmental policy is determined. He is fully able, therefore, to participate not only in the processes by which the requirements for school district voting may be changed, but also in those by which the levels of state and federal financial assistance to the District are determined. He clearly is not locked into any self-perpetuating status of exclusion from the electoral process.

Secondly, the appellant is of course limited to asserting his own rights, not the purported rights of hypothetical childless clergymen or parents of preschool children, who neither own nor rent taxable property. The appellant's status is merely that of a citizen who says he is interested in the affairs of his local public schools. If the Constitution requires that he must be given a decision-making role in the governance of those affairs, then it seems to me that any individual who seeks such a role must be given it. For as I have suggested, there is no persuasive reason for distinguishing constitutionally between the voter qualifications New York has required for its Union Free School District elections and qualifications based on factors such as age, residence, or literacy.

Today's decision can only be viewed as irreconcilable with the established principle that "[t]he States have . . . broad powers to determine the conditions under which the right of suffrage may be exercised . . . ." Since I think that principle is entirely sound, I respectfully dissent from the Court's judgment and opinion.