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

Syllabus

ARIZONA STATE LEGISLATURE *v.* ARIZONA INDEPENDENT REDISTRICTING COMMISSION ET AL.

APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ARIZONA

No. 13–1314. Argued March 2, 2015—Decided June 29, 2015

Under Arizona's Constitution, the electorate shares lawmaking authority on equal footing with the Arizona Legislature. The voters may adopt laws and constitutional amendments by ballot initiative, and they may approve or disapprove, by referendum, measures passed by the Legislature. Ariz. Const., Art. IV, pt. 1, §1. "Any law which may be enacted by the Legislature . . . may be enacted by the people under the Initiative." Art. XXII, §14.

In 2000, Arizona voters adopted Proposition 106, an initiative aimed at the problem of gerrymandering. Proposition 106 amended Arizona's Constitution, removing redistricting authority from the Arizona Legislature and vesting it in an independent commission, the Arizona Independent Redistricting Commission (AIRC). After the 2010 census, as after the 2000 census, the AIRC adopted redistricting maps for congressional as well as state legislative districts. The Arizona Legislature challenged the map the Commission adopted in 2012 for congressional districts, arguing that the AIRC and its map violated the "Elections Clause" of the U. S. Constitution, which provides: "The Times, Places and Manner of holding Elections for Senators and 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." Because "Legislature" means the State's representative assembly, the Arizona Legislature contended, the Clause precludes resort to an independent commission, created by initiative, to accomplish redistricting. A three-judge District Court held that the Arizona Legislature had standing to sue, but rejected its complaint on the merits.

Held:

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1. The Arizona Legislature has standing to bring this suit. In claiming that Proposition 106 stripped it of its alleged constitutional prerogative to engage in redistricting and that its injury would be remedied by a court order enjoining the proposition's enforcement, the Legislature has shown injury that is 'concrete and particularized' and 'actual or imminent,'" *Arizonans for Official English* v. *Arizona,* 520 U. S. 43, 64, "fairly traceable to the challenged action," and "redressable by a favorable ruling," *Clapper* v. *Amnesty Int'l USA*, 568 U. S. ___, ___. Specifically, Proposition 106, together with the Arizona Constitution's ban on efforts by the Arizona Legislature to undermine the purposes of an initiative, would "completely nullif[y]" any vote by the Legislature, now or "in the future," purporting to adopt a redistricting plan. *Raines* v. *Byrd*, 521 U. S. 811, 823–824. Pp. 9–15.

2. The Elections Clause and 2 U. S. C. §2a(c) permit Arizona's use of a commission to adopt congressional districts. Pp. 15–35.

(a) Redistricting is a legislative function to be performed in accordance with the State's prescriptions for lawmaking, which may include the referendum, *Ohio ex rel. Davis* v. *Hildebrant*, 241 U. S. 565, 567, and the Governor's veto, *Smiley* v. *Holm*, 285 U. S. 355, 369. While exercise of the initiative was not at issue in this Court's prior decisions, there is no constitutional barrier to a State's empowerment of its people by embracing that form of lawmaking. Pp. 15–19.

(b) Title 2 U. S. C. §2a(c)—which provides that, "[u]ntil a State is redistricted in the manner provided by the law thereof after any apportionment," it must follow federally prescribed redistricting procedures—permits redistricting in accord with Arizona's initiative. From 1862 through 1901, apportionment Acts required a State to follow federal procedures unless "the [state] legislature" drew district lines. In 1911, Congress, recognizing that States had supplemented the representative legislature mode of lawmaking with a direct lawmaking role for the people, replaced the reference to redistricting by the state "legislature" with a reference to redistricting of a State "in the manner provided by the laws thereof." §4, 37 Stat. 14. The Act's legislative history "leaves no . . . doubt," *Hildebrant*, 241 U. S., at 568, that the change was made to safeguard to "each state full authority to employ in the creation of congressional districts its own laws and regulations." 47 Cong. Rec. 3437. "If they include the initiative, it is included." *Id.,* at 3508. Congress used virtually identical language in enacting §2a(c) in 1941. This provision also accords full respect to the redistricting procedures adopted by the States. Thus, so long as a State has "redistricted in the manner provided by the law thereof"—as Arizona did by utilizing the independent commission procedure in its Constitution—the resulting redistricting plan becomes the presumptively governing map.

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Though four of §2a(c)'s five default redistricting procedures—operative only when a State is not "redistricted in the manner provided by [state] law"—have become obsolete as a result of this Court's decisions embracing the one-person, one-vote principle, this infirmity does not bear on the question whether a State has been "redistricted in the manner provided by [state] law." Pp. 19–23.

(c) The Elections Clause permits the people of Arizona to provide for redistricting by independent commission. The history and purpose of the Clause weigh heavily against precluding the people of Arizona from creating a commission operating independently of the state legislature to establish congressional districts. Such preclusion would also run up against the Constitution's animating principle that the people themselves are the originating source of all the powers of government. Pp. 24–35.

(1) The dominant purpose of the Elections Clause, the historical record bears out, was to empower Congress to override state election rules, not to restrict the way States enact legislation. See *Inter Tribal Council of Ariz.,* 570 U. S., at ___. Ratification arguments in support of congressional oversight focused on potential abuses by state politicians, but the legislative processes by which the States could exercise their initiating role in regulating congressional elections occasioned no debate. Pp. 25–27.

(2) There is no suggestion that the Election Clause, by specifying "the Legislature thereof," required assignment of congressional redistricting authority to the State's representative body. It is characteristic of the federal system that States retain autonomy to establish their own governmental processes free from incursion by the Federal Government. See, *e.g., Alden* v. *Maine*, 527 U. S. 706, 752. "Through the structure of its government, and the character of those who exercise government authority, a State defines itself as a sovereign." *Gregory* v. *Ashcroft*, 501 U. S. 452, 460. Arizona engaged in definition of that kind when its people placed both the initiative power and the AIRC's redistricting authority in the portion of the Arizona Constitution delineating the State's legislative authority, Ariz. Const., Art. IV. The Elections Clause should not be read to single out federal elections as the one area in which States may not use citizen initiatives as an alternative legislative process. And reading the Clause to permit the use of the initiative to control state and local elections but not federal elections would "deprive several States of the convenience of having the elections for their own governments and for the national government" held at the same times and places, and in the same manner. The Federalist No. 61, p. 374 (Hamilton). Pp. 27–30.

(3) The Framers may not have imagined the modern initiative

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process in which the people's legislative power is coextensive with the state legislature's authority, but the invention of the initiative was in full harmony with the Constitution's conception of the people as the font of governmental power. It would thus be perverse to interpret "Legislature" in the Elections Clause to exclude lawmaking by the people, particularly when such lawmaking is intended to advance the prospect that Members of Congress will in fact be "chosen . . . by the People of the several States," Art. I, §2. Pp. 30–33.

(4) Banning lawmaking by initiative to direct a State's method of apportioning congressional districts would not just stymie attempts to curb gerrymandering. It would also cast doubt on numerous other time, place, and manner regulations governing federal elections that States have adopted by the initiative method. As well, it could endanger election provisions in state constitutions adopted by conventions and ratified by voters at the ballot box, without involvement or approval by "the Legislature." Pp. 33–35.

997 F. Supp. 2d 1047, affirmed.

GINSBURG, J., delivered the opinion of the Court, in which KENNEDY, BREYER, SOTOMAYOR, and KAGAN, JJ., joined. ROBERTS, C. J., filed a dissenting opinion, in which SCALIA, THOMAS, and ALITO, JJ., joined. SCALIA, J., filed a dissenting opinion, in which THOMAS, J., joined. THOMAS, J., filed a dissenting opinion, in which SCALIA, J., joined.

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SUPREME COURT OF THE UNITED STATES

No. 13–1314

ARIZONA STATE LEGISLATURE, APPELLANT *v.* ARIZONA INDEPENDENT REDISTRICTING COMMISSION ET AL.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ARIZONA

[June 29, 2015]

JUSTICE GINSBURG delivered the opinion of the Court.

This case concerns an endeavor by Arizona voters to address the problem of partisan gerrymandering—the drawing of legislative district lines to subordinate adherents of one political party and entrench a rival party in power.[1] "[P]artisan gerrymanders," this Court has recognized, "[are incompatible] with democratic principles." *Vieth* v. *Jubelirer*, 541 U. S. 267, 292 (2004) (plurality opinion); *id.*, at 316 (KENNEDY, J., concurring in judgment). Even so, the Court in *Vieth* did not grant relief on the plaintiffs' partisan gerrymander claim. The plurality held the matter nonjusticiable. *Id.*, at 281. JUSTICE KENNEDY found no standard workable in that case, but left open the possibility that a suitable standard might be identified in later litigation. *Id.*, at 317.

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[1] The term "gerrymander" is a portmanteau of the last name of Elbridge Gerry, the eighth Governor of Massachusetts, and the shape of the electoral map he famously contorted for partisan gain, which included one district shaped like a salamander. See E. Griffith, The Rise and Development of the Gerrymander 16–19 (Arno ed. 1974).

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