

Syllabus

NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States v. Detroit Timber & Lumber Co.*, 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

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FOSTER, GOVERNOR OF LOUISIANA, ET AL. v. LOVE
ET AL.

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR
THE FIFTH CIRCUIT

No. 96–670. Argued October 6, 1997– Decided December 2, 1997.

The Elections Clause of the Constitution, Art. I, §4, cl. 1, invests the States with responsibility for the mechanics of congressional elections, see *Storer v. Brown*, 415 U. S. 724, 730, but grants Congress “the power to override state regulations” by establishing uniform rules for federal elections, *U. S. Term Limits, Inc. v. Thornton*, 514 U. S. 779, 832–833. One such congressional rule sets the date of the biennial election for the offices of United States Senator, 2 U. S. C. §1, and Representative, §7, and mandates holding all congressional and presidential elections on a single November day, 2 U. S. C. §§1, 7; 3 U. S. C. §1. Since 1978, Louisiana has held in October of a federal election year an “open primary” for congressional offices, in which all candidates, regardless of party, appear on the same ballot and all voters are entitled to vote. If a candidate for a given office receives a majority at the open primary, the candidate “is elected” and no further act is done on federal election day to fill that office. Since this system went into effect, over 80% of the State’s contested congressional elections have ended as a matter of law with the open primary. Respondents, Louisiana voters, challenged this primary as a violation of federal law. Finding no conflict between the state and federal statutes, the District Court granted summary judgment to petitioners, the State’s Governor and secretary of state. The Fifth Circuit reversed.

Held: Louisiana’s statute conflicts with federal law to the extent that it is applied to select a congressional candidate in October. Pp. 3–7.

(a) The issue here is a narrow one turning entirely on the meaning of the state and federal statutes. There is no colorable argument that §7 goes beyond the ample limits of the Elections Clause’s grant of

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authority to Congress. In speaking of “the election” of a Senator or Representative, the federal statutes plainly refer to the combined actions of voters and officials meant to make the final selection of an officeholder; and by establishing “the day” on which these actions must take place, the statutes simply regulate the time of the election, a matter on which the Constitution explicitly gives Congress the final say. Pp. 3–4.

(b) A contested selection of candidates for a congressional office that is concluded as a matter of law before the federal election day, with no act in law or in fact to take place on the date chosen by Congress, clearly violates §7. Louisiana’s claim that its system concerns only the manner, not the time, of an election is at odds with the State’s statute, which addresses timing quite as obviously as §7 does. A federal election takes place in Louisiana before federal election day whenever a candidate gets a majority in the open primary. Pp. 4–6.

(c) This Court’s judgment is buttressed by the fact that Louisiana’s open primary has tended to foster both evils identified by Congress as reasons for passing the federal statute: the distortion of the voting process when the results of an early federal election in one State can influence later voting in other States, and the burden on citizens forced to turn out on two different election days to make final selections of federal officers in presidential election years. Pp. 6–7.

90 F. 3d 1026, affirmed.

SOUTER, J., delivered the opinion for a unanimous Court with respect to Parts I, II, and IV, and the opinion of the Court with respect to Part III, in which REHNQUIST, C. J., and STEVENS, O’CONNOR, GINSBURG, and BREYER, JJ., joined.