

Public testimony regarding S.11, "An act relating to limiting senatorial districts to a maximum of three members."

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Vermont House Committee on Government Operations
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Thank you for hearing and/or reading my testimony,

My statement is simple: Vermont's current scheme for apportioning state Representative and Senate representation is in violation of the United States constitution and Supreme Court of the United States (SCOTUS) precedents. A direct result of this is that based solely upon the geographical location of my residence, I am being unconstitutionally denied equal representation in Vermont's Legislature. S.11 will ameliorate the harm in degrees only while leaving the substance of the damage in place. The only remedy I can suggest is for each district of the appropriate chamber to be represented by an equal number of legislators.

There are three introductory points I would like to make in no particular order:

- 1) This testimony specifically addresses S.11, but it is just as valid for the status quo regarding legislative districts.
- 2) I am not an attorney and in no way provide any legal services of any type to anybody. My research is presented on the basis that it is the best I could do at this time.
- 3) I have been a long time supporter of single member Vermont House and Senate districts. I do see very important public advantages other than the constitutional claim, but these other issues are not addressed herein.

The vernacular "one person/one vote" defines in rough terms the federal constitutional requirement that the states in our union provide for a republican form of government which ensures equal representation. Vermont violates that basic precept by apportioning differing numbers of elected state representatives or senators to individual voters.

For a quick illustration of the harm I am claiming, I will juxtapose the proposed Senate district maximum of three elected senators from a possible Chittenden Senate district and the existing Orange Senate district with one elected senator.

Each individual in the Orange district will be legally empowered to vote for and be represented in the Vermont Senate by one senator. However each individual in the Chittenden district will be entitled to three senators both in the voting booth and the Senate chambers. This will clearly result in an individual Chittenden district voter having three times

(THREE TIMES) the voting power and representation that an individual in the Orange district will have.

I do want to note that as a resident of the two member "Orange 1" House district I have twice the voting power and representation that a resident of a single member House district has.

The following emphasizes the role of individual rights and population as they apply to state district apportionment and is quoted from the findings section of the syllabus from the SCOTUS ruling titled "Reynolds v. Sims, 377 U.S. 533 (1964)" (please see the case's syllabus for context and clarity, link is in the endnotes): ⁱ

" ... 3. The Equal Protection Clause requires substantially equal legislative representation for all citizens in a State regardless of where they reside. Pp. 377 U. S. 561-568.

(a) Legislators represent people, not areas. P. 377 U. S. 562.

(b) Weighting votes differently according to where citizens happen to reside is discriminatory. Pp. 377 U. S. 563-568.

4. The seats in both houses of a bicameral legislature must, under the Equal Protection Clause, be apportioned substantially on a population basis. Pp. 377 U. S. 568-576.

...

7. The federal constitutional requirement that both houses of a state legislature must be apportioned on a population basis means that, as nearly as practicable, districts be of equal population, though mechanical exactness is not required. Somewhat more flexibility may be constitutionally permissible for state legislative apportionment than for congressional districting. Pp. 377 U. S. 577-581.

(a) A state legislative apportionment scheme may properly give representation to various political subdivisions and provide for compact districts of contiguous territory if substantial equality among districts is maintained. Pp. 377 U. S. 578-579.

(b) Some deviations from a strict equal population principle are constitutionally permissible in the two houses of a bicameral state legislature, where incident to the effectuation of a rational state policy, so long as the basic standard of equality of population among districts is not significantly departed from. P. 377 U. S. 579.

(c) Considerations of history, economic or other group interests, or area alone do not justify deviations from the equal population principle. Pp. 377 U. S. 579-580.

(d) Insuring some voice to political subdivisions in at least one legislative body may, within reason, warrant some deviations from population-based representation in state legislatures. Pp. 377 U. S. 580-581. ..."

There is a SCOTUS decision, “Brown v. Thomson, 462 U.S. 835 (1983)”ⁱⁱ, that allows for variations in the number of individuals a single elected representative in a given legislative branch may represent; but to the best of my knowledge there is no decision at the federal level that allows for individuals in separate districts to have a different number of elected representatives in the same legislative branch. In fact Reynolds v. Sims states the very opposite as being constitutionally required: “*The Equal Protection Clause requires substantially equal legislative representation for all citizens in a State regardless of where they reside.*”ⁱⁱⁱ

The logic of this is clear. Our federal constitution requires that Vermont’s Senate (and House) districts must conform to certain restrictions regarding population size, and the number of elected representatives per district must be equal. Vermont’s current scheme of district apportionment provides for neither, and because of this individuals across Vermont are denied equal representation based solely upon the geographical location of their residence.

I hope you will amend S.11 and forward language that will conform with “one person/one vote”.

I thank you for your time and consideration.

- i Link from Justia - <https://supreme.justia.com/cases/federal/us/377/533/>
- ii Link from Justia - <https://supreme.justia.com/cases/federal/us/462/835/>
- iii Link from Justia - <https://supreme.justia.com/cases/federal/us/377/533/>