



Worksheet 6a – Key Decisions 8 Questions and Answers

Read the extract from the Court's decision and then discuss the questions that follow. You should agree on your answers before sharing them with the class.

Bush v Gore Majority Opinion

The recount mechanisms implemented in response to the state court's decision do not satisfy the minimum requirement for non-arbitrary treatment of voters. The record shows that the standards for accepting or rejecting contested ballots might vary not only from county to county but indeed within a single county from one recount team to another. In addition, the recounts in three counties were not limited to so-called undervotes but extended to all of the ballots. Furthermore, the actual process by which the votes were to be counted raises further concerns because the court's order did not specify who would recount the ballots. Where, as here, a court orders a statewide remedy, there must be at least some assurance that the rudimentary requirements of equal treatment and fundamental fairness are satisfied. The State has not shown that its procedures include the necessary safeguards. Upon due consideration of the difficulties identified to this point, it is obvious that the recount cannot be conducted in compliance with the requirements of equal protection and due process without substantial additional work.

None are more conscious of the vital limits on judicial authority than are the Members of this Court, and none stand more in admiration of the Constitution's design to leave the selection of the President to the people, through their legislatures, and to the political sphere. When contending parties invoke the process of the courts, however, it becomes our unsought responsibility to resolve the federal and constitutional issues the judicial system has been forced to confront.

The judgment of the Supreme Court of Florida is reversed....

Questions

1. What are the reasons given to support the Court's opinion that the recount mechanisms adopted in Florida are unsatisfactory?
2. What justification does the Court give for deciding this case?