

## *Colegrove v. Green*, 328 U.S. 549 (1946)

In *Colegrove v. Green*, 328 U.S. 549 (1946), the court upheld the decision of an Illinois district court and dismissed a suit that claimed the populations of the Congressional districts of Illinois were unequal and therefore unconstitutional. The districts had been drawn based on population figures from the census of 1900 but had not been updated since. By 1946 the population of these districts ranged from approximately 112,000 to 914,000, yet each district received one representative in Congress despite the variation in populations. Kenneth Colegrove, a professor of political science at Northwestern University, Kenneth Sears, a professor of law at the University of Chicago, and Peter Chamales, a Chicago lawyer, brought the suit against Illinois Governor Dwight H. Green and other state officials to order the redrawing of Illinois Congressional districts.

In the plurality opinion, Justice Frankfurter, joined by Justices Reed and Burton, found the issue of legislative apportionment to be beyond the jurisdiction of the court. Frankfurter reasoned that the obligation to fairly apportion Congressional districts rested squarely with Congress since the Constitution specified that “Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations. . .” (Article I, Sec 4). The plurality opinion reasoned that the suit could be dismissed under *Wood v. Broom*, 287 U.S. 1 (1932), which found that relevant districting laws did not specify any requirements of equality, but the opinion instead based the decision on issues of jurisdiction. In a concurring opinion, Justice Rutledge found that the court did have jurisdiction under *Smiley v. Holm*, 285 U.S. 355 (1932), although he agreed that the complaint should be dismissed for “want of equity” because the proposed remedy of the petitioners for the upcoming election to elect at-large members of Congress would result in less equal representation than the current apportionment scheme.

In disposing of the case for the above reasons, the court did not consider the charges of discrimination made by the petitioners in regard to the violation of rights under the equal protection clause of the 14th Amendment to the Constitution, which in part states that “No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state. . . deny to any person within its jurisdiction the equal protection of the laws” (Amendment 14, Section 1). The petitioners argued that the rights afforded under the equal protection clause of the Constitution were violated by the state of Illinois because of the legislatively-instituted reduced effectiveness of voters in underrepresented Congressional districts.

Colegrove is notable because it established a long standing precedent of courts not entering matters of legislative reapportionment. The famous declaration of Justice

Frankfurter in the plurality opinion that “Courts ought not to enter this political thicket,” was generally followed until *Baker v. Carr*, 369 U.S. 186 (1963), when the Supreme Court intervened by directing equal representation among legislative districts and eventually establishing the principle of one man, one vote.

For more information: McKay, Robert B. *Reapportionment; The Law and Politics of Equal Representation*. New York: Twentieth Century Fund, 1965.

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