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REAPPORTIONMENT AND ITS IMPLICATIONS

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Until 1962 the issues surrounding underrepresentation of urban areas and the converse overrepresentation of less populous areas were of interest primarily to professors and students of political science. Following the decennial censuses of 1950 and 1960, many reapportionment bills which were introduced in state legislatures were consigned to oblivion. Often this was done without the indelicacy of any public mention that the state constitution required reapportionment. Even where those who supported reapportionment had the initiative to by-pass the legislature, they despaired of alerting and educating the voters.

By 1960, most state legislatures were characterized by gross differences between the number of residents in the most populous and the least populous districts. The greatest range was in New Hampshire's lower house, with a ratio of 1,081 to 1. The smallest was in Hawaii's lower house and Ohio's Senate—2.2 to 1. The median, found in the Senate districts of Illinois and Texas, was a significant 9.4 to 1.

Since state legislatures are responsible for redrawing lines of Congressional districts, it is not surprising that in 1962 a similar, although less dramatic, situation existed in this respect.

By 1960, city political leaders, weary of trying to secure authority, funds, and programs from the malapportioned legislatures of many states, had accommodated themselves to the situation. Their primary recourse was to go to Washington, particularly for grant-in-aid programs, some of which were not subject to state review. Anti-city interests, entrenched behind a 1946 Supreme Court decision which held that failure of a state legislative to reapportion was not a justiciable question for the federal courts, believed themselves safe in their disproportionate representation in the state capitals.

However, in 1962, when the federal courts took jurisdiction of such cases, the roofs of these state houses literally fell in. Two years later, another court decision amounted to "dropping the other shoe."

MALAPPORTIONMENT IN HISTORICAL PERSPECTIVE

How did we get to this situation, which came close to posing

a constitutional crisis? Unequal representation came to America early, and provided one of the divisive issues within the colonies before the Revolution. Coastal areas of equal or even less population elected more legislators than the Western and frontier regions. The split here was not rural versus urban, but the landed aristocracy against the frontier farmer.

When the United States became a federal union, the constitutions of the new states reflected the prevailing resentment against unequal representation. A minority of the states provided for representation according to population in one house and according to subordinate units of government in the other. The rest made population the primary criterion for representation in both houses. In the next hundred years, of the 23 states admitted to the Union, 21 used population as the primary basis for representation. By 1890, the trend toward an urban nation was evident, and new state constitutions and amendments to existing ones provided for representation according to political area and minimized representation according to population. The twentieth century brought a period in which state legislatures became increasingly neglectful of their duty to reapportion every ten years. An example is the Tennessee legislature which did not reapportion after 1901 until it was forced to in 1962. As the nation became more urbanized and as the off-farm migration increased, the urban vote, particularly in the suburbs, became devalued. Conversely, in practically all states, the ratio of rural and small-town voters to their representatives decreased, thereby increasing the value of that vote.

Those who were disadvantaged by the increasing malapportionment of state legislatures over the decades tried to remedy the situation through various tactics, determined primarily by their relative degrees of influence in the relevant political institutions and systems. They endeavored in the 1920's and 1930's to challenge existing malapportionment or legislative inactivity in the state courts, with only slight success. Minor modifications were made by the legislatures of four states in the late 1950's and early 1960's, subsequent to state court decisions which asserted jurisdiction. During several decades, urban interests had attempted to persuade many state legislatures to reapportion, with scant results. In 1946, in a landmark Congressional redistricting case, Justice Frankfurter observed that "the Constitution of the United States gives ample power to provide against these evils. . . . This remedy for unfairness in districting is to secure state legislatures that will apportion properly, or to invoke the ample powers of Congress."

In the real world of politics, an underrepresented portion of the

population is not very likely to persuade the beneficiaries of such a situation to remedy it by giving up substantial chunks of formal political power. And so it proved in the next decade and a half, as the 1950 and 1960 censuses were generally disregarded by state legislatures, or their implications minimized. (Twenty-one states had taken reapportionment action by the end of 1961, based on the 1960 census, but changes were minimal.) Prevailing standards of apportionment could not be changed by constitutional amendment, for the legislatures played a controlling role in the amendment process. Initiated measures were not satisfactory because of their complexity, and they also met with voter inertia and lack of understanding of the issue.

ROLE OF THE COURTS

Encouraged by the broadened interpretation of the Fourteenth Amendment by the Supreme Court in civil rights cases, underrepresented interests turned to the federal courts, where the logic of argument might be more persuasive than the weight of numbers. Here they were successful, and in a series of cases in the short period of two years, they achieved more than in the previous six decades.

Their primary goal was to persuade the federal courts that malapportionment or failure to reapportion was a justiciable issue which could be heard and decided by the courts. In 1962, in a case arising from the Tennessee legislature's failure to reapportion over a sixty-year period, the Supreme Court held that the complainants were entitled to a trial and decision. In its 6 to 2 opinion, the court held that such lack of representation constituted a denial of equal protection of the laws.¹

In the following two years, the Supreme Court moved toward adoption of the "one man, one vote" principle. This was done through cases which outlawed the county unit system used in primary elections in Georgia² and which declared that Congressional districts must be as equal in population as practicable.³

"One man, one vote" was formally proclaimed as guaranteed by the Constitution in the climactic decision of the series, in June 1964.⁴ The Supreme Court held that the equal protection of the laws clause of the Fourteenth Amendment requires that seats in both houses of a bicameral legislature must be apportioned according to population.

¹*Baker v. Carr.*

²*Gray v. Sanders*

³*Wesberry v. Sanders.*

⁴*Reynolds v. Sims.*

Before proceeding to the implications of these decisions, we should look at the responses and tactics of those who supported the legislative *status quo* and opposed judicial intervention. Although they were a declining minority in popular voting strength, they had possessed a majority of members in one or both legislative houses of most states on the reapportionment issue. However, once the Supreme Court had declared that inequitable apportionment was justiciable, state legislatures were no longer the sole policy makers in this matter.

Nevertheless, the supporters of the *status quo* were not a disarmed and futile minority. They had participated in many temporary and shifting alliances, and attempted to rally former allies to a mutually beneficial cause. They were aided because the struggle was not solely a rural-urban struggle. The urban community was deeply divided on many matters. Further, the reapportionment issue was not understood by many citizens and was uninteresting to many others.

Their responses were several and aimed at what they perceived as the particular vital point of the reapportionment group. The responses were coordinated nationally in some cases, but in others were localized reactions.

From the time of the Tennessee decision until today, the legislatures of a few states chose to ignore the issue. By proclaiming that no change was necessary, they obviously hoped that the problem would go away. In most cases it did not.

Between the Baker decision and the Sims decision, the legislatures of several states attempted to "lock in" apportionment systems which favored rural areas by constitutional amendment, but all were destined to fail once the Sims decision proclaimed "one man, one vote" as the guiding principle for both houses.

GENERAL IMPLICATIONS OF REAPPORTIONMENT

It is likely that, barring adoption of the Dirksen amendment,⁵ legislatures will accommodate themselves to the court decision in the next two or three years. They have little choice but to reapportion, unless no citizen is willing to file a suit in federal court. This reluctant acceptance will be marked by efforts to stretch the discrepancy permitted between district populations as far as possible. No

⁵The Dirksen amendment would permit a state, after a majority vote of the people, to apportion one house of its legislature on the basis of "population, geography, or political subdivisions."

firm standard has yet been established concerning what constitutes an unreasonable departure from mathematical precision in apportionment. The House of Representatives recently approved a bill which limits variations in Congressional district population to 15 percent above or below the average population of the state's districts. Even by this lenient standard, 116 Congressional districts are currently outside that limit. Attempts will be made to persuade the courts to use 15 percent as a guideline.

Legislatures may reapportion, but the temptation for the majority party to use the traditional gerrymander to minimize the opponents' advantages and to maximize its own will increase.

The implications of this problem encourage the use of computers for apportioning and defining districts. Guided by principles of population equality, compactness (as defined by the proximity of the district's population to the center) and contiguity, machines can accomplish this better and, of course, faster than men. The high mobility of our population and the rapidity of neighborhood population shifts may require data more frequently than every ten years and may make representation based upon the number of registered voters more feasible. Such an arrangement would require a highly accurate permanent registration system.

The implications of reapportionment according to equal population for political parties are many. Our national parties are confederations of state and local parties or factions, in turn composed of everything from loose and disintegrating alliances to tightly disciplined machines. The election district is of significance to the party as a unit of organization, as a base of leadership, and as the initial source of votes which mean success or failure in winning elections.

Failure to reapportion has discriminated more against suburbs than against the central cities. Unlike the heavily Democratic cities, these areas are more independent and more inclined to vote Republican. Thus, it has often been stated that reapportionment would benefit the Republican party more than the Democratic. Aside from an early spurt of interest (Senator Goldwater initially agreed with *Baker v. Carr*), the thrust of opposition to reapportionment has generally come from Republicans and Southern and Western (excluding West Coast) Democrats. Only a scattering of Republicans have supported the federal courts. Even in some states where the Republican suburbs have been underrepresented, Republican rural areas have striven to perpetuate the inequality.

The gain for the Republican party will be significant in some state legislatures, particularly in the South. What will happen in the House of Representatives is difficult to say. The redistricting actions will be the result of reapportioned legislatures.

Shifting district lines to accommodate an equal number of people is not the only determining factor in achieving party control of government. The leadership of the party and the positions which they take also matter. Reapportionment may significantly affect the leadership of political parties. Where party organization is based upon legislative districts, those districts of relatively sparse population may see a good many people dropped from positions of party leadership. Conversely, more of these positions may be occupied by residents of the medium-sized cities and the suburbs.

The implications for both party and legislative leadership are great. The seniority system in Congress and in many state legislatures has facilitated advancement to ranking positions on committees of both Republicans and Democrats from "safe" districts. What the reapportionment decisions suggest is that state legislatures will be harder pressed to protect House members through failure to reapportion their districts, as Texas did for the late Sam Rayburn.

The effect of reapportionment on the House of Representatives will be cushioned if the Supreme Court accepts the Celler bill provision which permits 15 percent deviation. Two years ago the *Congressional Quarterly* estimated that an "ideal" apportionment of the House would give urban areas six more seats and suburban areas ten.⁶ However, *CQ* defines the Indiana Fifth District as "100 percent rural," although it contains a city of 49,000 people. Thus, the 1963 report considerably understates the shift. We may expect a more urban-oriented House due to reapportionment. A major factor, in any event, will be the party in power in Congress and the position of the President on issues.

Undoubtedly, state legislatures will change more in composition and in substantive policy than Congress. Most of them will be more responsive to the demands of urban interests, particularly in increasing their share of state funds and in granting them substantive powers. However, in no case will cities be likely to "run" the state. Rural interests have oversimplified the monolithic character of city politics. Unless gerrymandering is almost unchecked, the various conflicting interests of the metropolitan areas will produce legislators who represent a diversity of viewpoints and goals.

⁶"Congressional Quarterly Weekly Report," No. 38, September 20, 1963.

FARM POLICY IMPLICATIONS OF REAPPORTIONMENT

Farmers have seen their absolute and relative population decline rapidly in the past twenty-five years. In 1940 farm population was 23 percent of the nation's population; in 1962 it was 7.7 percent. Professor Earl Heady says it will be less than 4 percent in fifteen years. This situation has spurred farm organization opposition to the "one man, one vote" decision. The Farm Bureau, the Grange, and the Farmers Union have all expressed support for increased representation for rural areas, but the Farm Bureau has been the most active.

For years, there has been a wealth of publications concerning rural-urban divisions in state legislatures. Recently studies have asserted that, on the basis of roll call votes, the split has been exaggerated. As Professor Hardin has recently observed,⁷ roll calls are only a part of the legislative process. Committees play a key role in bottling up or expediting proposed legislation, and as noted, legislators from safe districts dominate the committees.

At the present time some 30 states have been apportioned near to the "one man, one vote" doctrine. If farm interests and farm organizations had been hurt badly or unfairly treated, we should have heard from these states. Instead, we have listened to protests of what might happen.

In the postwar years, farm organizations have differed concerning the kind of farm policies and programs they desire. In general, the adoption of specific programs was determined by urban Congressmen and the position of the President. Again, as a generalization, the Farm Bureau position has been supported by rural Republicans and suburban Republicans, while the Farmers Union and Grange viewpoints have been supported by Southern Democrats, urban Democrats, and a handful of Midwestern rural Republicans. The point is that rural interests have made alliances with urban interests because a single rural interest did not have the required votes by itself.

The reapportionment of Congress will make such alliances even more essential. Agriculture will obviously have fewer formal representatives. Its strength will lie in the vital nature of its products to the nation, regardless of the number of people who produce them. A threat seems to lie in the substitution of synthetic foods and fibers.

In recent years in the field of education, we have seen Congress-

⁷Charles M. Hardin, "Issues in Legislative Reapportionment," *Review of Politics*, Vol. 27, No. 2 (April 1965), pp. 147-72.

sional (and Presidential) recognition of our arrival as an urban nation. For over fifty years we have had federal aid to agricultural and vocational education, but rural-oriented Congressmen and Senators insisted that federal aid to elementary and secondary education was unconstitutional, unwise, and unneeded. (This was at a time when many rural youngsters were receiving an education which prepared them neither for college nor for industrial employment.) Congress, spurred by the President, has now determined otherwise. This change in national policy has taken place when House districts have been considerably overrepresentative of rural areas. The power of the Presidency was instrumental. In other words, a good many rural people might have benefited earlier had rural interests not been so influential. They should benefit similarly from reapportionment.

We already see the farmer as a small minority in states such as New Jersey and California. Their problems are going to be to communicate their interests and problems to people one or two generations from the farm, and to walk the tightrope between independent consideration of issues and the establishment of fairly firm alliances in the urban community. This calls for statesmanship of a high order.

Politics in the United States is group politics and many of the participants are associations of relatively small membership. What they lack in numbers they make up in their use of the resources and the influence which they have. Alliances with other groups of similar interests produce working majorities in Congress. On some issues, the two contending groups are both minorities in their respective numbers and this extends to Congress. Thus the ultimate decision may be made by Congressmen who have little at stake and are at most peripherally concerned.

Therefore, I see no great problem for farmers as a minority in attaining some of the public policies and programs which they prefer, and in modifying those which they oppose. Of course, no group wins all of its battles, and the policy struggle is a continuing one. Producers should be able to obtain support, as before, from their creditors, their suppliers, and their customers. Other kinds of alliances can be made with business or labor groups. As I see it, the latter alliances hold both promises and threats. They are sources of additional strength in achieving difficult goals. They also pose problems in that such alliances inevitably limit the independence of the negotiating group. Even without formal agreements, which are probably rare, they tend to force relationships into a continuing pattern and to impede communications with other groups which are only temporarily in opposition. Soon the result is a confederation of some-

what like-minded people whose future positions on issues are fairly predictable. From my viewpoint, something of this kind has happened to the Farm Bureau in its business and conservative alliances, and to the Farmers Union with its labor and liberal alliances. If either could stop once in a while and view labor issues, for example, solely from the viewpoint of the farm organization, the strongly anti-labor or the strongly pro-labor position might not emerge so soon. That this is almost impossible, in the ever-present turmoil of policy development, I concede.

Now, what for Extension? I will only observe that some extension services which have had financial difficulty in the states have experienced it not in the legislature, however apportioned, but in the budgetary activity of the governor. The determining factor has not been legislative representation, but the rationality of service to clientele. Here many of you have already moved far to anticipate the problems. The means have been to widen your clientele and to move Extension into the cities and suburbs. Some farm leaders and some extension people have opposed this trend, believing that it will dilute Extension's service to agriculture. This is possible, of course, given the possibility of organizational change and change in leadership, but it seems to me that it is an instance of accommodating to change while attempting to guide people into a rapidly shifting environment.

To bring this to a close, we should note that the legislature is not the only policy-making body. Both the executive branch, including the bureaucracy, and the courts play a vital role in this matter. Thus, concern about how much representation a group has in the legislature is useful, but it should not monopolize attention. As a minority, farmers may find the courts receptive to their problems in the years ahead.

Nationally and in most of the states, legislative bodies have yielded the initiative in policy making to the chief executive. The role of the legislature is to amend or to delay. Thus loss of direct representation by farmers is more a loss of veto power than of giving up authority to achieve positive goals.

Next, a legislator's decisions are not all made solely on the basis of the numbers of his constituents. A major problem is to determine which of his constituents he shall satisfy. Thus an active and vociferous minority may be much more convincing than a passive majority.

The incumbent does make a difference. As farmers have fewer direct representatives, they will need to be more concerned about

their quality. There is considerable agreement that the quality of state legislatures needs to be improved. Neither rural nor urban people have a monopoly on ability.

Diminishing numbers in agriculture probably mean that a greater number of the remaining farmers will need to be more active in political matters somewhere. This will be most important as equal representation applies to county government.

The issue of equal representation seems to have come upon us swiftly. If state legislators of the past twenty years had been wiser and more willing to make some concessions to the growing urban population, would the case of *Baker v. Carr* be part of the law of the land now? This we cannot know, of course, but they inadvertently encouraged it. Instead of still following these short-sighted leaders, farmers might be better off to retire some of them as a reward for the assistance which they gave to the opposition.

PART IV

*Human Resource Development
Issues*

