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## The politics of voting rights and the legacy of Baker v. Carr

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Chief Justice Earl Warren, who led the Supreme Court through its most turbulent years, called it "the most vital decision" of all.

Baker v. Carr, decided 40 years ago today, made its mark on the United States' political system by permitting federal courts to become involved in local election politics. The pending federal suit in which State Sen. Clarence Mitchell IV challenges the governor's redistricting plan is but the latest example.

Although the Warren court gave the country Brown v. Board of Education and Miranda v. Arizona, to name just two of its controversial decisions, it was Baker v. Carr that had the greatest practical impact on the structure of American government. This decision paved the way for Supreme Court opinions that established the "one person, one vote" principle in 1962 and 1963. Today, that principle is taken as a constitutional given. *Six-decade shift*

Baker v. Carr began in 1959, when a group of Tennessee voters filed suit against Secretary of State Joseph Cordell Carr and the state attorney general.

Tennessee's process of drawing election districts included a state constitutional requirement to draw new districts every 10 years based on the decennial census. The problem was, new districts had not been fashioned since 1901.

Population shifts from rural to urban regions of the state during the ensuing years had led to dramatic under-representation of the cities. The city-dwelling plaintiffs believed that Tennessee's apportionment system denied them equal protection of the law. In his memoirs, Justice Arthur J. Goldberg explained that "some rural electoral districts had 35 to 40 times the voting power of the cities."

In a decision that required three times the normal amount of oral argument and generated 163 pages of opinions, the court held for the first time that although it generally would not hear "political questions," constitutional challenges to the form of legislative districts could be heard by federal courts.

In a dissenting opinion, Justice Felix Frankfurter argued that to permit courts to intervene in election matters was a serious mistake. He believed in the court's longstanding policy not to decide "political questions"; and that there was nothing "in the Federal Constitution to prevent a state, not acting irrationally, any electoral legislative structure it thinks best suited to its interests, temper and the customs of its people."

Concurring Justice Tom C. Clark rejected Frankfurter's fears, describing Frankfurter's 64-page dissent as "bursting with words that go through so much to conclude so little."

In the year following Baker v. Carr, 36 states became involved in reapportionment lawsuits. Goldberg recalled that the "host of lawsuits revealed that many states provided for the election of state representatives in very unfair ways." Several of those suits included districts fashioned to diminish the force of minority voters in favor of traditional political power boundaries.

Together with the passage of the 1965 Voting Rights Act, Baker v. Carr resulted in the number of black elected officials in the nation growing from 280 in 1965 to 7,517 in 1992.

Today, the states are subject to a complex system of redistricting rules that are designed to encourage them to create their state legislative districts in a timely manner, to discourage the federal courts from getting involved at all. No longer will a state be permitted to wait over 60 years before examining its legislative election districts. *Paramount value*

Assuring that every vote counts is a paramount value that has long been recognized. In his Federalist Papers, James Madison pointed out that voters should "not be the rich more than the poor; not the learned more than the ignorant, not more than the humble sons of obscure and unpropitious fortune."

As this nation discovered in Supreme Court's decision in Bush v. Gore, it is not altogether clear which judicial

interventions into state election processes are too “political” and which are not. In Baker v. Carr, however, the Supreme Court — for better or worse — clearly opened the controversial door of court intervention into local and national elections.

