BAKER V. CARR

From Wikipedia, the free encyclopedia

Baker v. Carr, 369 U.S. 186 (1962), was a <u>landmark United States Supreme Court</u> case that retreated from the Court's <u>political question</u> doctrine, deciding that <u>reapportionment</u> issues (attempts to change the way voting districts are delineated) present <u>justiciable</u> questions, thus enabling federal courts to intervene in and to decide reapportionment cases. The defendants unsuccessfully argued that reapportionment of legislative districts is a "political question," and hence not a question that may be resolved by federal courts.

Plaintiff **CHARLES BAKER** is a Republican who lived in Shelby County, Tennessee, the county in which Memphis is located. His complaint was that though the Tennessee State Constitution required that legislative districts be redrawn every ten years according to the federal census to provide for districts of substantially equal population, Tennessee had not in fact redistricted since the census of 1901. By the time of Baker's lawsuit, the population had shifted such that his district in Shelby County had about ten times as many residents as some of the rural districts. Representationally, the votes of rural citizens were worth more than the urban citizens. Baker's argument was that this discrepancy was causing him to fail to receive the "equal protection of the laws" required by the Fourteenth Amendment.

Defendant **JOE CARR** was sued in his position as <u>Secretary of State</u> for Tennessee. Carr was not the person who set the district lines – the <u>state legislature</u> had done that – but was sued <u>ex officio</u> as the person who was ultimately responsible for the conduct of elections in the state and for the publication of district maps. The State of Tennessee argued that legislative districts were essentially political, not judicial, questions, as had been held by a plurality opinion of the Court in <u>Colegrove v. Green (1946)</u>, wherein Justice <u>Felix Frankfurter</u> declared that, "Courts ought not to enter this political thicket." Frankfurter believed that relief for legislative malapportionment had to be attained through the political process.

THE COURT'S DECISION

The decision of Baker v. Carr was one of the most wrenching in the Court's history. The case had to be put over for reargument because in conference no clear majority emerged for either side of the case. Justice Charles Evans Whittaker was so torn over the case that he eventually had to recuse himself, and the arduous decisional process in Baker is often blamed for Whittaker's subsequent health problems, which forced him to resign from the Court.

The opinion was finally handed down in March 1962, nearly a year after it was initially argued. The Court split 6 to 2 in ruling that Baker's case was justiciable, producing, in addition to the opinion of the Court by Justice William J. Brennan, three concurring opinions and two dissenting opinions. Brennan reformulated the political question doctrine, proposing a six-part test for determining which questions were "political" in nature. Cases which are political in nature are marked by:

- 1. "Textually demonstrable constitutional commitment of the issue to a coordinate political department;" as an example of this, Brennan cited issues of foreign affairs and executive war powers, arguing that cases involving such matters would be "political questions"
- 2. "A lack of judicially discoverable and manageable standards for resolving it;"
- 3. "The impossibility of deciding without an initial policy determination of a kind clearly for noniudicial discretion:"
- 4. "The impossibility of a court's undertaking independent resolution without expressing lack of the respect due coordinate branches of government;"
- 5. "An unusual need for unquestioning adherence to a political decision already made;"
- 6. "The potentiality of embarrassment from multifarious pronouncements by various departments on one question."

Justice <u>Tom C. Clark</u> switched his vote at the last minute to a concurrence on the substance of Baker's claims, which would have enabled a majority which could have granted relief for Baker, but instead the Supreme Court remanded the case to the District Court. Frankfurter, joined by <u>John Marshall Harlan II</u>, dissented vigorously and at length, arguing that the Court had shunted aside history and judicial restraint and violated the separation of powers between legislatures and Courts.

Having declared reapportionment issues justiciable in *Baker*, the court laid out a new test for evaluating such claims in *Reynolds v. Sims*, 377 U.S. 533 (1964). In that case, the Court formulated the famous "oneman, one-vote" standard for legislative districting, holding that each individual had to be weighted equally in legislative apportionment. The Court decided that in states with bi-cameral legislatures both houses had to be apportioned on this standard, voiding the provision of the <u>Arizona constitution</u> which had provided for two state senators from each county, the <u>California</u> constitution providing for one senator from each county, and similar provisions elsewhere. (Even the Tennessee constitution, enforcement of which was the original basis for the case, has a provision which prevented counties from being "split" and portions of a county being attached to other counties or parts of counties in the creation of a district which was overridden, and today counties are frequently split among districts in forming <u>Tennessee State Senate</u> districts.) However, "One-man, one-vote" was first applied as a standard for <u>congressional</u> districts in 1964's *Wesberry v. Sanders*.

Baker v. Carr and subsequent cases fundamentally altered the nature of political representation in America, requiring not just Tennessee but nearly every state to redistrict during the <u>1960s</u>, often several times. This re-apportionment increased the political power of urban centers but after much empirical research. After he left the Court, Chief Justice <u>Earl Warren</u> called the *Baker v. Carr* line of cases the most important in his tenure as <u>Chief Justice</u>.

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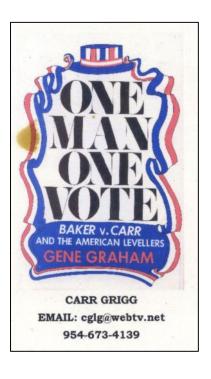




Image ID: 25997

Subjects: Place:

Description: Joe C. Carr (1907-

1981).
Date:
Negative:

Collection: Library Collection,

Tennessee State Library and Archives

Cabinet officers

Historical Note: Chief Clerk of the Tennessee House of Representatives, 1939; Tennessee Secretary of State, 1941-1944, 1945-1949, and 1957-1977.

Series:

Photographer: Henry Schofield

Engraver: Artist: Publisher:

Format: Photographic print

http://www.state.tn.us/tsla/



Image ID: 25996

Subjects: Cabinet officers; Spouses

Place: Nashville (Tenn.)

Description: Unidentified group photograph with Joe C. Carr (1907-1981) and Mrs. Joe C. Carr.

Date: Negative:

Collection: Library Collection, Tennessee

State Library and

Archives

Historical Note: Chief Clerk of the Tennessee House of Representatives, 1939; Tennessee Secretary of State, 1941-1944, 1945-1949,

and 1957-1977.

Series:

Photographer: Bill Whelch

Engraver: Artist: Publisher:

Format: Photographic print

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Engraver: Artist: Publisher:

Format: Photographic print

TENNESSEE TO THIS DAY

by Larry Daughtrey

William J. Brennan, a slick New Jersey lawyer, had little in common with backwater Tennessee politics 35 years ago.

But with one decision, **Baker vs. Carr**, Brennan turned Tennessee politics upside down with consequences that reverberate today.

As a result, blacks, women, Republicans and city and suburban dwellers have found their way into Tennessee's political arena in ways that even Brennan probably did not anticipate.

Baker was **Joseph Bake**r, a member of the Shelby County Commission. Carr was **Joe C. Carr**, Tennessee's longtime secretary of state. They were the named parties in a lawsuit that bounced around for a decade before Brennan grabbed it, and they mostly watched from the sidelines.

The main players were Nashville lawyers and politicians, like Chancellor Thomas Wardlaw Steele, Cecil Branstetter, Z. T. Osborn and Mayor Ben West, the father of current Vice Mayor Jay West and state Rep. Ben West Jr.

The facts were simple. The political realities were not.

Since its first constitution in 1796, Tennessee has always decreed that the state legislature be apportioned on the basic of population.

The legislature redrew its own lines in 1901, as required after each decennial census.

During the Great Depression, and more in the years after World War II, Tennessee's population tilted from the farms to the cities. Legislative boundaries did not change.

By the time the case reached Brennan's desk, 37% of Tennesseans elected 20 of the 33 senators, and 40% of the population elected 63 of the 99 House members.

A voter in Moore County had 17 times more power at the polls than a voter in Davidson County.

The legislature was a rollicking rural fiefdom, governed by characters like "Mr. Jim" Cummings of Woodbury, Paul (Stump Daddy) Graham of South Pittsburg, I. D. Beasley of Carthage and Pete Haynes of Winchester.

Among other things, they jiggered the collection and distribution of gasoline sales and liquor taxes to benefit rural counties. Requests from the four big cities in Tennessee met an indifferent shrug.

West groused that "Moore County's 9,000 cows and 5,000 sheep have more representation in the state legislature than Davidson County's 380,000 people."

Steele, as a young chancellor, ruled that the legislature's failure to reapportion on the basis of population for 60 years was a violation of the state constitution.

The state Supreme Court agreed it was unconstitutional but said it was a political, not a judicial matter.

Brennan disagreed, in a 1962 decision immediately labeled "one man, one vote."

The legislature started trying to reapportion in 1962, but didn't get a court approved plan for a decade. But changes started immediately. In 1964, the first black representative since Reconstruction, **A. W. Willis Jr.** of Memphis, was elected.

Later court decisions outlawed multiple-member legislative districts. Davidson and Shelby counties previously had elected senators from the county at large, diluting minority votes; with single-member districts, blacks like **Avon Williams** won election. So did women like **Mary Anderson** of Nashville.

Other big beneficiaries were Republicans, underrepresented in their East Tennessee stronghold. By 1969, they were able to seize control of the House of Representatives.

"It crimped the Democrats a lot," recalls **Rep. Shelby Rhinehard**, **D-Spencer**, the only remaining House member from the pre-reapportionment days. "We went from something like 80 members down to 49 (in 1969)."

By 1971, the Democrats had regained control, but something unthinkable for the rural forces had happened; two Nashvillians, **Frank Gorrell** and **Jim McKinney**, were elected speakers of the two houses. But McKinney only won with a promise not to tinker with the gasoline tax formula that favored rural areas.

Later court decisions extended "one man, one vote" to congressional districts. **U. S. Rep. Harold Ford** of Memphis became the first black congressman from Tennessee since Reconstruction. And Republicans picked up an extra congressional seat in East Tennessee.

Since the 1962 decision, each 10-year census has been marked by turmoil and court challenges as the legislature redraws its own districts and those of Tennessee's congressmen. Democrats have openly used their control to draw favorable districts for Democrats.

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ISHAM BEASLEY FAMILY: F85

Smith County History
By Smith County Homecoming '86 Heritage Committee
Smith County, Tennessee
pg. 432

Isham Beasley was a son of **Henry Beasley**, who was living in Orange County as early as 1750. Orange Co. Registration of Deed: Dec. 1756 Deed of sale from Earl of Granville to Henry Beasley 640 acres; later in Feb. 1762 Deed of sale from Earl of Granville to Henry Beasley 700 acres. May 9, 1784 Henry Beasley of Chatham Co., North Carolina gave to his son, Jesse Beasley, a tract of land lying chiefly in Co. of Chatham and part in Orange Co. lying on North Creek adjoining the said Henry's land (except the apple orchard0 during my life.

Sons of Henry Beasley: Henry, Findel, William, Ephriam, Jesse, Isham.

Daughters: Mary, Tabitha, Betty, Edith Wimberly not listed as daughter; but he willed her a feather bed and furniture. He was less generous with his daughters. To Mary he gave 25 pounds; to Tabitha also 25 pounds; but to Betty only 1 pound. The remaining part of his estate was equally divided among his sons.

Isham Beasley, along with two of his brothers, Jesse and Ephriam, came to Tennessee in 1798. Isham, born 1760, died 1855, married Polly Andres 1767-1851. They were married November 27, 1782. He was a pioneer settler of Smith County. First settled in Beasley's Bend (named for him) a bend in the Cumberland River between Dixon Springs and Rome. After living there for many years he gave this land to some of his children and moved to Sullivan's Bend on the South side of Cumberland River and lived there until his death in 1855. He and his wife, Polly, are buried there in the family cemetery. The old Beasley Farm is still owned by one of Isham's descendants, Mrs. Nellie Beasley Jellicorse, five generations removed. Much of the farm is now covered by the Cordell Hull Lake.

Many descendants of Isham and Polly live in Smith, Trousdale, Jackson, and Wilson Counties. In the Beasley's Bend area of Smith County more than half the people who live there are descendants of Isham and Polly; and many of the farms have been handled down from generation to generation.

Isham Beasley (1760-1855), born in North Carolina, a veteran of the Revolutionary War, married November 27, 1782, to **Polly Andrews** (1767-1851), born in Orange Co., North Carolina. They were the parents of sixteen children, eight sons and eight daughters.

Daughters: Clarkey born in NC, 1785, married Maj. Elijah Marcus Haynie. Polly, married a Grizzard, one daughter, Eliza, lived with grandparents. Debora married Robert Corum. Susan, born about 1800, married James (Cockle Burr Jim) Bradley. Their oldest son, George Washington Bradley. Matilda married a Metcalf. Betsy married John E. Baker, lived in Wilson Co., TN. Mahala married a Vaden. Joanna, born 1806, married 1st James Beasley (probably son of Jessse), 2nd William Bomar, graduate of Princeton University. Twin daughters, Victoria and Vianna, known as Vic and Vi.

Sons: Johnson (oldest son) married Margaret Ellis, born 1788, married 1st wife a McGee, 2nd wife Nancy Cole Hunter. Henry born 1789 in NC married Polly Johns. Parents of Araminta Beasley, who married Dr. Richard S. Duke, parents of Jeremiah Bowen Duke. Braddock, born 1793 in NC, married Sally Ferguson, daughter of John Ferguson. **Major, born 1795 in NC, married Nancy Nixon, great grandparents of Judge Clint Beasley and Sen. I. D. Beasley.** Robert (Bob) married 1st wife Sarah Cunningham from Wilson Co., TN, 2nd wife Mary Green. Gabriel Dillard, born 1808, married Sally Perry, daughter of Benjamin Perry. William married Margaret Webb.

JOE C. CARR DIES SERVICES SET TUESDAY

By Tom Normand/Banner Staff Writer Banner newspaper, TN: 12 October 1981, front page

Retired **Secretary of State Joe C. Carr**, who held the post for an unprecedented 26 years and became an institution on Capitol Hill, died today in Baptist Hospital. He was 74.

Mr. Carr, a bristly-proud Democrat, was secretary from 1941 to 1977, except for the terms of James H. Cummings and G. Edward Friar from 1949 to 1957 and a 14-month period when his wife filled in while he served in World War II.

He died at 3:20 a.m. as a result of cancer, a hospital spokesman said.

The illness was diagnosed about 20 months ago, said **his son, Joe C. Carr Jr.**, and it was thought that the rare case of cancer was arrested when a tumor on the parotic gland of his neck was removed.

Last July, however, the disease showed up in his pelvic area and other areas of his back. He was in and out of the hospital after that, said his son, and he stayed hospitalized from September 20 until his death.

Services will be held at 2:30 p.m. Tuesday at First Baptist Church. Dr. H. Franklin Paschall will officiate. **Burial will be in the Woodlawn Memorial Park.** His family will receive visitors from 7 to 9 p.m. today at Marshall-Donnelly-Combs funeral home.

Upon Mr. Carr's retirement, the legislature convened in joint sessions in the Capitol Rotunda for special ceremonies in which the governor unveiled the model of a bust of him to be displayed in the bronze in the Capitol.

The Putnam County native thus became the first living Tennessean so honored, his bust joining portraits of former governors and other noted Tennesseans. He then told the gathering.

"To be classified with these distinguished people is one of the finest honors that could be accorded a boy from Billy Goat Hill."

Mr. Carr actually came to the marbled halls of the Capitol 53 years before that -a lad of 15 already showing political promise. He had written every senator, asking to be one of the body's two pages. He won.

Over the next few years, he held a variety of positions in the legislature, including bill clerk and chief clerk of the House.

From his first-floor secretary's office in the Capitol, Mr. Carr wielded influence far beyond his constitutional duties of keeping the state's official papers, trade-marks and corporate charters in order.

He was a member of the political inner circle for the 18 years that the late Frank Clement and the late Buford Ellington controlled the governor's office and the Democratic Party, usually having their way in matters of campaign and party funding.

During that time of bitter factionalism in the party, however, Mr. Carr's office remained one of the few places in the Capitol where the political "outs" were welcome.

Mr. Carr always maintained a literal open-door policy, and any Capitol visitor was free to wander in and listen to his recollections of 13 governors, numerous legislative battles and many stormy political campaigns.

He was born on June 20, 1907, in Putnam County, but he and his family moved to Nashville in 1918 so his father could assume an elected seat in the 60^{th} General Assemble. He then attended Montgomery Bell Academy and the former Peabody Demonstration School.

In 1932, at the suggestion of the late President Franklin D. Roosevelt, Mr. Carr organized the Young Democrats of Tennessee and served as the organization's first secretary. In 1934, he was elected president.

From there, he went on to become secretary of the Young Democrats of America from 1935 to 1937 and president in 1941.

Looking back on his colorful political career as his retirement approached, Mr. Carr said, "It's been very interesting."

He recalled the late Gov. Austin Peay's formal attire – the long-tail coat and frock collar. He remembered the unsuccessful attempt to impeach the late Gov. Henry Horton and the dogfight that preceded passage of Tennessee's first sales tax under the late Gov. Jim McCord.

Mr. Carr said there hadn't been "tremendous change" in the issues, but "there's been a lot of change in the mechanics" because much of the state's business used to be done in the evenings at the former Maxwell House Hotel, the former Andrew Jackson House and the Hermitage Hotel.

They hold committee meetings during the day in the hallways or wherever they happened to be," he said. "Then, at night, all the members would meet at the hotels. You don't see that anymore.

"They seemed to enjoy themselves. I don't know if it's as much fun now, but the new procedures give the public more opportunity to participate. It's better if the public takes advantage of it."

Mr. Carr said he'd "sometimes thought I might have done better in private business, but I've had no real second thought. I think we ought to encourage more young people to become involved in government."

In 1934, Mr. Carr was married to the former Mary Hart of Nashville, a native of Smith County.

He was a past president and a former member of the National Association of Secretaries of State.

Mr. Carr was chairman of the advisory board of Investors Savings & Loan Association since 1979.

He was an active member of First Baptist Church and a deacon for many years. He was a 33rd degree Scottish Rite Mason, a York Rite Mason, a past potentate and a member of the Royal Order of Jesters and the Shrine Club and a past president and a member of the Tennessee Baptist Brotherhood.

In 1957, Mr. Carr served as state chairman of the American Cancer Society Crusade.

He was a past president and a member of the Exchange Club, a past president and a former member of the Nashville Junior Chamber of Commerce, vice chairman of the board of trustees of Baptist Hospital, a past treasurer and a member of the board of the Nashville Union Rescue Mission and a former member of the board of trustees of Belmont College.

Mr. Carr was a former member of the Cumberland Club and Richland Country Club.

He was a member of the Nashville Seniors Golf Association and the Society of Amateur Chefs, a past vice commander and a member of the American Legion Post 5 and a member of Voiture 708, 40 & 8 (a veterans' organization).

Survivors besides his wife and his son, of Nashville, include a daughter, Mrs. Carolyn Carr Casparis, Williamson County; two sisters, Mrs. Letcher Grigg and Mrs. Alta Campion, both of Nashville; and six grandchildren.

Memorial contributions may be made to the Nashville Union Rescue Mission

MARY (HART) "SIS" CARR OBT.

Banner newspaper, TN: Monday, 30 May 1988

Graveside services will be held Wednesday for Mrs. Mary Hart "Sis" Carr, 75, a former Tennessee Secretary of State and widow of retired Secretary of State Joe C. Carr, Sr.

Mrs. Carr died Saturday in Vanderbilt University Medical Center.

Graveside services are scheduled for 10:00 Wednesday in Woodlawn Memorial Park.

The Rev. H. Franklin Paschall will officiate. Her family will receive visitors from 1-3 and 7-9 Tuesday at Woodlawn Funeral Home.

Mrs. Carr was appointed Secretary of State by then Gov. Prentice Cooper in 1944 in her husband's place on the day he was inducted into the Army. She served until he returned from WWII and resumed the post.

She was believed to be the first woman to hold a constitutional office in Tennessee. Mrs. Carr's husband died in 1981.

She was a native of Smith County and a **daughter of the late Alexander Selkirk and Carrie Oliver Hart.** She was a graduate of Peabody Demonstration School, now University School of Nashville.

Mrs. Carr was a member of the First Baptist Church, Overton Hills Garden Club and the Centennial Club; a member of the Tennessee Botanical Gardens at Cheekwood, and a member of civic organizations.

Survivors include a daughter, Carolyn Carr Caspairs of Nashville; a son, Joe C. Carr, Jr. of Nashville; and six grandchildren.

Pallbearers were George N. Welch, IV, Joseph C. Welch, Joe C. Carr, III, Walker A. Welch, Morgan Jones and Rollin Rhea.

Hugh Letcher Grigg & Dimple Carr Wed In Nashville

Miss Carr and Mr. Grigg Wed in Nashville

The marriage of Miss Dimple Carr and Mr. Hugh L. Grigg was quietly solemnized Friday evening at 7:30 in the study of the 9th St. Christian Church in Nashville. The Rev. D.A. Hall officiated. Miss Margaret Grigg attended the bride as maid of honor and the groom's best man was Mr. William Scobey. Mr. and Mrs. Grigg will be at home at 117 Pope Avenue. The marriage will be of sincere interest in Cookeville as Mrs. Grigg is the daughter of Mr. and Mrs. S. F. Carr and until a few years, she and her parents, made this her home.

Herald, Cookeville, TN: Monday, 20 November 1922, pg. 3

Dimple (Carr) Grigg Obt.

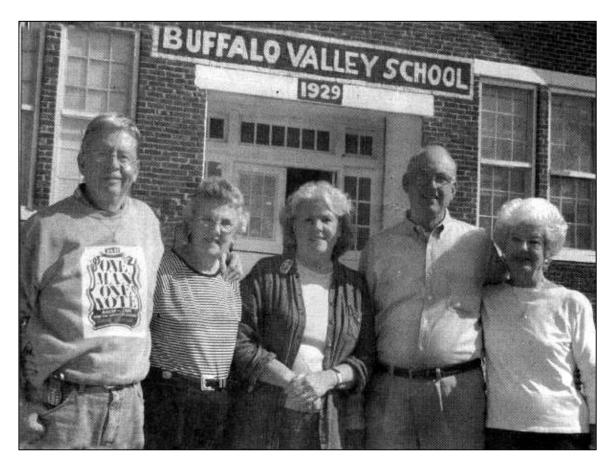
Dimple Carr Grigg, age 96. May 1, 1997. Preceded in death by her husband, Letcher Grigg and her younger brother, Joe C. Carr who served as Tennessee Secretary of State. Daughter of Sidney Carr who the House during the 61st General Assembly and Carr. She was employed by the TN Dept. of Insurance for 40 years until her retirement in 1970. She is survived by her daughter, Bettye Deathridge, son, Carr Grigg; grandchildren, Laura McCullough, Debbie Brooks; great grandchildren, Molly McCullough, Jenny and Jeffrey Brooks. Remains are at Woodlawn Funeral Home where the family will receive friends 2:00-8:00 p.m. Friday and 12:00-2:00 p.m. Saturday. Family and friends will gather at 2:00 p.m. Saturday for graveside services at Woodlawn Memorial Park by Bro. Tom Holland. Active pallbearers; Elliott McCulough, Keith Brooks, Joe Carr Jr., Don Knight, Freddie Maddux, Ralph Maddux, Walter Deathridge, Jeffery Brooks,. Honorary pallbearers; Bill Sullivan, Dr. Harrison Shull Jr., Dr. Robert Massie, David Massie, Howard Putnam, Rea Smith, Bill Crouch, Billy Scobey, Richard Scobey, Dr. Joe Scobey, David Scobey, Bob Tolleson, Tommy Tolleson, Bill Beneke. The Nursing Staff of the Meadows Healthcare. Arrangements by Woodlawn Funeral Home, 383-4754.

Hugh Letcher Grigg Obt.

Nashville Banner, TN: Monday, 10 April 1972

Sunday morning April 9 at a local infirmary. Survived by wife, Mrs. Letcher Grigg; daughter, Mrs. David Deathridge; son, Carr Grigg; 2 grandchildren, Debbie and Laura Deathridge. Remains are at Marshal-Connely-Combs Funeral Home where services will be Monday at 2:00 by Bro. Axel Swag and Bro. Damon Daniel. Honorable pallbearer's will be Fred Waller, Jimmy Carter, Walter Siegenthaler, Dr. Guy Pennington, Dr. John H. Coles, Jr., John H. Coles. Active will be Bill Crouch, Jack Tally, Tom Arnette, Buford Eubans, Ben Little, M. R. Smith, J. P. Whitworth, and Ronnie Wise. In lieu of flowers, the family request donations be made to Lakeshore Home of the Aged, 832 Grove Ave.

Nashville Banner, TN: Monday, 10 April 1972



Family gathers to remember famous Tennessean Herald Citizen Newspaper, Cookeville, TN: 17 November 2004 Picture taken by Camille Fliss

The family of the late Joe Carr, Tennessee's Secretary of State in 1944 and 1977, met for a reunion on October 30th at Buffalo Valley Schoolhouse. From left are, Carr Grigg, Carr's nephew; Bettye Deathridge, his niece, who has worked for 34 years at the House of Representatives Engrossing Office; Carolyn Carr-Casparis, his daughter; Joe Carr Jr., his son; and Margaret Tollison, his niece, who has worked for 46 years in the Secretary of State's office. Joe Carr Sr. was involved in the groundbreaking, historic "One Man One Vote" supreme court case in 1962, known as Baker vs. Carr. Baker vs. Carr involved the apportionment of seats in state governing bodies – Tennessee was using 60-year-old district boundaries in electing members of its legislature, despite the fact that they no longer reflected the true distribution of the population. Be keeping old election district boundaries, it allotted rural citizens greater proportional representation than their counterparts in the growing cities. In resolving this and other later cases, the Court eventually established the principle of equal representation: "One Man, One Vote."

*See Carr Family of Smith County Tennessee at: http://www.ajlambert.com