

The Burger Court Opinion Writing Database

Gordon v. Lance

403 U.S. 1 (1971)

Paul J. Wahlbeck, George Washington University

James F. Spriggs, II, Washington University

Forrest Maltzman, George Washington University



Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
THE CHIEF JUSTICE

April 21, 1971

Re: No. 96 - Gordon v. Lance

MEMORANDUM TO THE CONFERENCE:

Enclosed is proposed opinion in the above.

Regards,

WEB

TM

To: Mr. Justice Black
Mr. Justice Douglas
Mr. Justice Harlan
Mr. Justice Brennan
Mr. Justice Stewart
Mr. Justice White
Mr. Justice Marshall
Mr. Justice Blackmun

1st DRAFT

From: The Chief Justice

APR 21 1971

SUPREME COURT OF THE UNITED STATES

No. 96.—OCTOBER TERM, 1970

Recirculated: _____

A. T. Gordon, et al.,
Petitioners,
v.
Granville H. Lance, et al. } On Writ of Certiorari to the
Supreme Court of Appeals
of West Virginia.

[April —, 1971]

MR. CHIEF JUSTICE BURGER delivered the opinion of the Court.

The Constitution of West Virginia and certain West Virginia statutes provide that political subdivisions of the State may not incur bonded indebtedness or increase tax rates beyond those established by the constitution without the approval of 60% of the voters in a referendum election. On April 29, 1968, the Board of Education of Roane County, West Virginia, submitted to the voters of Roane County a proposal calling for the issuance of general obligation bonds in the amount of \$1,830,000 for the purpose of constructing new school buildings and improving existing educational facilities. At the same election, by separate ballot, the voters were asked to authorize the Board of Education to levy additional taxes to support current expenditures and capital improvements. Of the total votes cast, 51.55% favored the bond issues and 51.51% favored the tax levy. Having failed to obtain the requisite 60% affirmative vote, the proposals were declared defeated.

Following the election, respondents appeared before the Board of Education on behalf of themselves and other persons who had voted in favor of the proposals

1, 5, 7 and minor style changes

To: Mr. Justice Black
Mr. Justice Douglas
Mr. Justice Harlan
Mr. Justice Brennan
Mr. Justice Stewart
Mr. Justice White
Mr. Justice Marshall
Mr. Justice Blackmun

2nd DRAFT

From: The Chief Justice

SUPREME COURT OF THE UNITED STATES

No. 96.—OCTOBER TERM, 1970

Recirculated: MAY 27 1971

A. T. Gordon et al.
Petitioners,
v.
Granville H. Lance et al. } On Writ of Certiorari to the
Supreme Court of Appeals
of West Virginia.

[June —, 1971]

MR. CHIEF JUSTICE BURGER delivered the opinion of the Court.

We granted certiorari to review a challenge to a 60% vote requirement to incur public debt as violative of the Fourteenth Amendment.

The Constitution of West Virginia and certain West Virginia statutes provide that political subdivisions of the State may not incur bonded indebtedness or increase tax rates beyond those established by the constitution without the approval of 60% of the voters in a referendum election.

On April 29, 1968, the Board of Education of Roane County, West Virginia, submitted to the voters of Roane County a proposal calling for the issuance of general obligation bonds in the amount of \$1,830,000 for the purpose of constructing new school buildings and improving existing educational facilities. At the same election, by separate ballot, the voters were asked to authorize the Board of Education to levy additional taxes to support current expenditures and capital improvements. Of the total votes cast, 51.55% favored the bond issues and 51.51% favored the tax levy. Having failed to obtain the requisite 60% affirmative vote, the proposals were declared defeated.

April 22, 1971

Dear Chief,

I agree to the suggested order in
the Denver School cases and it is o. k. with
me for the order to come down on the Monday
list.

I am also happy to agree to your
opinion in No. 96 - A. T. Gordon, et al. v.
Granville Lance, et al.

Sincerely,

H. L. B.

The Chief Justice

cc: Members of the Conference

April 28, 1971

Dear Chief:

In No. 96 - Gordan v. Lance,
please join me in your opinion.

W. G. D.

The Chief Justice

WD
Adm 71487

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Re: No. 88 - Gardner v. Lanza

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Would you please tell us the best of just

MR. JUSTICE HARLAN concurred in the result for the reasons stated in his separate opinion in Whitcomb v. Gould, supra.

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The Old Justice

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Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR.

April 26, 1971

RE: No. 96 - Gordon v. Lance

Dear Chief:

Would you mind please adding at
the foot of your opinion the following:

"Mr. Justice Brennan would affirm
for the reasons expressed in the
opinion of the West Virginia Supreme
Court of Appeals, 170 S. E. 2d 783
(W. Va. 1969)."

Sincerely,


W. J. B. Jr.

The Chief Justice

cc: The Conference

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE POTTER STEWART

April 22, 1971

No. 96 -- Gordon v. Lance

Dear Chief,

I am glad to join your opinion for
the Court in this case.

Sincerely yours,

P.S.

The Chief Justice

Copies to the Conference

April 23, 1971

Re: No. 96 - Gordon v. Lance

Dear Chief:

Please join me.

Sincerely,

B.R.W.

The Chief Justice

cc: Conference

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

April 27, 1971

Re: No. 96 - Gordon v. Lance

Dear Chief:

I would appreciate it if you would add my name to that of Bill Brennan's at the foot of your opinion in the above case.

Sincerely,



T.M.

The Chief Justice

cc: The Conference

April 26, 1971

Re: No. 96 - Gordon v. Lance

Dear Chief:

Please join me.

Sincerely,

H. A. B.

The Chief Justice

cc: The Conference