

The Burger Court Opinion Writing Database

Salyer Land Co. v. Tulare Lake Basin Water Storage District

410 U.S. 719 (1973)

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

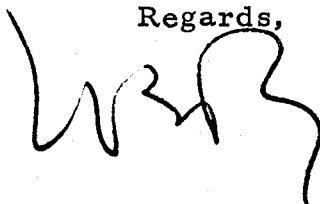
March 2, 1973

Re: No. 71-1456 - Salyer Land Co. v. Tulare Lake
Basin Water Storage District

Dear Bill:

Please join me.

Regards,



Mr. Justice Rehnquist

Copies to the Conference

REPRODUCED FROM THE COLLECTIONS OF THE MANUSCRIPT DIVISION

U.S. SUPREME COURT MANUSCRIPTS

To: The Chief Justice
 Mr. Justice Brennan
 Mr. Justice Stewart
 Mr. Justice White
 Mr. Justice Marshall
 Mr. Justice Blackmun
 Mr. Justice Powell
 Mr. Justice Rehnquist

1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 71-1456

From: Douglas, J.

Circulated: FEB 9 1973

Salyer Land Company et al.,
 Appellants,
 v.
 Tulare Lake Basin Water
 Storage District.

On Appeal from the United
 States District Court for
 the Eastern District of
 California.

Recirculated:

[February —, 1973]

MR. JUSTICE DOUGLAS, dissenting.

The vices of this case are four-fold.

First. Nonresidents who own land in this water district are not allowed to vote for directors who determine the policy.

Second. Lessees of farmlands, though residents of the district, are not given the franchise.

Third. Residents who own no agricultural lands but live in the district and face all the perils of flood which the district is supposed to control are disenfranchised.

Fourth. Only agricultural landowners are entitled to vote and their vote is weighted, one vote for each one hundred dollars of assessed valuation as provided in § 41001 of the California Water Code.

There are 189 landowners who own up to 80 acres each. These 189 represent 2.34% of the agricultural acreage of the district. There are 193,000 acres in the district. Petitioner Salyer Land Company is one large operator, West Lake Farms and South Lake Farms are also large operators. The largest is J. G. Boswell Co. These four farm almost 85% of all the land in the district. Of these J. G. Boswell Co. commands the greatest number of votes, 37,825, which are enough to give it a majority of the board of directors. As a result it is permanently in the saddle. Almost all of the 77 residents of the dis-

1, 4, 5, 6

To: The Chief Justice
Mr. Justice Brennan
Mr. Justice Stewart
Mr. Justice White
Mr. Justice Marshall
Mr. Justice Blackmun
Mr. Justice Powell
Mr. Justice Rehnquist

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 71-1456

Circulated: **FEB 14 1973**
Recirculated:

Salyer Land Company et al.,
Appellants,
v.
Tulare Lake Basin Water
Storage District.

On Appeal from the United
States District Court for
the Eastern District of
California.

[February —, 1973]

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Fifth. The corporate voter is put in the saddle.

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5

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

CHAMBERS OF
JUSTICE WILLIAM O. DOUGLAS

February 16, 1973

71-1456?

Dear Bill:

I have not circulated this new version
of my dissent in Salier, but wanted to show
it only to you and Thurgood.

W. O. D.

Mr. Justice Brennan

This is OK with me
Bill

WD

145-6

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

CHAMBERS OF
JUSTICE WILLIAM O. DOUGLAS

February 16, 1973

Dear Thurgood:

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Mr. Justice Marshall

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3rd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 71-1456

<p>Salyer Land Company et al., Appellants, v. Tulare Lake Basin Water Storage District.</p>	}	<p>On Appeal from the United States District Court for the Eastern District of California.</p>
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Handwritten: 1/6/68

[February —, 1973]

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M
changes throughout

3rd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 71-1456

To: The Chief Justice
Mr. Justice Brennan
Mr. Justice Stewart
Mr. Justice White
Mr. Justice Marshall
Mr. Justice Blackmun
Mr. Justice Powell
Mr. Justice Rehnquist

From: Douglas, J.

Salyer Land Company et al.,
Appellants,
v.
Tulare Lake Basin Water
Storage District.

Circulated: _____
On Appeal from the United
States District Court
the Eastern District of
California.
Re-circulated: 2-20-73

[February —, 1973]

MR. JUSTICE DOUGLAS, dissenting.

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Please join me

To: The Chief Justice
 Mr. Justice Brennan
 Mr. Justice Stewart
 Mr. Justice White
 Mr. Justice Marshall
 Mr. Justice Blackmun
 Mr. Justice Powell
 Mr. Justice Rehnquist

4th DRAFT

SUPREME COURT OF THE UNITED STATES

From: Douglas, J.

No. 71-1456

Circulated: _____

Recirculated: 2-21-73

Salyer Land Company et al.,
 Appellants,
 v.
 Tulare Lake Basin Water
 Storage District.

On Appeal from the United
 States District Court for
 the Eastern District of
 California.

[February —, 1973]

MR. JUSTICE DOUGLAS, dissenting.

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SECTION OF ADVANCE

To: The Chief Justice
Mr. Justice Brennan
Mr. Justice Stewart
Mr. Justice White
Mr. Justice Marshall
Mr. Justice Blackmun
Mr. Justice Powell
Mr. Justice Rehnquist

6th DRAFT

SUPREME COURT OF THE UNITED STATES

From: Douglas, J.

No. 71-1456

Circulated: _____

Recirculated: 3-1-73

Salyer Land Company et al.,
Appellants,
v.
Tulare Lake Basin Water
Storage District.

On Appeal from the United
States District Court for
the Eastern District of
California.

[February —, 1973]

MR. JUSTICE DOUGLAS, with whom MR. JUSTICE BRENNAN and MR. JUSTICE MARSHALL concur, dissenting.

The vices of this case are four-fold.

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3
Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR.

February 12, 1973

MEMORANDUM TO THE CONFERENCE

RE: No. 71-1456 - Salyer Land v. Tulare Lake Basin
Water, etc.

I shall circulate a dissent in the above in due
course.

W. J. B. Jr.

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SECRET
NO ADVANCE IN

B
MM
You waited on
WJ3 dissent!

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

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR.

February 22, 1973

RE: No. 71-1456 - Salyer Land Company
v. Tulare Lake Basin Water Storage

Dear Bill:

Please join me in your dissenting
opinion in the above.

Sincerely,

Bill
7

Mr. Justice Douglas

cc: The Conference

7

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

CHAMBERS OF
JUSTICE POTTER STEWART

February 15, 1973

Re: No. 71-1456, Salyer Land Company v.
Tulare Lake Basin Water Storage District

Dear Bill,

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

Sincerely yours,

P.S.,
/

Mr. Justice Rehnquist

Copies to the Conference

REPRODUCED FROM THE COLLECTIONS OF THE MANUSCRIPT DIVISION

SECTION OF ADVISORY IN

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

February 12, 1973

Re: No. 71-1456 - Salyer Land Co. v. Tulare
Lake Basin Water Storage District

Dear Bill:

Please join me in your opinion in this case. I would prefer it, however, if the second sentence of the last paragraph beginning on page 12 began as follows:

"But in the type of special district we now have before us, the question for our determination is not whether or not . . . "

Sincerely,



Mr. Justice Rehnquist

Copies to Conference

REPRODUCED FROM THE COLLECTIONS OF THE MANUSCRIPT DIVISION

RECEIVED FEBRUARY 12 1973

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

February 13, 1973

Re: No. 71-1456 - Salyer Land Co. v. Tulare
Lake Basin Water Storage District

Dear Bill:

While my conference vote was to affirm in this case further research has shaken my vote. I am now convinced that the Water Storage District here involved is more "governmental" than I realized. In the second place, I cannot join your opinion because I am not in agreement with your interpretation of our prior cases and, in particular, Phoenix, Cipriano and Kramer. I, therefore, will wait for Brennan's dissenting opinion before finally coming to rest.

Sincerely,



T.M.

Mr. Justice Rehnquist

cc: Conference

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SSSBNOC 50 ADVANCE

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

February 27, 1973

Re: No. 71-1456 - Salyer Land Co. v. Tulare
Lake Basin Water Storage District

Dear Bill:

Please join me.

Sincerely,


T.M.

Mr. Justice Douglas

cc: Conference

REPRODUCED FROM THE COLLECTIONS OF THE MANUSCRIPT DIVISION

U.S. DEPARTMENT OF COMMERCE

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

February 12, 1973

Re: No. 71-1456 - Salyer Land Co. v. Tulare Lake
Basin Water Storage District

Dear Bill:

Please join me.

Sincerely,

H. A. B.

Mr. Justice Rehnquist

Copies to the Conference

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U.S. DEPARTMENT OF JUSTICE

3 1
Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

February 24, 1973

Re: No. 1456 Salyer Land Co. v. Tulare Lake
Basin Water Storage District

Dear Bill:

Please join me.

Sincerely,

Lewis

Mr. Justice Rehnquist

cc: The Conference

REPRODUCED FROM THE COLLECTIONS OF THE MANUSCRIPT DIVISION

U.S. DEPARTMENT OF COMMERCE

To: The Chief Justice
Mr. Justice Douglas
Mr. Justice Brennan
Mr. Justice Stewart
Mr. Justice White
~~Mr. Justice Marshall~~
Mr. Justice Blackmun
Mr. Justice Powell

From: Rehnquist, J.

1st DRAFT

Circulated: 2/9/73

SUPREME COURT OF THE UNITED STATES

Recirculated:

No. 71-1456

Salyer Land Company et al., Appellants, v. Tulare Lake Basin Water Storage District.	}	On Appeal from the United States District Court for the Eastern District of California.
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[February —, 1973]

MR. JUSTICE REHNQUIST delivered the opinion of the Court.

This is another in the line of cases in which the Court has had occasion to consider the limits imposed by the Equal Protection Clause of the Fourteenth Amendment on legislation apportioning representation in state and local governing bodies and establishing qualifications for voters in the election of such representatives. *Reynolds v. Sims*, 377 U. S. 533 (1964), enunciated the constitutional standard for apportionment of state legislatures. Later cases such as *Avery v. Midland County*, 390 U. S. 474 (1968), and *Hadley v. Junior College District*, 397 U. S. 50 (1970), extended the *Reynolds* rule to the governing bodies of a county and of a junior college district, respectively. We are here presented with the issue expressly reserved in *Avery*, *supra*:

"Were the [county's governing body] a special-purpose unit of government assigned the performance of functions affecting definable groups of constituents more than other constituents, we would have to confront the question whether such bodies may be apportioned in ways which give greater influence to the

pp 5, 11, 12, 14
S

To: The Chief Justice
Mr. Justice Douglas
Mr. Justice Brennan
Mr. Justice Stewart
Mr. Justice White
Mr. Justice Marshall
Mr. Justice Blackmun
Mr. Justice Powell

From: Rehnquist, J.

3rd DRAFT

Circulated: _____

SUPREME COURT OF THE UNITED STATES
Circulated: 2/13/73

No. 71-1456

Salyer Land Company et al., Appellants, v. Tulare Lake Basin Water Storage District.	} On Appeal from the United States District Court for the Eastern District of California.
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