A 5-TO-4 RULING

Residency Rule Eased and Literacy Tests Are Abolished

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WASHINGTON, Dec. 21 — The Supreme Court upheld today the 18-year-old vote in Federal elections but ruled that Congress acted unconstitutionally when it lowered the voting age to 18 for state and local elections.

At the same time, the Court upheld other provisions of the voting rights amendments of 1970 that abolished residency requirements of longer than 30 days and outlawed literacy tests for voting.

Five separate opinions, totaling 184 pages, were issued by the Justices in the 5-to-4 decision that cleared the way for 11.5 million young Americans to vote for President and members of Congress. It also cleared the way for 11 million others to vote—one million now barred by literacy tests and 10 million penalized by residency requirements.

Confusion Is Foreseen

The ruling on the 18-year-old vote also raised the possibility of widespread confusion in voting. Only three states—Alaska, Georgia and Kentucky—now permit 18-year-olds to vote, and most of the other states would have to amend their constitutions before they could let 18-year-olds vote for governors, state legislators, Mayors and other state and local officials.

Thus today's ruling may require these states to provide separate registration books and perhaps separate ballots or voting booths for young voters.

Senator Edward M. Kenedy, Massachusetts Democrat who was the author of the 18-year-old provision, quickly issued a statement predicting that the decision would encourage states to enact 18-year-old vote laws in the interest of uniformity.

He introduced, as a speedier settlement, an amendment to the Federal Constitution to lower the voting age to 18 in state and local elections. Senator Kennedy called upon Congress to approve it and sent it to the states for ratification before the present session ends.

Authority Held Lacking

The surprise ruling came from a Court that was so splintered that only one Justice, Hugo L. Black, agreed with the entire outcome. This happened because four Justices—William J. Brennan Jr., William O. Douglas, Thurgood Marshall a Byron R. White—considered the 18-year-old vote provision fully constitutional for Federal and state elections. Four others—Warren E. Burger, Harry A.

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Blackmun, John M. Harlan and Potter Stewart—believed it was unconstitutional as to both state and Federal elections.

Justice Black wrote an opinion stating that "Congress has ultimate supervisory power" over Congressional and Presidential elections, and thus the 18-year-old vote law could stand as to Federal elections.

"The Constitution alloted to the states the power to make laws regarding national elections but provided that if Congress became dissatisfied with the state laws, Congress could alter them."

Justice Black said, however, that the authority of Congress under the 14th Amendment to overrule the voting standards of the states applies only when the rules of the states discriminate on the basis of race and not age. Thus, he found that Congress lacked the authority to change the voting standards of states on the theory that they discriminate against persons between 18 and 21 years of age.

Although no other Justice joined in the 84-year-old Justice's opinion, he became the "swing" man between the two blocs and declared the judgment of the Court in his opinion. He joined with the Brennan - Douglas - Marshall - White group to uphold the law as to Federal elections and with the Burger-Blackmun-Harlan-Stewart bloc to strike the law down as to the states.

All of the Justices agreed that the ban on literacy tests was constitutional as an expression of Congress's authority under the 15th Amendment to counteract voting discrimination on grounds of race or color. Congress had declared in the statute that it passed the law because literacy tests tended to weed out members of minority groups who had been denied equal educational opportunities.

The court's vote supporting Congress in abolishing the residency rules was 8 to 1. The majority declared that the Federal Constitution safeguards the right of individuals to travel freely from state to state and that Congress has the power to blot out any state laws that impede this right.

Law Effective Jan. 1

Justice Harlan dissented. He called the right to travel a "nebulous judicial construct" that has been recognized in some Supreme Court decisions but that does not appear in express terms in the Constitution. Because he reads the Constitution as clearly leaving the question of voting standards in the states' hands, he concluded that Congress lacked the power to pass a law regulating state voting residency laws.

United Press International

Senator Edward M. Kennedy introduced constitutional amendment to lower voting age to 18 in state and local elections.

The Court had been expected to decide the case today, the last session before the 18-year-old vote provision goes into effect on Jan. 1. The Court will be in recess until Jan. 11.

Shortly after President Nixon signed the law on June 22, the stage was set for a rapid Supreme Court review when original suits were filed in the high court under a constitutional provision that permits states and the United States to skp the lower courts and sue directly in the Supreme Court. In these suits, the United States asked the Court to uphold the law, while Arizona, Idaho, Oregon and Texas urged the Court to strike it down.

The states asserted that the Constitution gives the states the sole power to set voting standards. As proof that Congress cannot change these standards short of a constitutional amendment, they pointed out that constitutional amendments were used to extend the vote to women and to eliminate the poll tax in Federal eleotions.

When the case was decided today, Congress's theory in passing the 18-year-old vote provision was accepted by three Justices — Brennan Marshall and White — in an opinion written by Justice Brennan. He reasoned that the 14th Amendment's equal protection clause outlaws state voting standards that discriminate invidiously against any class of voters. He then noted that 18-year-olds were subjected to the same laws as older persons on criminal responsibility, marriage, education, and military service but were denied the right to vote.

Justice Brennan concluded that when Congress found that this constituted discrimination against the 18-to-21-year group in violation of the 14th amendment, the Supreme Court should not disturb the law as long as there was "a rational basis" for Congress's findings. He said there was such a basis for this act of Congress.

14th Called Sufficient

justice Douglas argued in a separate opinion that the 14th Amendment's prohibition against discrimination in voting was enough to sustain Congress's power to pass all three of the disputed provisions.

Justice Stewart, joined by Chief Justice Burger and Justice Blackmun, argued that state laws that deny the vote the voters under 21 "do not invidiously discriminate against any discrete and insular minority." They concluded that the laws do not violate the 14th amendment's antidiscrimination ban and thus Congress was in error when it passed the law to combat the "discrimination" against youths.

In his opinion, Justice Harlan rekindled a long-standing controversy on the Court as to whether the 14th amendment was ever intended to apply to denials of political rights, as it clearly was intended to cover denials of civil rights. He noted that the Supreme Court decided in its 1962 reapportionment ruling, Baker V. Carr, that equal rights in voting arsguaranteed by the amendment.

But Justice Harlan, who dissented in that case and in one-man, one-vote rulings that have followed it, declared today that he was still convinced that the framers of the 14th Amendment never intended it to modify the sole power of states to regulate voiting. Although he isu strong believer in the doctrine of "stare decisis" — that judges should follow established precedents — he said that he would not follow it in voting equality cases because he remained deeply convinced" that they misstated the Constitution.

This declaration by Justice Harlan appeared to raise a possibility that, with the recent changes in the high court's membership, it could begin to take a new line in one-man, one-vote cases.

Justice Brennan, who wrote the court's Baker V. Carr decission, insisted in his opinion today that the Court has been right in holding that the 14th Amendmen bars discrimination in elections. Otherwise, he said, states would be free to deny Negroes the right to run for public office, because the 15th Amendment protects only their right to vote.