acterized as the "political process" doctrine,[1656] which prohibits burdening the ability of protected minorities to secure legislation on their own behalf.[1657] This doctrine was applied to a pair of cases involving restrictions on busing and other remedies approved by state referenda. In *Washington v. Seattle School Dist.*,[1658] voters in Washington, following a decision by the elected school board in Seattle to undertake a mandatory busing program, approved a statewide initiative that prohibited school boards from assigning students to any but the nearest or next nearest school that offered the students' course of study. There were so many exceptions, however, that the prohibition in effect applied only to busing for racial purposes. In *Crawford v. Los Angeles Bd. of Educ.*,[1659] California state courts had interpreted the state constitution to require school systems to eliminate both *de jure* and *de facto* segregation. Voters approved an initiative that prohibited state courts from ordering busing unless the segregation was in violation of the Fourteenth Amendment and a federal judge would be empowered to order it under United States Supreme Court precedents.

By a narrow division, the Court held the Washington measure unconstitutional, and, with near unanimity of result (if not of reasoning), it sustained the California measure. The constitutional flaw in the Washington measure, the Court held, was that it had chosen a racial classification—busing for desegregation—and imposed more severe burdens upon those seeking to obtain such a policy than it imposed with respect to any other policy. The Court noted that local school boards retained authority over education policy on almost everything but busing. Thus, by singling out busing and making it more difficult to implement than anything else, the voters had expressly and knowingly enacted a law that had an intentional negative impact on a minority.[1660] The Court discerned no such impediment in the California measure, which it considered a simple repeal that merely foreclosed one particular discretionary court-

---

[1656] Schuette v. BAMN, 572 U.S. ___, No. 12–682, slip op. at 6 (2014).

[1657] This doctrine originated in the case of Hunter v. Erickson, 393 U.S. 385 (1969) (Akron ordinance, which suspended an "open housing" ordinance and provided that any such future ordinance must be submitted to a vote of the people before it could become effective, violated Equal Protection).

[1658] 458 U.S. 457 (1982).

[1659] 458 U.S. 527 (1982).

[1660] Washington v. Seattle School Dist., 458 U.S. 457, 470–82 (1982). Justice Blackmun wrote the opinion of the Court and was joined by Justices Brennan, White, Marshall, and Stevens. Dissenting were Justices Powell, Rehnquist, O'Connor, and Chief Justice Burger. Id. at 488. The dissent essentially argued that because the state was ultimately entirely responsible for all educational decisions, its choice to take back part of the power it had delegated did not raise the issues the majority thought it did.