

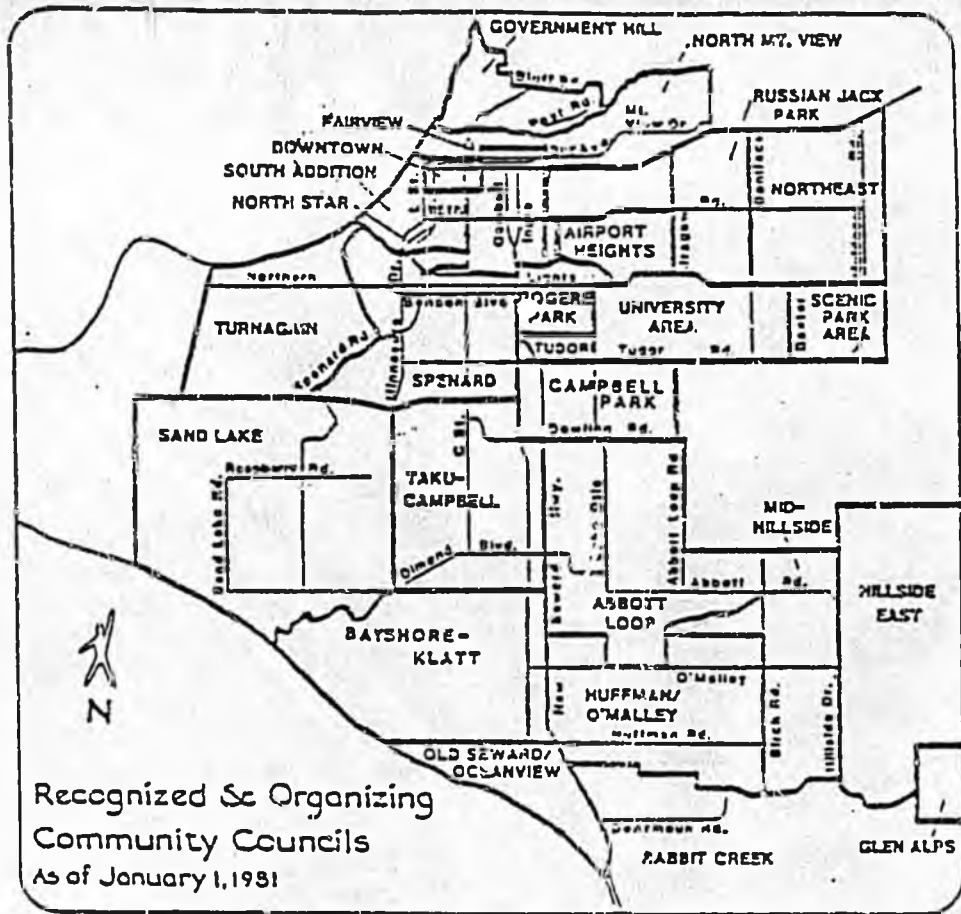
ALASKA LEGISLATURE COMMITTEE FILES 1983-1984

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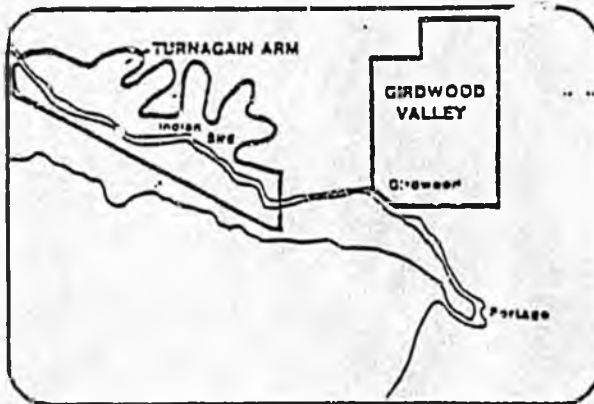
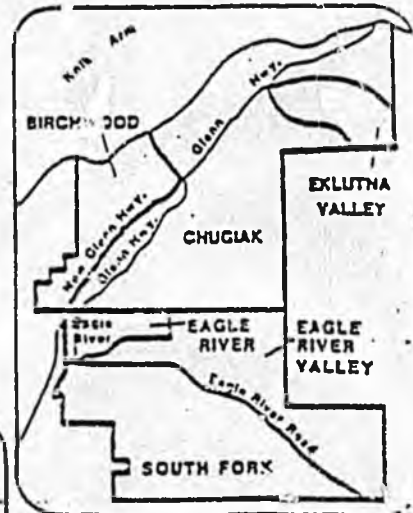
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COMMUNITY COUNCIL	REGIDWOOD CODE	COMMUNITY COUNCIL	REGIDWOOD CODE
ABBOTT LOOP	001	MID-HILLSIDE	016
AIRPORT HEIGHTS	002	NORTHCLIFF	017
BIRCHWOOD	003	NORTH WESTERN VIEW	018
CAMPBELL PARK	004	NORTH STAR	019
CHUGIAK	005	OLD SEWARD-OCEANVIEW	020
COMPTON	006	RABBIT CREEK	021
EAGLE RIVER	007	ROGERS PARK	022
EAGLE RIVER VALLEY AND SOUTH FORK	008	RUSSIAN JACK PARK	023
BAYSHORE-KLATT	010	SAND LAKE	024
FAIRVIEW	011	SCENIC PARK AREA	025
GIRDWOOD VALLEY	012	SOUTH ADDITION	026
GOVERNMENT HILL	013	SPENSARD	027
HILLSIDE EAST AND GLEN ALPS	014	TAKU-CAMPBELL	028
HUFFMAN/O'MALLEY	015	TURNAGAIN	029
		UNIVERSITY AREA	031



REDISTRICTING AND FINAL TAB DIFFERENCE OF 1370 FOR STATE 02 - ALASKA

DATE 111701

PAGE 1

COUNTY NAME ANCHORAGE	REDISTRICTING	FILE	POP	BLK	POP	EEEE	CTY	HCD	PLACE	TRACT	PARENT	ED
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			142	3	142	3	3000B 020					
			154	0	154	0	3000B 020					
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A letter w/ this information was sent  
 to Lt. Gov. Terry Miller + Karen Ward (Rehfeld)  
 on Sept. 15, 1981

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COUNTY NAME	PRINCE OF WA	REDISTRICTING	FILE	-----><-----				FINAL TAB	FILE	-----><-----				
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population for  
Thorne Bay*

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END OF LISTING

*DIST 17*  
*subtract 94*

# Anchorage Daily News

359, 252 PAGES

ANCHORAGE, ALASKA, SUNDAY, DECEMBER 25, 1983

PRICE

## Booming economy makes Alaska the fastest-growing state

By RONNIE CHAPPELL  
Daily News correspondent

The largest influx of people in Alaska history pushed the state's population past 500,000 in 1983 and confirmed Alaska as the fastest growing state in the nation.

The Alaska Department of Labor last year estimated the state's population at 460,937. This year, the five largest cities and boroughs in the state have reported combined population increases of 49,799 — which alone would push Alaska over the 500,000 mark. The state will not

release an official estimate until February.

"If growth continues at the same rate (as in 1982) we're going to be over 500,000 in 1983," said Jo Van Patten, an economist in the state Department of Labor.

The population boom between the 1980-to-1983 period exceeds the leaps of the Gold Rush, World War II and the pipeline era.

"In sheer numbers this would be the greatest influx," said John Whitehead, associate professor of history at the University of Alaska, Fairbanks. "In the past it has taken at least a

decade to add 100,000 people to the state's population.

Based on figures provided by the Alaska Department of Labor and local governments throughout the state, The Daily News estimates the state's population at 505,000, an increase of more than 100,000 since the 1980 U.S. Census.

The Department of Labor does not base its population estimates solely on figures supplied by Alaska communities. The figures are suspect because communities receive state revenue-sharing money on the basis of population. They have an incentive

to report the highest possible population, Van Patten said.

For that reason, Van Patten checks the figures against a formula based on elementary school enrollments, housing starts and deaths.

In addition, the burgeoning population of the state's economy has expanded by about 40,000 jobs since 1980.

Those new jobs are byproduct of subsidized home loans, permanent fund dividends, an increasing state payroll and massive government construction. See Page A-8, GROWTH

# Growth

Continued from Page A-1

struction budgets, according to a new report by the labor department.

Experts agree that \$14 billion in state spending — about 1½ times the amount spent on the trans-Alaska pipeline — is the underlying cause of the boom.

Despite recent population gains, Alaska remains the smallest state, trailing Vermont, which had 518,000 people in July 1982.

But Alaska, with a population increase of more than 10 percent between 1980 and 1982, is the fastest growing. In the same period, Vermont's population grew 1.3 percent.

If the Alaska economy continues its present pace for one more year, Vermont could be the smallest state in the nation by the end of 1984.

In Alaska, the Matanuska-Susitna Borough is the fastest growing area in the nation's fastest-growing state. Its population is up 71 percent since 1980 from 17,316 to 30,568.

During the same period, Anchorage added 56,415 people, an increase of 32 percent, for a total of 230,846.

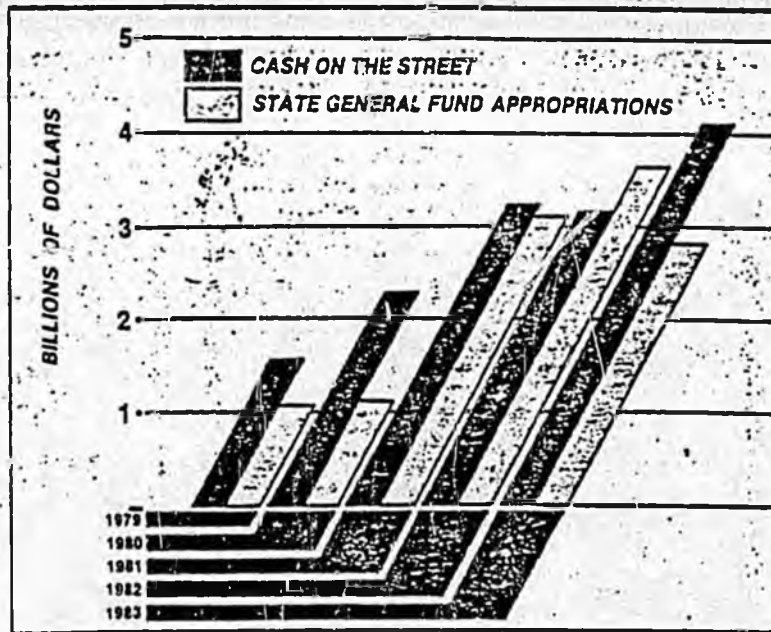
The population of the Kenai Peninsula is up 38 percent, Fairbanks is up 20 percent and Juneau is up 40 percent.

Rural Alaska is growing too, but at more moderate rates.

Rapid growth in the 1980s has not hit Alaska with the sudden, sledgehammer force of the pipeline years. Because it has come independent of a single mammoth project that focuses public attention, the growth has been felt area by area without being noted as a major statewide phenomenon.

In Anchorage, commuters are spending more time driving to and from work. School enrollment in Palmer is growing so fast that after the holidays some children will return to classes in a National Guard Armory. Vacancy signs are disappearing in Fairbanks and developers are building apartments again.

In Soldotna, the spruce trees behind Ellington's Hardware have been replaced by a McDonald's, a pizza restaurant, a Safeway and a 21-store



mall.

"It was kind of scary at first," said store owner Joan Ellington. But "after doing some reading about other places this has happened, we realized it could double our business."

Still, the changes amaze Ellington.

"It makes you wonder what's down here to bring all these people," she said.

The answer to her question is simple.

Work.

One clerk at Ellington's Hardware has been in the state 16 months. She came with her husband and four children. The other clerk arrived four years ago with five other family members.

Thousands of people are coming to Alaska to escape a bitter recession that has produced bread lines and soup kitchens in other parts of the country. They are leaving old jobs to find better ones.

"Economic opportunity is the No. 1 reason they're coming," said Neal Fried, an economist for the Alaska Department of Labor. "People have heard about wages. They've heard about the pipeline. Many have relatives here who tell them to come."

For many, the move has been a good one.

"There is a lot of opportunity for people here," Fried said. "But it is not a job market with a shortage of people. Unemployment hasn't come down."

In fact, despite the addition of 40,000 jobs to the economy, the unemployment rate actually increased from 9.3 percent to 10.1 percent during the last two years. Nearly 4,000 more people are looking for work in Alaska today than in 1981.

Still, it is better to be unemployed in Alaska than in the idle factory towns of Michigan or logging communities of northern Idaho. The chances of finding work in an expanding economy are better than in a stagnant one, Fried said.

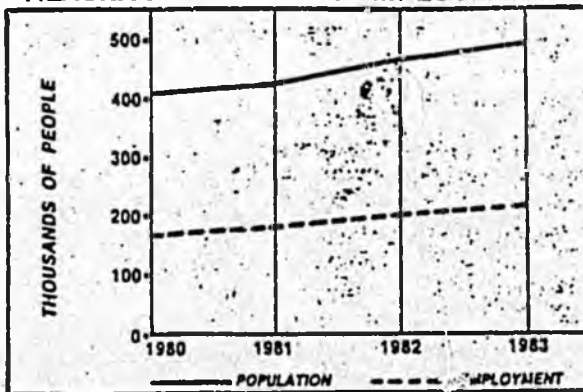
Huge numbers of new Alaskans are not finding jobs in the oil, fishing and timber industries. Instead, they are working as carpenters, roofers, electricians, store managers, clerks, waitresses, cooks, gas station attendants, lawyers, engineers, surveyors, real estate agents, reporters, teachers. Some have started new businesses.

Two thousand jobs have been created on the Kenai Peninsula despite the lack of significant growth in the oil and fishing industries.

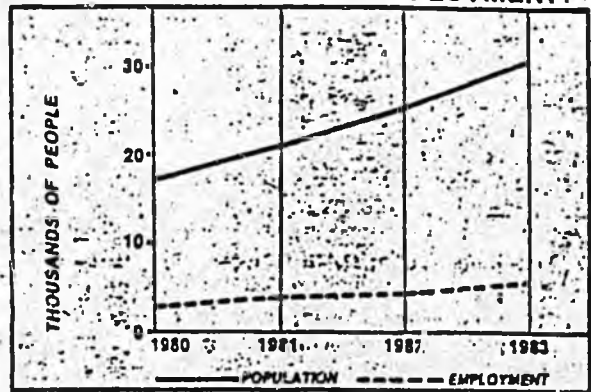
People are working in new shopping centers, in new restaurants, gift shops, nurseries, computer stores and sporting goods outlets. Oldtimers are starting to complain that downtown Soldotna looks like Northern Lights Boulevard in Anchorage.

Residential and commercial construction reached all-time highs in 1983. Homer Electric Association added 1,500 new

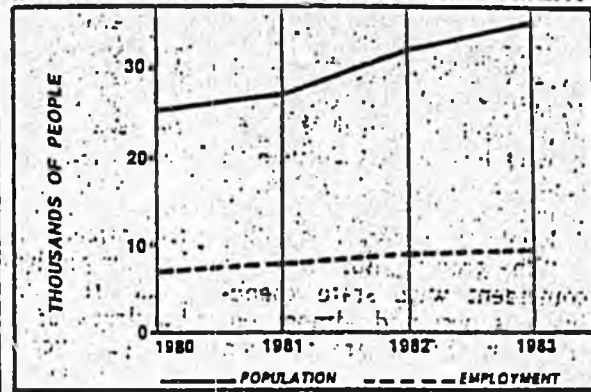
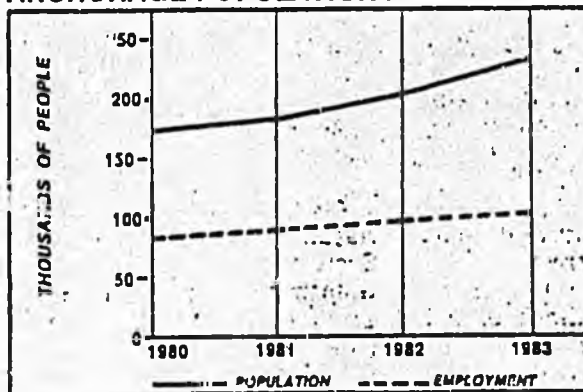
ALASKA POPULATION / EMPLOYMENT



MAT-SU POPULATION / EMPLOYMENT



ANCHORAGE POPULATION / EMPLOYMENT PENINSULA POPULATION / EMPLOYMENT



Charts: Daily News art department

customers.

Sales tax revenues generated on retail sales in Kenai and Soldotna are up 40 percent over 1982.

"What's happening here is being evidenced everywhere else in Alaska," said Frank McIlhargey of the borough resource development office. "We're in the midst of a government-dollar-generated boom."

Assessing the effect of massive government spending on the economy is difficult. It was made easier in 1982 when economists Gregg Erickson and Tom Singer developed a way to track the money pumped into the economy by state government.

The result is a series of multi-billion dollar totals — based on checks actually issued by the treasury — that Erickson and Singer call Cash-on-the-Street.

Cash-on-the-Street includes loans by the Alaska Housing Finance Corp. and other state agencies, permanent fund dividends, the salaries paid state employees, operation and maintenance costs, general fund and bond financed capital projects.

the permanent fund.

In four of the last five years, Cash-on-the-Street exceeded state general fund appropriations — the figure most often referred to as a measure of state spending.

In a September 1983 report, the state Department of Labor observed that "Alaska employment is closely correlated with Cash-on-the-Street. In a statistical sense, 95 percent of the growth in employment from 1978 through the first half of 1983 is explained by growth in Cash-on-the-Street."

According to Erickson and Singer, "statistical evidence suggests that state spending now accounts for 44 percent of Alaska personal income."

Cash-on-the-Street has increased steadily from \$1.5 billion in fiscal year 1979 to \$4 billion in 1983. It peaked during a three-month period in the summer of 1982 when the state paid \$1.3 billion to people and businesses in Alaska.

Cash-on-the-Street does not affect employment and population immediately, the economists said. There is a six-month to one-year lag, which means this year's boom is the

It is unlikely that Cash-on-the-Street will again reach the record levels of 1982, according to the Labor department report. Oil revenues have declined since 1980 and state spending is down. North Slope production will fall off sharply after 1990. One-third of the known reserves in Prudhoe Bay have already been pumped through the pipeline.

The looming question now is what happens to the state's economy when the state can no longer afford subsidized loans, permanent fund dividends and huge expenditures on capital projects.

"Nobody really knows what's going to happen," said Scott Goldsmith, an economist with the Institute of Economic and Social Research at the University of Alaska.

"I've got to believe some of the small new businesses are operating right at the margin now. When Cash-on-the-Street tails off, those marginal businesses are going to start hurting and go under."

But Goldsmith says he doesn't see a bust in the future.

The economic contraction that follows a decline in state

# Alaska becomes nation's fastest-growing state

Continued from Page A-8

spending won't be "as immediate and dramatic as the growth has been," Goldsmith said. "Businesses will try to tough it out."

Erickson agrees.

"The growth that has been coincident with state spending has occurred almost entirely in service areas" such as retail trade, communications and transportation, Erickson said.

"There is some reason to think that won't be lost. It depends on where and how fast declines in state spending occur and it depends on how much faith people have in Alaska."

The service sector of the economy is population sensitive. If people remain in Alaska despite a decrease in their standard of living, if they are willing to make do with less disposable income, then chances are good the economy can be weaned from state spending without too much social dislocation, Erickson said.

He also pointed out that:

- Much of the recent growth was needed. Compared to similar markets in other parts of the nation, the service economy in Alaska was underdeveloped.

- Alaska's basic industrial base will not be affected by contraction of state spending. Oil field employment may actually increase as production declines.

- Even today, construction is not a big part of the state economy. Construction employment is the same today — in terms of percentage of total labor force — as it was in 1963.

- There has been no five-year period since 1950 in which the service sector didn't add more jobs to the

state economy than the industrial sector.

If policy makers better understood the relationship between state spending and the economy, Erickson believes, they could mitigate the negative effects of future declines in Cash-on-the-Street.

Is it wise to spend hundreds of millions of dollars each year on new capital projects? On permanent fund dividends? On subsidized loans? Should the state spend money to keep down local property taxes? What is best for the economy? Which appropriations have the biggest effect, per dollar expended, on employment?

Without answers to questions like these, Erickson said, state leaders can't hope to soften the effects of future state spending cuts on the economy.

Right now, no one is serious trying to find the answers. "There's been no institutional support for this kind of research," Erickson said.

Big spending cuts are inevitable because oil income is rapidly declining. That fact becomes apparent when state revenue projections are adjusted for inflation.

According to Matt Berman of the Institute for Social and Economic Research, oil revenue will decline 50 percent —

in terms of 1982 dollars — by the early 1990s.

Nothing on the horizon is capable of replacing the revenue now provided by oil. Even royalty income generated by the proposed Alaska Natural Gas Transportation System will not be sufficient, Goldsmith said. Offshore oil exploration is taking place on federal leases.

By the mid-1990s, interest income generated by the permanent fund will be the state's second largest revenue source. How big a revenue source it becomes depends on how much money is set aside today.

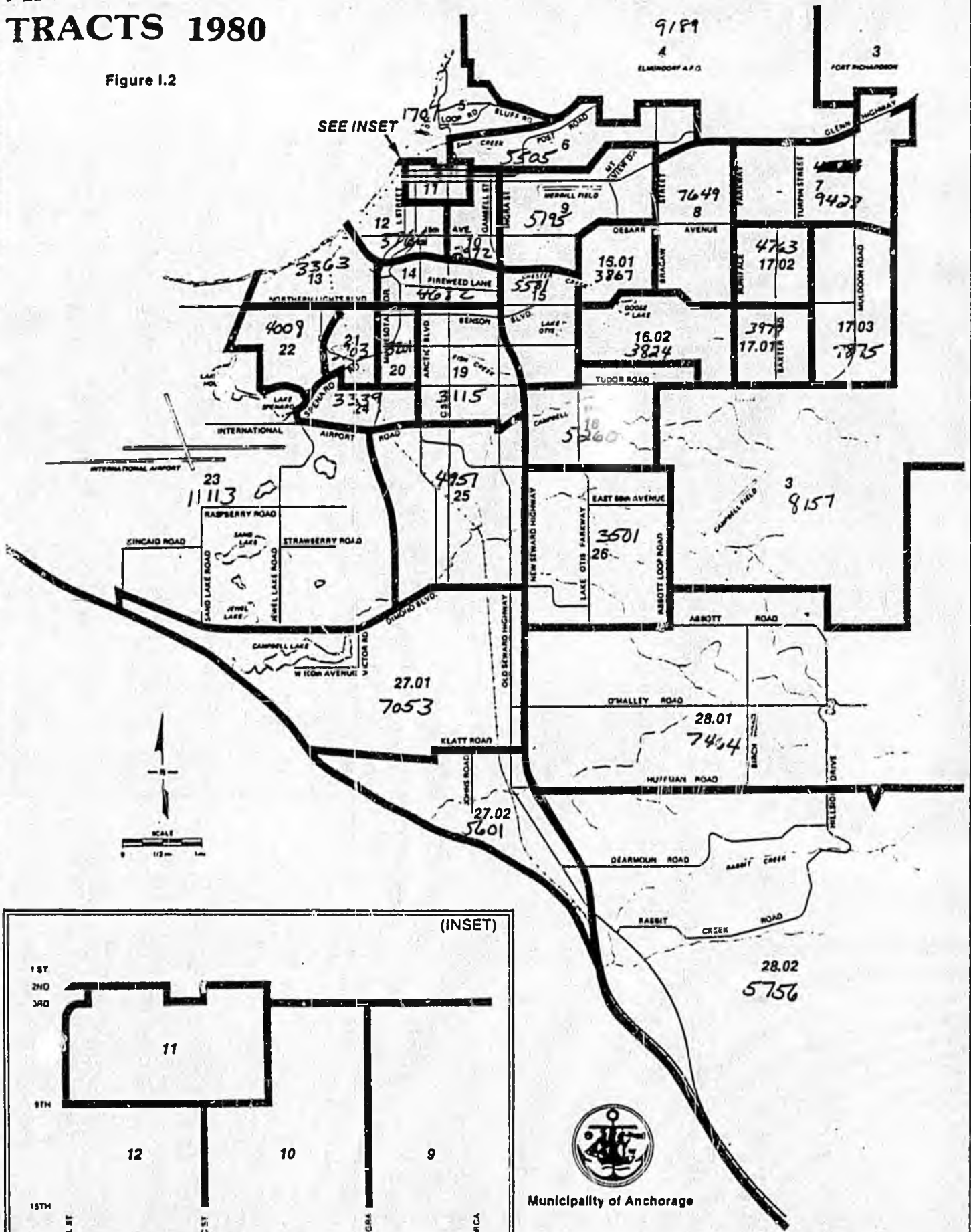
"Alaska has already enjoyed five years of Prudhoe Bay production. In six to eight years, production will decline significantly.

The choices facing lawmakers now are difficult. Should they maintain the state's thriving economy over the next few years by continuing to pump huge amounts of money into the marketplace? Or should they cut state spending today to keep the cost of basic government services affordable after 1990? Is there any way to accommodate these seemingly incompatible goals?

"There are no easy answers," Goldsmith said.

# ANCHORAGE CENSUS TRACTS 1980

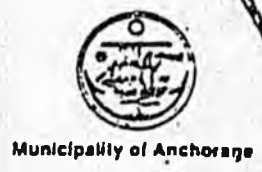
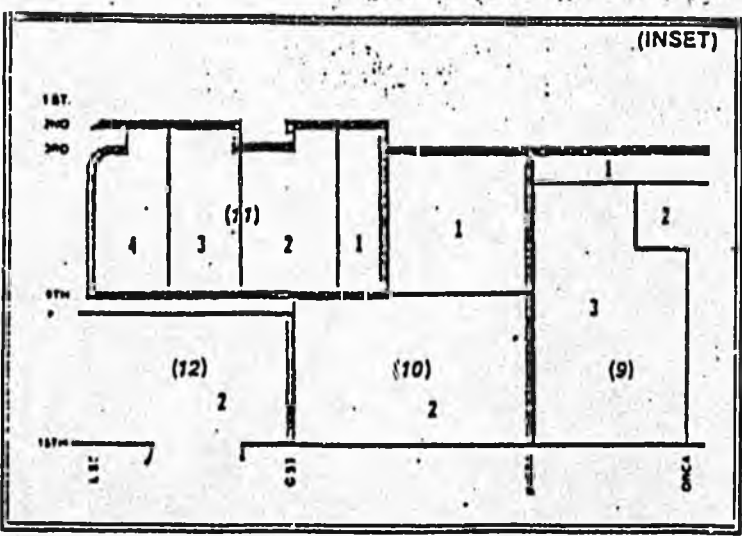
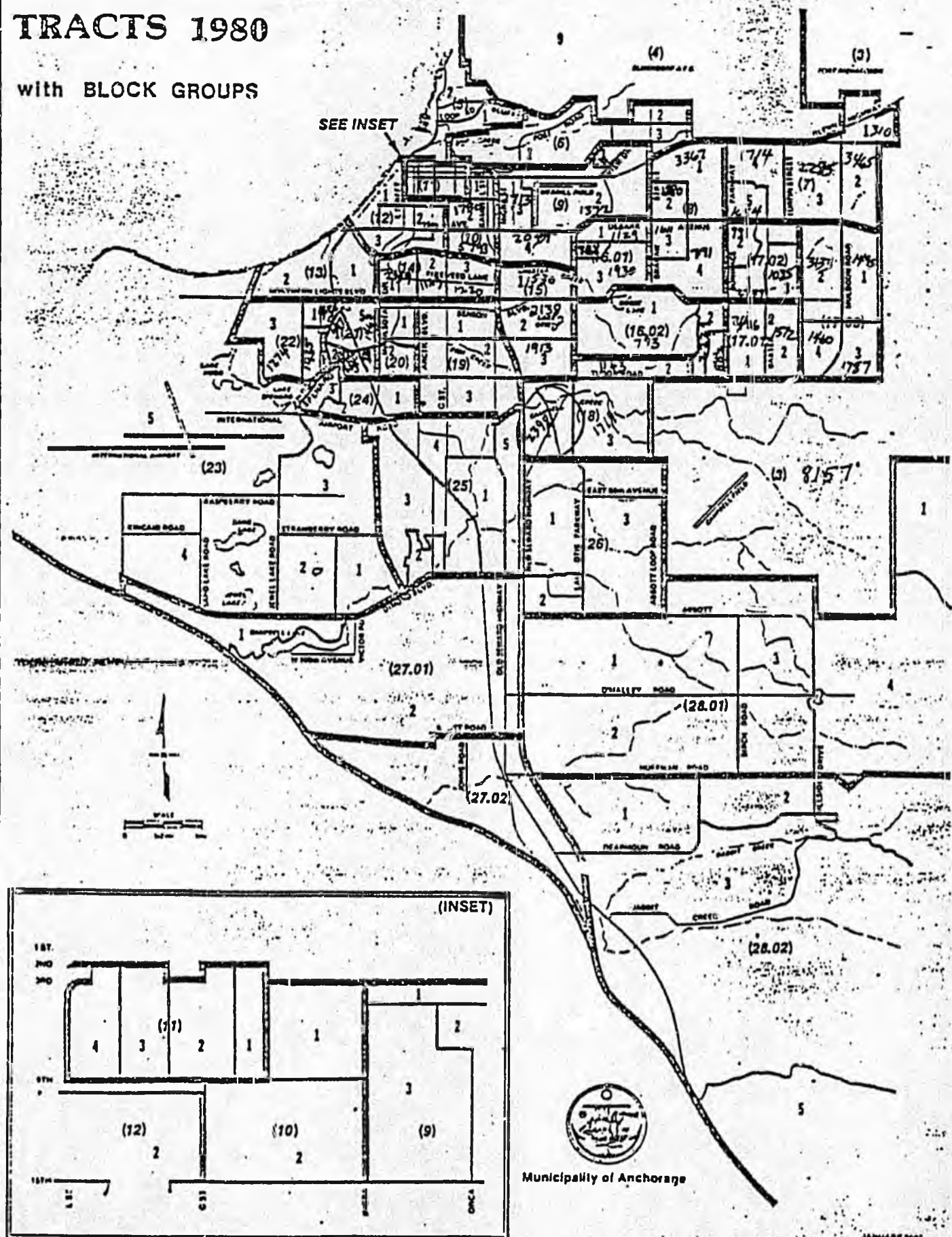
Figure 1.2



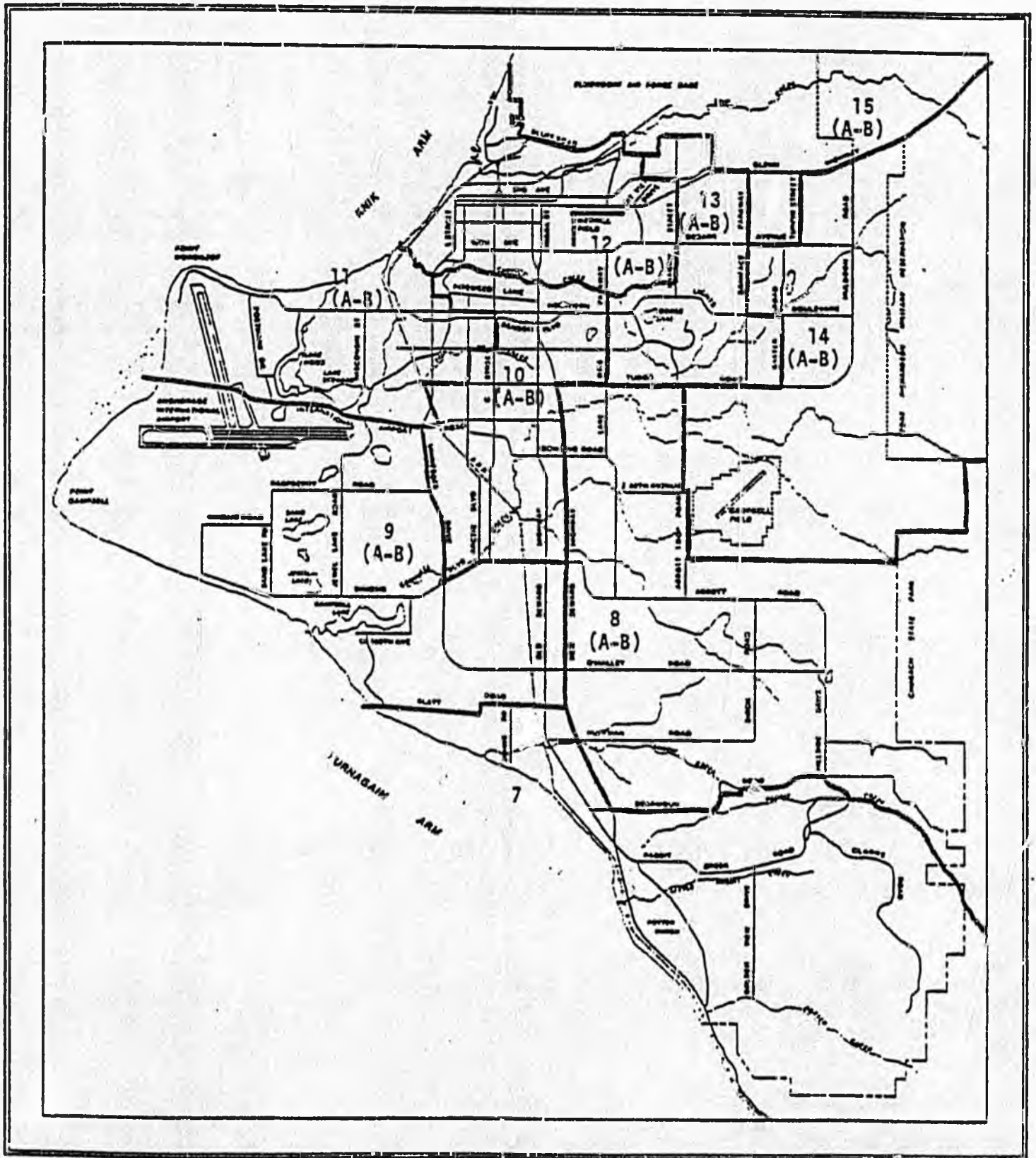
Municipality of Anchorage

# ANCHORAGE CENSUS TRACTS 1980

with BLOCK GROUPS



1981 ANCHORAGE ELECTION DISTRICTS



These boundaries are approximate.

POPULATION BY 1980 CENSUS TRACTS  
1970, 1980, 1981, 1982, 1983

Tract	Population <sup>1</sup> 1970	Population <sup>1</sup> 1980	Population <sup>2</sup> 1981	Population <sup>2</sup> 1982	Population <sup>2</sup> 1983
1.00 Chugiak	2,851	5,330	5,538	5,871	8,208
2.00 Eagle River	2,981	7,528	8,787	9,106	13,741
3.00 Fort Richardson	10,751	8,157	8,821	8,672	7,855
4.00 Elmendorf AFB	13,280	9,189	9,080	8,956	9,451
5.00	3,378	1,707	2,071	2,371	2,095
6.00	5,522	5,505	6,178	6,108	7,125
7.00	7,060	9,428	10,172	11,331	11,664
8.00	5,153	7,649	8,950	10,335	9,946
9.00	3,845	5,195	5,613	5,759	6,859
10.00	3,369	2,972	3,272	3,825	4,315
11.00	2,118	1,131	1,202	1,275	1,595
12.00	4,248	3,766	3,968	4,594	4,958
13.00	3,183	3,363	3,555	3,927	3,585
14.00	5,021	4,682	5,400	5,773	5,880
15.00	4,696	5,581	5,473	5,945	5,824
16.01	3,559	3,867	3,943	4,045	4,247
16.02	1,482	3,824	4,189	4,438	4,164
17.01	975	3,978	4,055	4,981	4,858
17.02	3,864	4,763	5,104	5,281	5,716
17.03	3,123	7,875	8,576	9,107	10,162
18.00	3,054	5,260	6,067	5,174	7,093
19.00	1,776	3,115	3,725	4,010	4,150
20.00	4,322	3,201	3,592	3,904	3,981
21.00	4,481	3,703	3,796	3,729	4,586
22.00	2,741	4,000	4,309	5,810	6,407
23.00	4,199	11,113	11,705	13,014	14,865
24.00	3,366	3,339	3,747	3,398	3,562
25.00	3,079	4,951	5,394	7,618	8,258
26.00	1,876	3,501	3,717	4,325	7,200
27.01	1,044	7,053	7,527	7,198	8,823
27.02	1,461	5,601	5,085	6,777	8,027
28.01	2,321	7,464	7,245	9,339	10,832
28.02	1,889	5,756	6,968	7,241	9,379
29.00 Turnagain Arm	310	876	937	979	1,445
		156,009			
Anchorage Bowl	96,212	143,351	172,499	188,260	207,452
Military	24,031	17,346	17,901	17,628	16,574
Eagle River/Chugiak	5,832	12,858	14,325	14,977	21,949
Municipality of Anchorage	26,385	174,431	187,761	204,216	230,846

<sup>1</sup> Source: U.S. Bureau of the Census

<sup>2</sup> Source: Municipality of Anchorage, Community Planning Department

Municipality of Anchorage  
Department of Community Planning  
Research Section

4/27/83

avd4/mpct1



UNITED STATES DEPARTMENT OF COMMERCE  
Bureau of the Census  
Washington, D.C. 20233

OFFICE OF THE DIRECTOR

Honorable Terry Martin  
Alaska House of Representatives  
Anchorage, Alaska 99501

Dear Mr. Martin:

This is in response to your telephone request concerning corrections to the April 1, 1980 census population counts for Anchorage, Alaska made subsequent to the release of the Public Law 94-171 data. These corrections, which changed the 1980 population count of Census Tract 0002 from 6,114 to 7,528 and the count for the city and borough of Anchorage from 173,017 to 174,431, are reflected in final 1980 census tabulations and publications.

We are enclosing excerpts from the Block Statistics report (Census Tract 0002) for the Anchorage Standard Metropolitan Statistical Area, as well as a listing of the individual blocks affected by the changes. Map sheets containing Census Tract 0002 also are enclosed.

If you need additional information, please contact Mr. Joel Miller, Population Division, Bureau of the Census, Washington, D.C. 20233, (301) 753-7955.

Sincerely,

C. L. KINCANNON  
Deputy Director  
Bureau of the Census

Enclosures

\* Letter was sent to Lt. Gov. Miller + Karen Ward  
(Rehfeld)  
on Sept 15, 1981 Advising them of the Eagle River  
Census Correction. The Nov. 1981 Publication also has the  
Updated Figures.

Copies of Block Maps were included  
(on shelf)



# Block Statistics

## ANCHORAGE, ALASKA STANDARD METROPOLITAN STATISTICAL AREA

PHC80-1-68

# CONTENTS

	Page	Fiche/ Frame
List of PHC80-1 Block Statistics Reports . . . . .	IV	1/A4
<b>TEXT</b>		
Introduction . . . . .	VII	1/A7
Appendix A Area Classifications . . . . .	A-1	1/A10
Appendix B Definitions and Explanations of Subject Characteristics . . . . .	B-1	1/A13
Appendix C General Enumeration and Processing Procedures . . . . .	C-1	1/B2
Appendix D Accuracy of the Data . . . . .	D-1	1/B3
Appendix E Facsimiles of RC-100 Instructions and Questionnaire Paper . . . . .	E-1	1/B5

### MAPS

Printed maps identifying the geographic areas covered herein are provided in a separate package which can be ordered from the Superintendent of Documents.

An index to 1980 census maps, which includes an SMSA map index to block numbered areas and an index listing identifying each block's geographic area and its map sheet number(s), accompanies the maps.

### TABLES

	Page	Fiche/ Frame
1. Characteristics of Population and Housing Units, for the Block's Portion of the SMSA: 1980 . . . . .	1	1/B10
The SMSA		
Boroughs		
Places		
2. Characteristics of Population and Housing Units, by Blocks: 1980 . . . . .	2	1/B11
by Units Within Census Tracts or Block Numbering Areas (BMA's)		
3. Blocks With Zero Population and Zero Total Housing Units: 1980 . . . . .	24	1/B5

### INDEX

An index to the location of data by geographic area on each fiche appears in frame G14.

THE FOLLOWING DOCUMENT(S) MAY NOT FILM  
LEGIBLY BECAUSE OF POOR QUALITY OF THE  
ORIGINAL.



U.S. Department of Commerce  
 Malcolm Baldrige, Secretary  
 Joseph R. Wright, Jr., Deputy Secretary  
 Robert G. Dedrick, Assistant Secretary  
 for Economic Affairs

**BUREAU OF THE CENSUS**  
 Bruce Chapman, Director  
 Daniel S. Levin, Deputy Director

**POPULATION DIVISION**  
 Roger A. Hantel, Chief

**HOUSING DIVISION**  
 Arthur F. Young, Chief

## Acknowledgments

Many persons participated in the diverse activities of the 1980 census. These acknowledgments generally reflect staff during the assembling process. The Bureau was guided by then Director, Vincent P. Sardella, and Deputy Director Daniel S. Levin. Primary direction of the census program was performed by George E. Hall, then Associate Director for Demographic Fields, assisted by Sara J. Garcia, then Associate Director for Demographic Content, in conjunction with William A. Baller, Associate Director for Statistical Structure and Methodology, Thomas H. Hamilton, Assistant Director for Computer Services, Shirley Kellert, Associate Director for Economic Fields, James D. Lindeke, Associate Director for Administration, Rex L. Pullin, Associate Director for Field Operations, and W. Bruce Ramsey, Associate Director for Information Technology. The director's staff was assisted by Peter A. Scaupman and Sherry L. Crawford.

Responsibility for developing the population portion of the 1980 census questionnaire content and designing the tabulations rest in the Population Division, under the supervision of Sloyer Ziser, then Chief, Paul J. Schmittler, Staff Assistant for Content Programs, Roger A. Hantel, Thomas D. Maloney, and Arthur J. Hantel, Assistant Chief.

Responsibility for developing the housing portion of the 1980 census questionnaire content, designing the tabulations, and preparing this report rest in the Housing Division, under the supervision of Arthur F. Young, Chief. This report was planned (and written) by William A. Deans, Chief, Operational Planning and Data Services Branch, assisted by Carol A. Costelloe and Richard G. Karpis.

Responsibility for the overall planning, coordinating, and processing of the 1980 census rest in the Decennial Census Division under the direction of Gerald J. Post, then Acting Chief, assisted by Marie G. Jorgens, Rachel F. Brown, Donald R. DeLoach, Leonard Goldberg, Sara G. Knapp, Jr., and Roger O. Leppig.

Data base and general system support was developed and provided by Systems

Development Division, Judy W. Smith, Chief, under the direction of John Jerry Bell, Assistant Chief.

Computer processing was performed in the Computer Operations Division, C. Thomas Dickens, then Chief, and John G. Holliman, Assistant Chief.

The Statistical Methods Division was largely responsible for developing new procedures to obtain a more accurate count of the population. This work was supervised by Charles G. Jones, Chief, David V. Robinson, James M. Millard, and Robert T. O'Rourke, Assistant Chiefs.

Geographic progress and plans were developed in the Geographic Division under the direction of Gerald G. Crockett, then Assistant Chief, Robert W. Murr and Silke G. Tarrant, Assistant Chiefs, and Donald L. Hildebrand, Special Assistant. Joseph J. Kozel supervised geographic operational plans.

Data collection activities were supervised in the Field Division by Richard C. Hart, then Chief, under the direction of Lawrence T. Linn and Stanley D. Mandelst, then Assistant Chiefs, with the assistance of the director and assistant directors of the Bureau's regional offices.

The coordination and acquisition of automatic data processing equipment were the responsibility of the Automatic Data Processing Planning Staff, James R. Popel, Chief, under the direction of Richard L. Post, Deputy Chief.

The system design, technical specifications, construction, and installation of the FOSSIC and Automated Census Technology System were the responsibility of Technology Services Division, Melvin Anderson, Chief, assisted by Robert J. Joseph, Assistant Chief.

Questionnaire processing procedures were developed in the Decennial Processing Staff, James E. Winkler, then Chief, under the direction of Henry F. O'Haver, Assistant Chief. The manual processing and interpretation of the questionnaires were performed at three decennial processing locations as follows: Data Processing Division, Don L. Adams, Chief; Jacksonville

Processing Office, Robert L. Eldred, then Processing Manager; New Orleans Processing Office, Robert L. Allen, Chief; and Laguna Hills Processing Office, Robert N. Scheller, Chief.

Administrative support was provided by the Administrative Services Division, G. Bryant Barnes, then Acting Chief.

Publications editing, printing, and composition were performed in the Publications Services Division, Raymond J. Kasli, Chief, under the direction of Jeffrey E. Anderson, Arthur C. Dabson, and Gerald A. Hays.

User services were provided by the Data User Services Division under the supervision of Michael G. Garland, Chief, and Marshall L. Tarnoff, Assistant Chief.

Many other persons participated in the various activities of the 1980 census. For a list of key personnel, refer to the History of the 1980 Census of Population and Housing, PHC80-R2.

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Table 2. Characteristics of Population and Housing Units, by District, 1980—Cont. Anderwya Kanyik, Alaska

The 1980 census of Alaska was conducted by the Bureau of Economic Analysis, U.S. Department of Commerce, Washington, D.C. 20540.

District	Population		Total Housing Units		Single-Family Units		Multiple-Family Units	
	1980	% of 1970	1980	% of 1970	1980	% of 1970	1980	% of 1970
1	10,000	100	10,000	100	10,000	100	0	0
2	20,000	100	20,000	100	20,000	100	0	0
3	30,000	100	30,000	100	30,000	100	0	0
4	40,000	100	40,000	100	40,000	100	0	0
5	50,000	100	50,000	100	50,000	100	0	0
6	60,000	100	60,000	100	60,000	100	0	0
7	70,000	100	70,000	100	70,000	100	0	0
8	80,000	100	80,000	100	80,000	100	0	0
9	90,000	100	90,000	100	90,000	100	0	0
10	100,000	100	100,000	100	100,000	100	0	0
11	110,000	100	110,000	100	110,000	100	0	0
12	120,000	100	120,000	100	120,000	100	0	0
13	130,000	100	130,000	100	130,000	100	0	0
14	140,000	100	140,000	100	140,000	100	0	0
15	150,000	100	150,000	100	150,000	100	0	0
16	160,000	100	160,000	100	160,000	100	0	0
17	170,000	100	170,000	100	170,000	100	0	0
18	180,000	100	180,000	100	180,000	100	0	0
19	190,000	100	190,000	100	190,000	100	0	0
20	200,000	100	200,000	100	200,000	100	0	0
21	210,000	100	210,000	100	210,000	100	0	0
22	220,000	100	220,000	100	220,000	100	0	0
23	230,000	100	230,000	100	230,000	100	0	0
24	240,000	100	240,000	100	240,000	100	0	0
25	250,000	100	250,000	100	250,000	100	0	0
26	260,000	100	260,000	100	260,000	100	0	0
27	270,000	100	270,000	100	270,000	100	0	0
28	280,000	100	280,000	100	280,000	100	0	0
29	290,000	100	290,000	100	290,000	100	0	0
30	300,000	100	300,000	100	300,000	100	0	0
31	310,000	100	310,000	100	310,000	100	0	0
32	320,000	100	320,000	100	320,000	100	0	0
33	330,000	100	330,000	100	330,000	100	0	0
34	340,000	100	340,000	100	340,000	100	0	0
35	350,000	100	350,000	100	350,000	100	0	0
36	360,000	100	360,000	100	360,000	100	0	0
37	370,000	100	370,000	100	370,000	100	0	0
38	380,000	100	380,000	100	380,000	100	0	0
39	390,000	100	390,000	100	390,000	100	0	0
40	400,000	100	400,000	100	400,000	100	0	0
41	410,000	100	410,000	100	410,000	100	0	0
42	420,000	100	420,000	100	420,000	100	0	0
43	430,000	100	430,000	100	430,000	100	0	0
44	440,000	100	440,000	100	440,000	100	0	0
45	450,000	100	450,000	100	450,000	100	0	0
46	460,000	100	460,000	100	460,000	100	0	0
47	470,000	100	470,000	100	470,000	100	0	0
48	480,000	100	480,000	100	480,000	100	0	0
49	490,000	100	490,000	100	490,000	100	0	0
50	500,000	100	500,000	100	500,000	100	0	0

Alaska—(1) Anchorage, Alaska 99501

MOOD STATISTICS

Table 1. Blocks With Zero Population and/ Zero Total Housing Units: 1980

Alaska

Alaska Borough-City	Alaska Borough-City	Alaska Borough-City
101	202	401
102	203	402
103	204	403
104	205	404
105	206	405
106	207	406
107	208	407
108	209	408
109	210	409
110	211	410
111	212	411
112	213	412
113	214	413
114	215	414
115	216	415
116	217	416
117	218	417
118	219	418
119	220	419
120	221	420
121	222	421
122	223	422
123	224	423
124	225	424
125	226	425
126	227	426
127	228	427
128	229	428
129	230	429
130	231	430
131	232	431
132	233	432
133	234	433
134	235	434
135	236	435
136	237	436
137	238	437
138	239	438
139	240	439
140	241	440
141	242	441
142	243	442
143	244	443
144	245	444
145	246	445
146	247	446
147	248	447
148	249	448
149	250	449
150	251	450
151	252	451
152	253	452
153	254	453
154	255	454
155	256	455
156	257	456
157	258	457
158	259	458
159	260	459
160	261	460
161	262	461
162	263	462
163	264	463
164	265	464
165	266	465
166	267	466
167	268	467
168	269	468
169	270	469
170	271	470
171	272	471
172	273	472
173	274	473
174	275	474
175	276	475
176	277	476
177	278	477
178	279	478
179	280	479
180	281	480
181	282	481
182	283	482
183	284	483
184	285	484
185	286	485
186	287	486
187	288	487
188	289	488
189	290	489
190	291	490
191	292	491
192	293	492
193	294	493
194	295	494
195	296	495
196	297	496
197	298	497
198	299	498
199	300	499
200	301	500
201	302	501
202	303	502
203	304	503
204	305	504
205	306	505
206	307	506
207	308	507
208	309	508
209	310	509
210	311	510
211	312	511
212	313	512
213	314	513
214	315	514
215	316	515
216	317	516
217	318	517
218	319	518
219	320	519
220	321	520
221	322	521
222	323	522
223	324	523
224	325	524
225	326	525
226	327	526
227	328	527
228	329	528
229	330	529
230	331	530
231	332	531
232	333	532
233	334	533
234	335	534
235	336	535
236	337	536
237	338	537
238	339	538
239	340	539
240	341	540
241	342	541
242	343	542
243	344	543
244	345	544
245	346	545
246	347	546
247	348	547
248	349	548
249	350	549
250	351	550
251	352	551
252	353	552
253	354	553
254	355	554
255	356	555
256	357	556
257	358	557
258	359	558
259	360	559
260	361	560
261	362	561
262	363	562
263	364	563
264	365	564
265	366	565
266	367	566
267	368	567
268	369	568
269	370	569
270	371	570
271	372	571
272	373	572
273	374	573
274	375	574
275	376	575
276	377	576
277	378	577
278	379	578
279	380	579
280	381	580
281	382	581
282	383	582
283	384	583
284	385	584
285	386	585
286	387	586
287	388	587
288	389	588
289	390	589
290	391	590
291	392	591
292	393	592
293	394	593
294	395	594
295	396	595
296	397	596
297	398	597
298	399	598
299	400	599
300	401	600

# CONGRESSIONAL REDISTRICTING

A Public Information Monograph

AMERICAN BAR ASSOCIATION  
Special Committee on Election Law and Voter Participation

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*Council of State Gov.*  
CONGRESSIONAL REDISTRICTING

ABA Special Committee  
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DIVISION OF PUBLIC SERVICE ACTIVITIES  
AMERICAN BAR ASSOCIATION  
WASHINGTON, D.C. JUNE 1981

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The views set out in this report have not been considered by the ABA's House of Delegates and do not constitute the position of the American Bar Association except where explicitly noted as such.

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Congressional Redistricting  
Washington, D.C.

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## TABLE OF CONTENTS

### PREFACE

I. INTRODUCTION	
How Congressional Seats are Now Allotted .....	1
A Brief History of Redistricting .....	1
II. THE CURRENT REDISTRICTING SYSTEM .....	3
Gross Population Inequality: Past Injuries Healed .....	3
Current Redistricting Problems: The Gerrymander .....	3
Why Gerrymandering Harms .....	5
An Overview of Reform Proposals .....	7
Common Cause Proposal: Model for State Self-Improvement .....	8
Federal Guidelines with Redistricting Commission Requirement .....	8
Federal Guidelines Without Commission Requirement .....	8
III. THE ISSUES: ARE STANDARDS NEEDED? .....	9
To What Extent Should Standards be Articulated? .....	9
In Defense of Standards .....	9
In Opposition to Standards - Encroachment on States' Rights .....	10
Absence of Standards Throughout the Nation's History .....	10
Encouragement of Litigation .....	10
Standards: Conflicts or Priorities? .....	10
Examination of Specific Standards .....	11
Population Equality .....	11
Political Subdivisions .....	12
Contiguous Territory .....	12
Compactness .....	13
"Antigerrymandering" Standards .....	13
Other Considerations: "Affirmative Gerrymandering" Practices .....	15
Time Provisions .....	17
IV. THE ISSUES: WHO SHOULD MAKE THE REDISTRICTING DECISIONS? .....	18
Who Should be the Redistricting Rulemakers? .....	18
Contentions as to Congressional Authority .....	18
Contentions as to State Legislative Authority .....	18
Who Should be the Initial Apportioning Authority? .....	19
Accountability Provisions: Who Should Judge the Plan? .....	23
V. CONCLUDING OBSERVATIONS .....	24
Appendix A: Important Dates in Redistricting History .....	27
Appendix B: American Bar Association Resolution on Fair Redistricting .....	30
Appendix C: ABA Special Committee Report on Redistricting .....	32
Appendix D: Further Reference .....	36

## PREFACE

The American Bar Association Special Committee on Election Law and Voter Participation is now entering its second decade of service as one of the Association's major public service undertakings. Its work has been marked by a dual tradition of policy leadership and guidance to the ABA and of education for the bar and public on contemporary issues in election system improvement. The former is reflected in a number of formal ABA policy positions (popular election of the president, vice-presidential selection, voter registration by mail, amendment of the Federal Communications Act's "equal time" provisions, campaign financing reform, an independent federal election commission, and a presidential study commission on declining voter participation) by which the bar has contributed to the national dialogue and endorsed specific proposals for election law reform. The latter has borne fruit in a variety of conferences, symposia, and publications on current electoral system problems.

This monograph is a new addition to our public education tradition. It explores the important issues of congressional reapportionment theory and practice which still face the nation notwithstanding the "one person, one vote" giant step of the early 1960s. The message is particularly timely with our federal system on the brink of the major redistricting initiative that comes with each decennial census, and will be an important determinant of the fairness and equity accorded in the decade ahead of all citizens and all segments of society in their representation within the Congress of the United States.

The monograph was designed with a non-technical approach in mind. Despite its character as a "primer," informational appendices and literature references will be found to direct readers to relevant case and statutory law, analytical studies, and historic evolution and thereby permit more intensive study of the problem.

Fair redistricting is not just a priority of our Special Committee. It is a commitment of the entire American Bar Association. In 1979, the Association's governing body, its House of Delegates, in considering a variety of voter participation initiatives, formally supported the enactment of legislation that "provides for fair redistricting pursuant to the 1980 census without regard to partisan advantage." While no specific method of reapportionment was endorsed at the time, the concept itself was engraved in formal Association policy. Specific measures were weighed and explored at a conference cosponsored by the Committee in June 1980 with the National Science Foundation and a distinguished group of academics and practitioners at San Diego, California.\*

---

\*See conference volume, *Representation and Redistricting in the 1980s*, Grofman, Lijphart, McKay, Scarrow, eds. (1981, forthcoming)

The Committee would, therefore, welcome views, reactions, and suggestions from all readers of this handbook, whether or not Association members on how best to ensure implementation of the "fair redistricting" concept. If the pamphlet stimulates and informs this kind of dialogue—in bar, civic, and other forums of concerned citizen activity—it will have well served its purpose and the cause of good government.

Washington, D. C.  
June 1981

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## I. Introduction

Fair and equal representation, a cornerstone of the American political system, depends largely on the fairness of the process for selecting representatives. One of the most important factors in this process is the drawing of congressional districts from which members of the United States House of Representatives are chosen.\* State legislatures traditionally have been responsible for establishing district lines.

Alterations in congressional district lines after the 1980 census promise to be extensive. According to its 1980 figures, the Census Bureau estimates that population movement among states will cause about 14 states to gain or lose seats in the House of Representatives. This shift, combined with population movement within states, may force virtually all of the 435 existing district lines to be redrawn. Even though redistricting inequities have been reduced in the past two decades, under the 'one person, one vote' mandate, many citizens are dissatisfied with current methods of reapportionment.

### How Congressional Seats are Now Allocated

No matter how small its population, each state must have at least one representative in the House of Representatives. The remaining 385 seats are to be allotted so that each representative speaks for approximately the same number of people, thus attempting to provide each person with an equal share of representation in the nation's lawmaking processes.\*\*

The population figures used are those provided by the decennial U.S. census. The President transmits these figures to Congress during the first week of the first regular congressional session after the census. Within fifteen days after receiving these figures, the Clerk of the House sends the chief executive of each state a certification of the number of representatives to which the state is entitled. Each state, according to rules in its state constitution or statutes, then creates the same number of districts as the number of representatives to which it is entitled. While states are required to redistrict every ten years, no formal time limit exists for the completion of the redistricting plan.

### A Brief History of Redistricting\*\*\*

While state legislatures traditionally have been the main bodies responsible for redistricting, the Congress and the courts have played varying roles in the line-

\* The drawing of legislative districts (those from which representatives to a State House or Senate are chosen) is also central to fair representation, yet entails certain issues separate from those involved in congressional redistricting. For a more detailed discussion of legislative redistricting, see *Toward a System of Fair and Effective Representation*, Common Cause (Washington, D.C., 1977). Unless otherwise indicated, "redistricting" will refer only to congressional linedrawing.

\*\* U.S. Constitution, Article I, Section 2, clause 3; 2 U.S.C. § 2a.

\*\*\* "Reapportionment" refers specifically to distributing seats in established units of government, while "redistricting" signifies line-drawing to establish districts within these units. States receive an apportionment of congressional seats, after which districts are drawn. Both terms will be used interchangeably throughout this monograph to discuss how congressional seats are distributed within each state.

drawing process. Congress was silent on the issue before 1841. However, since that time, it has enacted several pieces of legislation to alter the congressional reapportionment system, with congressional involvement peaking in the early twentieth century. The current congressional redistricting law was passed in 1929. It contains very few directives but does mandate that representatives be apportioned every ten years according to the then most recent U.S. decennial census, based on the principle of equal representation (see Appendix A). Except for an act passed in 1976 which banned at-large elections (*i.e.*, those where the entire state votes for all seats to which the state is entitled), Congress has not recently imposed any redistricting rules on the state legislatures.\*

Until 1962, in the landmark case of *Baker v. Carr*, 369 U.S. 186, the courts trailed far behind state legislatures and Congress in their involvement with reapportionment.\*\* Indeed, in the 1946 case, *Colegrove v. Green*, 328 U.S. 549, the Supreme Court asserted that it had neither a judicial responsibility nor a right to address the redistricting question, on the grounds that it was a political issue. *Baker v. Carr*, however, offered a dramatic departure from the previous stance of judicial "laissez-faire," in ruling that federal courts do have authority to judge whether districts are apportioned fairly. Some controversy, however, still exists concerning the appropriate roles of Congress and the courts in this area.

## II. The Current Redistricting System

### Gross Population Inequality: Past Injuries Healed

Despite the requirement that congressional districts be redrawn every ten years so that each district has approximately the same population size, many states have had congressional districts whose populations varied dramatically. A study by the Brookings Institution revealed that in 1962 half of the states with more than one congressional district (21 states out of 42) had constituencies in which the smallest district contained less than fifty per cent of the population of the largest district.\*

In the 1964 case of *Wesberry v. Sanders*, 376 U.S. 1, the Supreme Court condemned this gross inequity. It voided Georgia's redistricting plan, deciding that the population disparities among congressional districts violated the spirit of Article I, Section 2 of the Constitution. Articulating what is frequently referred to as the "one person, one vote" or "as nearly as practicable" standard, the Court wrote that "as nearly as practicable, one [person's] vote in a congressional election is to be worth as much as another's." Following the 1970 redistricting, most districts adjusted to this mandate: 402 of the 435 congressional districts were within 1 per cent of the district population average for their state.

### Current Redistricting Problems: The Gerrymander

Even though major inequities in the area of population disparity have been greatly reduced, redistricting reformers contend that substantial and avoidable injustices remain. These defects result largely from the practice of "gerrymandering."

*What is "Gerrymandering?"* In 1812, the Massachusetts state legislature created a dragonlike district to benefit the Democratic party over which then Governor Elbridge Gerry had tremendous influence (see *Figure 1*). Drawing a head, claws and wings on a picture of the district, painter Gilbert Stuart exclaimed that it looked like a salamander. Editor Benjamin Russell, however, noted that "gerrymander" would be a more appropriate name, in "honor" of the governor. Since then, the term has generally referred to the drawing of district boundary lines for the purpose of giving some individual or group a political advantage. It is important to note that gerrymandering is detectable in terms of its *impact*, not necessarily by the *shape* of the district.\*\*

Gerrymandering typically involves the use of one of two techniques to dilute the influence of "minorities" in the electoral process.\*\*\* It may concentrate minority

\*A. Hacker, *Congressional Districting: The Issue of Equal Representation*, (Brookings Institution: Washington, D.C. 1964).

\*\*A strangely shaped district may, for example, merely be following natural topographical features. See B. Grofman and H. Scarrow, "Representation and Redistricting in the 1980s", *Policy Studies Journal* (1983, forthcoming).

\*\*\*In this discussion, "minority" refers generally to any group whose influence the line-drawers are attempting to reduce. Thus, it can include racial and ethnic minorities, challengers, members of minority factions within the party that is in control of the state legislature, and minority parties.

\*2 U.S.C. § 2c.

\*\*See Appendix A for summaries of major cases affecting redistricting.

Figure 1  
The Original Gerrymander



Reprinted from *Congressional Districts in the 1970s* (2nd Ed.) with permission of *Congressional Quarterly*.

strength in a few districts, thus wasting minority votes. To illustrate, a state with ten districts and a minority comprising 30 per cent of the state's population distributed as shown in *Figure 2* could draw district lines in at least two ways. One of these would be less beneficial for minorities. For example, instead of the minority comprising 75 per cent of the constituency in four districts (as in *Figure 3*), gerrymandered districts might be drawn so that minorities would constitute 100 per cent of the population in three districts (as in *Figure 4*), thus reducing the chances of a minority candidate being elected in other districts. It should be noted, however, that the courts have rarely concluded that this minority-concentrating technique violates minorities' constitutional rights.

Figure 2



Figure 3



Figure 4



Note:  denotes minority

A second technique is the conscious dilution of minority strength. By this strategy, a minority group that is concentrated in one geographic area (and which thus would comprise a majority if that area were a congressional district) would be split among many districts, losing a majority voice in any.

**Why Gerrymandering Harms.** Many individuals denounce any type of gerrymandering. Indeed, a former director of the National Municipal League's legislative redistricting information service contends that the evils which are meant to be alleviated by requiring population equality are simply accomplished through gerrymandering:

It was inevitable that this gerrymandering problem would become worse, not better, as a direct result of the Supreme Court's rulings regarding population equity during the '60s and '70s. The incentive for resort to the gerrymander is much less when the legislature could easily accomplish the same thing by simply making districts of wildly different populations.\*

In addition to general condemnation, however, the following specific charges have been leveled at gerrymandering practices:

**It reduces the opportunity for ethnic minorities to be elected:** the previously described techniques have often contributed to minority underrepresentation in Congress. While blacks comprise approximately 10 per cent of the nation's population, less than 3 per cent of congressional representatives were black at the beginning of the 1980s. Hispanics constitute approximately 9 per cent of the population, but make up only 1 per cent of the House of Representatives.

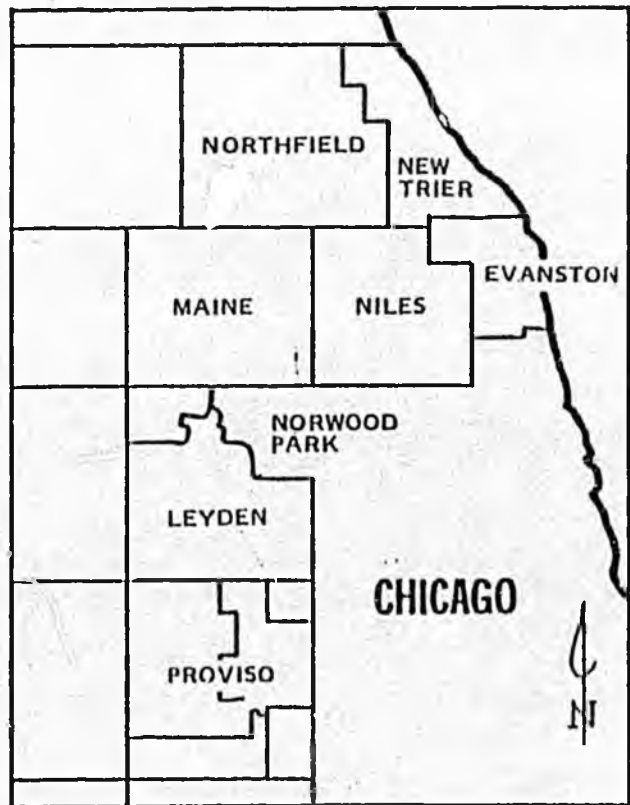
**It reduces the opportunity for political minorities to be elected:** members of parties not controlling the state legislatures, or members of the majority party who break with prevailing party views, also have fallen victim to the gerrymandering sword. Florida's 1972 reapportionment plan, for example, resulted in Democrats winning 75 per cent of the 15 congressional seats, while receiving only 53 per cent of the statewide vote.\*\* And at least two recent political mavericks have been the target of their own party's gerrymandering initiatives. In 1975, Chicago's Democratic boss, the late Mayor Richard Daley, proposed an odd-shaped district plan, remarkably similar to the original Massachusetts gerrymander, which was narrowly rejected by the Democratic-controlled state legislature, and which many observers felt was designed to weaken an outspoken Daley opponent (Democrat Abner Mikva) who went on to win the contested congressional seat (see *Figure 5*). The 1972 California reapportionment apparently was designed, among other reasons, to protect incumbents of both parties. Yet, it was not designed to benefit a minority among incumbents, a liberal, anti-war Republican (Paul McCloskey) who nevertheless was reelected.

**It unduly protects incumbent seats:** this reduces competition and enables parties to field weak candidates. If potential candidates perceive that incumbents are drawing district lines to ensure their own reelection, challengers may be less likely to enter the race. In 1978, 11 per cent of the winners in congressional races ran unopposed. Moreover, even new-

\**Congressional Anti-Gerrymandering Act of 1979: Hearings on S.596 Before the Senate Committee on Governmental Affairs, 96th Congress, 1st Sess. 286 (1979)* (statement of William Hoy (hereinafter cited as 1979 Hearings)).

\*\*1979 Hearings at 50 (statement of David Cohen, President, Common Cause).

Figure 5  
 Reapportionment Plan  
 (Illinois Tenth Congressional District)



comers who enter may confront additional barriers where lines have been consciously rearranged in an incumbent-protecting fashion. Plans designed to protect incumbent seats usually achieve their goals. In 1978, over 95 per cent of congressional incumbents seeking reelection were reelected.\*

*In discouraging voter participation:* redistricting reformers argue that gerrymandering disenfranchises voters not only directly, by discouraging challengers from entering congressional races, but also indirectly, by discouraging other campaign involvement. For example, odd-shaped districts covering broad geographical areas increase the difficulty for both candidates and canvassers of undertaking neighborhood and door-to-door campaigning. Perhaps more importantly, gerrymandering may be contributing to the unfortunate decline in voter

\*This is not to imply that preservation of existing district lines is necessarily undesirable or harmful. From the incumbent legislator's perspective, a familiar constituency may be valuable if he or she is to represent constituents' views accurately.

participation.\* While voter turnout in House of Representatives races was about 44% in 1970, it fell to approximately 35% in 1978. Voters may reason that since gerrymandering has predetermined election results, their individual ballots hardly count. Furthermore, voters may become confused when they reside in a "strategic location" which is re-located for each major election, depending on the line-drawer's goals. A former Congressman from New York complained:

I was redistricted in the sort of ongoing flow that occurred sufficiently often that I found that I ran for Congress three times from the same house but each time I was in a different congressional district. And the third time it was impossible for me to get from my house to the rest of my district without paying a toll.\*\*

In addition, once candidates are elected, they might show more responsiveness to the needs of the line-drawers who created districts favoring their candidacies than to those of the citizens who elected them.

#### An Overview of Reform Proposals

While there exist defenders of the current system,\*\*\* advocates for improving reapportionment cite the significant injustices just discussed and demand a more equitable system. The call for reform is bipartisan and nationwide.

Various groups and opinion-leaders in the nation are demanding that the redistricting system be improved. The *Washington Post*, the *Wall Street Journal*, and the *Boston Globe* all have run strong editorial messages stressing the need for change in reapportionment procedures. Some states have adopted modifications on their own in recent years. California, Colorado, Hawaii, Iowa, and Oregon have adopted strict redistricting standards, and Colorado, Hawaii and Montana have established redistricting commissions. Organizations expressing support for redistricting reform include the American Bar Association, the National Association for the Advancement of Colored People (NAACP), the Mexican American Legal Defense and Educational Fund (MALDEF), and the National Municipal League. The League of Women Voters has mounted a public education campaign on reapportionment issues and options and has left its individual state leagues free to consider and support corrective options that best meet local needs. An estimated ten to fifteen state leagues have endorsed reapportionment commissions. A Common Cause questionnaire sent to congressional candidates in the 1978 elections showed that 271 representatives favored federal redistricting standards, with only 41 opposed.

\*See ABA Special Committee on Election Reform, *The Disappearance of the American Voter* (Washington, D.C., 1979).

\*\*1979 Hearings at 312 (statement of the late Allard Lowenstein, Representative from New York's 5th Congressional District, 1968-70).

\*\*\*E.g., the National Conference of State Legislatures, (NCSL) a national organization of approximately 7000 state legislators and their staffs.

## Examples of the major national initiatives

*The Common Cause Proposal—A Model for State Self-Improvement.* This public interest group, a grass-roots "good government" organization with more than 225,000 individual members and offices in over 45 states, has developed a model amendment to state constitutions with an accompanying act which states can choose to adopt. The two enactments (constitutional amendment and statute) apply to both legislative and congressional districts and are designed to balance stability with flexibility. The Common Cause plan proposes among other things:

- a commission to draw district lines. Commissioners (five in number) must meet certain qualifications for "impartiality;" Four are appointed by specific members of the state legislature, and the four select a fifth to serve as Chair;
- redistricting standards. These are rules which the initial apportioning authority must follow in its plans. It is suggested that districts embrace approximately the same size population, respect political subdivisions, be composed of contiguous territory, be compact, be drawn so as to avoid giving any group or individual political advantage, and be drawn so as to avoid diluting minority voting strength;\*
- accountability provisions. In addition to requiring public hearings on redistricting proposals, the plan provides the opportunity for qualified voters to challenge the plans, and for federal courts to adjudicate these claims.

*Federal Guidelines with Redistricting Commission Requirement.* Senate Bill 596 and its House companion H.R. 2653 (96th Congress, 1st Session) embody this approach. Although the bills differ slightly from each other, both support the tripartite Common Cause approach: commission-standards-accountability. The primary difference lies in the Common Cause models' presumption of state action which gives the individual states a choice on implementation, unlike the congressional bills, which, once enacted, require states to adhere to their provisions. On the other hand, because the Common Cause Act is meant to be a state statute, it contains many specific provisions which the congressional options omit. The congressional bills afford states the opportunity to decide individually on a number of "specifics" in the way in which they will adhere to the more general federal mandates.

*Federal Guidelines without Commission Requirement.* H.R. 1516 and its companion in the Senate, Amendment 237 (96th Congress, 1st Session) offer another reform approach. Although the two bills vary slightly, both are based on suggestions from the House Wednesday Group.\*\* The major differences between these bills and the previously mentioned congressional proposals is that H.R. 1516 and S. Amendment 237 do not recommend the establishment of commissions, as the sponsors feel that the choice of approach in ensuring equitable application of federal standards should be left to the states.

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Rather than address the totality of strengths and weaknesses of each major proposal, it may be more valuable to review individually major components of

\*For further discussion of standards, see Part III.

\*\*Comprised of thirty-two moderate to liberal Republican members of the U.S. House of Representatives.

concepts. As might be expected, many proposals share some provisions and differ on others. The following discussion, therefore, takes up the key remedial options and touches on the significant arguments from various perspectives in an attempt both to foster a better understanding of the issues and to facilitate informed decisionmaking. The discussion treats two major issues: who should make the decisions, and what role might standards play in this process. Our intent is to illuminate rather than to advocate particular stances on specific provisions.

### III. The Issues: Are Standards Needed?

In examining the redistricting process, several basic issues must be addressed. One fundamental set of questions revolves around the need for and character of standards to guide and order the development of reapportionment plans.

#### To What Extent Should Standards be Articulated?

Some groups claim that the most important aspect of redistricting reform is the establishment of specific rules which must be followed when drawing congressional district boundaries. Indeed, if fair redistricting standards are made so explicit that line-drawers cannot abuse their discretion in interpreting them, the matter of who has the responsibility for applying the standards may well become less important. Yet, even those endorsing clear standards may disagree about the extent to which certain standards should be defined by the law. The narrower the definition, the less flexibility is available to accommodate factors affecting the fairness and soundness of plans which are not yet in existence when the definition is formulated. Moreover, as might be expected, some electoral experts are opposed to explicit standards, particularly federal ones.

*In Defense of Standards.* A 1979 editorial in the *Washington Post* stressing the need for standards (particularly to provide courts with reviewing guidelines) emphasized one of the common rationales for this approach: "Since the federal courts are already deeply into this 'political tacket,' [of judging the fairness of redistricting plans] it might be useful to them—as well as to the cause of ending the more indefensible forms of the gerrymander—for Congress to spell out how it believes congressional district lines should be drawn."\* Indeed, many have viewed standards as perhaps the most important agenda items in the fair redistricting "portfolio." As a former AFL-CIO advisor on reapportionment matters and the plaintiff in *Wells v. Rockefeller* has stated:

The most effective way to prevent gerrymandering is not to . . . vest special power in some judicial umpire or even in a nonpartisan authority. Rather it is to make sure that whoever draws the district lines cannot do so in a manner calculated to bestow special advantages on any . . . group . . . And the best way to do this is to establish firm, explicit . . . ground rules.\*\*

\**Washington Post*, June 21, 1979.

\*\*Wells, 'Affirmative Gerrymandering' Compounds Districting Problems, *National Civic Review* (January 1978) at 17.

Equity, uniformity, visibility and accountability—at first blush, all appear to make the case for articulate standards. Few seem to quarrel with the idea, at least in principle. Yet, there is a significant measure of opposition.

*In Opposition to Standards—Encroachment on States' Rights.* The National Conference of State Legislatures has expressed concern that if Congress mandates that commissions draw plans according to specific federal standards, the state legislatures will be accorded little voice in the redistricting process. The standard response to this objection is that state legislatures would retain a significant influence in appointing commission members. Of course, this influence would be limited by reform proposal restrictions on who could be appointed.

*Absence of Standards throughout the Nation's History.* It is true that federal redistricting standards have not been employed throughout most of U.S. history and that many states have set no standards for either legislative or congressional redistricting. Standards supporters, however, assert that (i) perhaps the federal standards which were renewed and embellished from 1842 to 1911 ultimately expired simply because they were not judicially enforced, and not because they were unnecessary or because Congress did not have the authority to impose them, and (ii) states are now increasingly adopting standards. These observations cast doubt on the argument that the relative absence of standards in the past implies that they are unnecessary to fair and effective operation of our redistricting apparatus.

*Effect on Volume of Litigation.* Some have expressed wariness of standards without commissions, suggesting that such a combination may "open the floodgates to litigation" and entail lengthy bureaucratic red tape. An underlying premise is that many plans will be unable to satisfy fully the variety of standards being proposed, and dissatisfied parties may be encouraged to find some inconsistency worthy of court contest. Yet others have speculated that the articulation of standards could reduce frivolous litigation, since challengers would use standards as guidelines to determine the types of deficiencies the courts will recognize and would assess their prospects with greater care.

*Standards: Conflicts or Priorities.* Focusing on the dilemmas of definition and differing social and political values that underlie many of the standards proposals, some authorities suggest that the task of reconciling and ordering meaningful standards may be unmanageable. For example, drawing districts with the same size population in order to fulfill the "population equality" standard may require odd-shaped districts which fail to meet the frequently asserted "compactness" requirement. NCSL has complained, in this vein, that many congressional bills "impose a litany of substantive and inconsistent standards to govern redistricting plans."<sup>5</sup>

Proponents of standards generally respond to such assertions not by disagreeing that standards may conflict, but by arranging them according to priorities which can operate to mitigate the problem: the less important standards need only be met to the extent that the plan they affect is also faithful to the more important standards. Indeed, several experts suggest that priorities should be

made explicit in any reform proposals which espouse redistricting standards. The Supreme Court seemed to advocate this priority approach at least with respect to legislative districts, in *Reynolds v. Sims*, 377 U.S. 533 (1964) where the Court wrote that although the state must attempt to construct districts in both houses of its state legislature as nearly equal in population as practicable, some population deviations were permissible if "based on legitimate considerations incident to the effectuation of rational state policy" such as a desire to respect political boundaries. It should be noted that placing standards in order of importance does not eliminate all difficulties. Additional questions which need to be answered include what the precise order should be among any given set of standards, whether there should be a range within which some standards can be modified to accommodate others and, if so, what these ranges might be.

#### Examination of Specific Standards

Against this backdrop, it is appropriate now to examine individual standards which have been proposed, where on the priority scale each might be placed, how clearly these can and should be defined in law, and how much a given standard should be modified to accommodate other standards.

*Population Equality.* Past congressional statutes, Supreme Court decisions, and virtually all major reform proposals agree that congressional districts should strive for equal population size. According to the *Congressional Quarterly*, 385 of the existing 435 congressional districts are within 1 per cent of the average district population within their states, thus confirming the efforts of states to adhere to this requirement.<sup>6</sup> Nevertheless, many issues with regard to this standard remain unresolved and a good number turn on definitions of "population equality." Most definitions set forth a percentage of population deviation allowable from a state's average population in a congressional district. Various advantages and disadvantages are claimed for this approach. The "deviation range" concept is meant to eradicate gross population since any deviation outside the stipulated range would be impermissible. This approach seems to offer a better solution than precise mathematical equality since it allows other relevant considerations to be taken into account in a way that mathematical equality may not. Thus, districts would be presumed to be within constitutional tolerances if the maximum deviation were within the permitted range. Yet this presumption might be overcome by showing that a given plan, nevertheless, "operated unreasonably to minimize the voting population," see *Kirkpatrick v. Preisler*, 394 U.S. 526, at 531 (1969).

Among those standards defining "population equality" according to range, there exist alternatives concerning the amount of deviation allowed. One 1979 Senate proposal, for example, (S. 596<sup>7</sup>) allows the largest district to be 4 per cent greater than the smaller district (i.e. permits deviations from the average district of up to 2 per cent). Advocates defending the broader ranges assert that they provide a greater opportunity to accommodate other relevant standards and, that in any event, small ranges may require census figures to be more accurate than is now the case. Indeed, the Census Bureau admits to a margin of error of

<sup>5</sup>1979 Hearings at 400 (statement on behalf of NCSL of State Senators S.H. Ruyon, Arizona, Ross Doyen, Kansas, and Charles Vickery, North Carolina).

<sup>6</sup>*Congressional Quarterly*, "Congressional Districts in the 1970s" (2d ed. 1974) at 4.  
<sup>7</sup>96th Congress, 1st Session.

approximately 2 per cent in its estimates, and a census authority testified in mid-1979 before a House subcommittee that many state representatives had encountered problems using census figures to draw redistricting lines.\*

Thus, although debate continues concerning the precise definition of "population equality," there seems to be a consensus that some standard of this kind is a necessary (albeit not alone sufficient) requirement for fair redistricting. It appears that a range of standards would pass constitutional muster although Supreme Court decisions are not fully clear on the extent to which states must at least strive for strict mathematical equality.

*Political Subdivisions.* Over 200 counties are split up among congressional districts more than is required by their state's population average. Many of those concerned with improving the redistricting process feel that the boundaries of political subdivisions (counties, municipalities, and other units of local government) should be respected in the line-drawing processes, although not all of them agree on whether the term "political subdivision" should be defined in the federal law or left up to the states to define. They propose that political subdivisions remain undivided whenever possible not only because unnecessary fragmentation undermines the ability of constituencies to organize effectively, but also because it increases the likelihood of voter confusion regarding other elections based on political subdivision geographies. Furthermore, preserving political subdivisions tends to foster a sense of community.

Still not settled, however, is the priority this standard should be assigned. While it is generally agreed that boundaries should only be respected to the extent that they are consistent with the "equal population" standard, the issue becomes more controversial when this standard conflicts with the "compactness" standard which discourages odd-shaped districts. Many political subdivisions are odd-shaped; if the compactness standard is given a high priority, the political subdivisions should only be respected when both "population equality" and the "compactness" requirement are fulfilled. Most groups place preservation of political subdivisions second only in importance to "population equality."

Other criticisms of the high priority accorded preservation of political subdivisions boundaries cut more deeply than those just mentioned. It is charged that honoring subdivisions preserves the "status quo," a change in which may sometimes be needed in order to eliminate undue incumbent power in fair districting situations. Representatives from MALDEF, for example, have expressed concern that this standard may jeopardize minority voters: "[T]he standard which requires maintaining the boundaries of political subdivisions is unwarranted. In order to maximize the voting strength and enhance the opportunity for minorities to be elected, it is often necessary to split cities or counties which have large concentrations of minority citizens."\*\*

*Contiguous Territory.* Rarely has it been suggested that congressional districts not be composed of contiguous territory. Generally, a district is considered contiguous if none of the territory included within it is entirely separated from the remainder of the district by intervening territory assigned to another district. In-

deed, even though not required by the Constitution or by federal law, contiguity is almost always observed in congressional districts.\* Perhaps this practice is common because, like compactness, it seems inherent to the system of representation upon which the U.S. House of Representatives system is based. Although there has been questioning of the incorporation of contiguity into federal legislative standards because of difficulty of definition, the almost self-evident character of the concept suggests that a detailed definition may not be needed.

There are, nevertheless, problem-tic situations for assessing contiguity. For example, the question might be raised whether districts are necessarily contiguous if they are comprised of territories joining only at one point or connected only by bridges or tunnels, or separated by unconnected waterways. Some plans, therefore, propose "convenient contiguous" territory, a concept that is designed to permit searching scrutiny of these marginal situations and to afford some recognition to travel and communication barriers.

*Compactness.* The "compactness" requirement is designed to prevent gerrymandering districts into odd shapes. One measure of compactness is to determine the smallest circle in which the district can be circumscribed and to compare the ratio of the area of the district inside the circle to the area of the circle itself, with the closer to 1-1 the better. Like contiguity, compactness is required neither by the Constitution nor by federal law, but scholars and politicians alike have acknowledged its value and many states have established compactness provisions.

Defenders of the compactness requirement maintain that it is central to the theory of geographical representation upon which U.S. House of Representatives selection is based. Geographically compact districts also tend to reduce electoral costs in time and money, since candidates and campaign workers can more readily cover smaller districts. Nevertheless, a compactness standard which would be logical for one district might be quite inapplicable to another. Thus, general language requiring the aggregate lengths of district boundaries in the state to be as short as possible might be more appropriate in federal standards than more detailed or narrow definitions. States, however, could choose to define the term more narrowly in their own constitutions or codes. This level of generality is seen as preventing the arbitrary shifting of lines for political advantage while permitting minor departures from compactness to accommodate important companion standards. Virtually all proposals suggesting this standard place it below the three previously mentioned in terms of priority.

*"Antigerrymandering" Standards.* Some endorers of standards believe that even if the previously mentioned requirements are carefully articulated and enforced, there should also be explicit "antigerrymandering" standards. These generally prohibit the drawing of lines for the purpose of gaining political advantage, and currently exist under the laws of Colorado, Delaware, Hawaii, and Oregon. Such requirements serve as an added safeguard against line-drawers who, while devising a means of fulfilling the previous requirements, still intentionally manage to structure district lines which establish an undue political advantage.\*\*

\*Remarks by Marshall L. Turner, Jr., U.S. Bureau of the Census, testifying before the House Subcommittee on Census and Population, May 4, 1979.

\*\*Letter dated September 27, 1972, Abelardo Perez, then Associate Counsel for MALDEF, to Senator Danforth (R-Illinois) sponsor of S. 596.

\*In fact, a federal court, in *Kopold v. Carr*, 343 F. Supp. 51 (M.D. Tenn. 1972) imposed a requirement of contiguity where that requirement was not mandated by state statutes. In addition, redistricting expert Bruce Adams has noted that, "... two state statutes and twenty seven constitutions require contiguity." ("A Model Reapportionment Process: The Continuing Quest for Fair and Effective Representation," 14 *Harvard J. on Legislation*, June 1977 at 874).

\*\*See Backstrom, Robins and Eller, "Issues in Gerrymandering: An Exploratory Measure of Partisan Gerrymandering Applied to Minnesota," 62 *Minn. L. Rev.* No. 6, July 1978, which points out that

The "political advantage" type of standard has encountered some opposition. It is seen by some as an attempt to make the line-drawing process politically neutral, an impossibility since every district line favors some political party, person or group. Proponents respond, however, that the standard is not meant to void a plan merely because it favors some group or individual. The Common Cause model, for example, does not void a plan merely because it *results* in favoritism. Rather, it requires that challengers demonstrate that districts were drawn for the *purpose* of favoring some person or group.\*

In addition, problems may arise under an antigerrymandering standard with regard to determining which entities should explicitly be prohibited from gaining political advantage. Among those suggested by various proposals are: political parties, incumbents, economic groups, certain racial minorities, certain language groups, and specific individuals. While it seems laudable to attempt to eliminate the possibility of any entity gaining political advantage, an effective standard may be so difficult to articulate that the resulting attempt could create more problems than it would solve. Indeed, Common Cause redistricting expert Bruce Adams has advanced this criticism with respect to the protection of certain socio-economic communities (as has been attempted in Alaska, Colorado, Hawaii, and Oklahoma). In a 1977 article, he wrote:

The notion of "socio-economic communities of interest" is so broad that a reapportionment authority could knowingly demark geographically overlapping communities. As a result, the reapportionment authority would have to favor some communities of interest over others. It is possible, therefore, that under the broad provisions those communities of interest that have been the traditional victims of discrimination will gain no additional protection.\*\*

Another frequent criticism of the antigerrymandering standard is that it weakens the theory of geographical representation. If a "fair system" is defined as one which guarantees that groups receiving a certain percentage of the total vote are awarded a similar percentage of seats in Congress, the United States would have to adopt a mechanism for proportional rather than geographical representation.\*\*\* Many political scientists assert that the U.S. electoral system could not readily make this change because it would entail political conditions (e.g., the growth of a multi-party system) which are foreign to the nation's political system and traditions. Yet, it is possible to focus only on geographic information in the initial formulation of redistricting plans and then to apply a "political influence" concept in checking a plan to ensure that it does not unduly benefit some specific group or individual. An antigerrymandering standard might decree that such a check is desirable although the type of data to be used in making this test and its manner of application would have to be carefully worked out.

one can measure the extent of gerrymandering by looking at any proposed districting in terms of statistical calculations on how likely the expected seats-votes relationship it would give rise to could have occurred by chance.

\*Common Cause, "Toward a System of Fair and Effective Representation," (Washington, D.C., 1977) at 55.

\*\*Adams, "A Model Reapportionment Process" *supra*, at 879.

\*\*\*See Backstrom, "Issues in Gerrymandering," *supra*. As measured in Backstrom's terms, fair representation is a proportional representation.

Some groups oppose any express prohibition of political gerrymandering, arguing that the Supreme Court has never found it unconstitutional to take certain considerations into account when drawing initial redistricting plans.\* However, advocates of this standard, in addition to questioning the validity of case precedent here, suggest that it is precisely for the reason that constitutional strictures may permit some accommodation of political considerations that federal standards must be articulated in this area in order to prevent abuse.

#### Other Considerations: "Affirmative Gerrymandering" Practices

Most authorities and organizations advocating antigerrymandering standards disapprove of the use of statistics about a district's racial or linguistic composition to dilute the voting strength of certain racial or language minorities. Indeed, both Supreme Court decisions (e.g. *Gomillion v. Lightfoot*) and federal legislation (the Voting Rights Act of 1965) prohibit such practices.\*\*

A more controversial question, however, is whether such information should be taken into account to afford minorities an advantage so as to compensate for past redistricting injustices (hence the name "affirmative gerrymandering"). In this vein, an expert on the effect of redistricting on black voters has suggested the following language for inclusion in redistricting proposals:

There shall be an affirmative duty on the part of the [initial reapportionment authority] to insure that there is no discrimination on the basis of race or color in the drawing of congressional district lines.\*\*\*

This approach seems to be supported by Supreme Court pronouncements [*United Jewish Organizations v. Carey*, 430 U.S. 144, (1977)]; the NAACP has also gone on record in support of "affirmative gerrymandering":

Whereas, courts, including the Supreme Court, have recognized that it is sometimes necessary to take race into consideration in the shaping of voting districts to correct violations of the Constitution and of the Voting Rights Act; . . . [T]he NAACP opposes any law that would restrict legislatures or other entities in their efforts to correct the underrepresentation of blacks in Congress.\*\*\*\*

Some minority interests (e.g. MALDEF) suggest that a diluting effect in a redistricting proposal (with or without proven intent) should be sufficient proof of discrimination to invalidate it or, at least, to create a presumption of defectiveness in any state and not merely in those jurisdictions with a history of discrimination. The rationale, drawing on experience with respect to efforts to establish discriminatory intent in matters of minority employment and education, is that proving such intent is difficult if not impossible.

In *City of Mobile v. Bolden* the U.S. Supreme Court dealt with the intent issue in the context of a redistricting challenge based on Section 2 of the Voting Rights

\*NCSI; See *Gaffney v. Cummings*, 412 U.S. 735 (1973) and *White v. Regester*, 412 U.S. 755 (1973) in support of Supreme Court neutrality in this area.

\*\*42 U.S.C. §§ 1971, 1973 *et seq.*

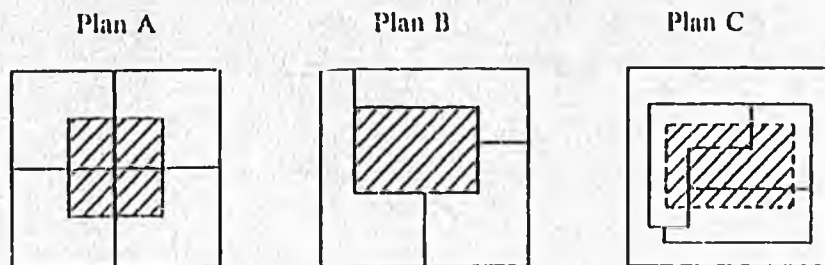
\*\*\*1979 Hearings at 342 (statement of George Hundy Smith).

\*\*\*\*Althea Simmons, Director, Washington bureau, NAACP, quoting statement of the Association enunciated during NAACP's 70th annual convention.

Act.\* Mobile's at-large system of elections was alleged to cause discrimination against minority groups. The Supreme Court ruled against plaintiffs, finding that the intent to discriminate had not been proved as required in a Section 2 challenge.\*\* This particular election system had been established in 1911, before the date of applicability of Section 5 of the Voting Rights Act. Had Section 5 applied, the system when proposed might not have passed muster during the statutorily mandated preclearance procedure which requires that a covered jurisdiction must prove that a proposed change has neither the intent *nor* the effect of discriminating against minority groups. Thus, a paradox exists with respect to the relationship between the Voting Rights Act and electoral systems. While Section 5 jurisdictions generally may not establish at-large systems, such existing systems and systems adopted by non-Section 5 jurisdictions may be imposed and perpetuated regardless of their effect on voting strength.

While a requirement which prohibits dilution of minority voting strength would lean toward Plan B instead of Plan A in an illustrative four-district urban area such as graphically portrayed in Figure 6, the "affirmative gerrymandering" approach might favor Plan C (at the cost, it is noted, of some geographic gerrymandering).

Figure 6\*\*\*



Note:  denotes minority

These points of view have been criticized on several grounds. First, there has been questioning of one assumption upon which affirmative gerrymandering rests, namely, that minorities make up an essentially unified voting block that will rally behind a minority candidate. It can be argued, of course, that even though minority constituencies will not necessarily elect minority representatives, the larger the percentage of a minority population in a district, the more likely it is that the district will elect a minority candidate. More intensive studies of minority voting behavior may shed light on this issue. However, regardless of

\*42 U.S.C. 1973, Section 2: "No voting qualifications or prerequisite to voting, or standard or procedure shall be imposed or applied by any State or political subdivision to deny or abridge the right of any citizen of the United States to vote on account of race or color, or in the contravention of the guarantees set forth in Section 1973b(1)(2) of this title." Section 2 is interpreted as a restatement of the Fifteenth Amendment which requires a showing of purposeful discrimination.

\*\*64 L. Ed. 2d 119 (1980).

\*\*\*Each box represents a state; divisions denote districts. Equal population distribution is assumed.

the practical impact of such "affirmative gerrymandering," some political analysts seriously question its theoretical foundation, maintaining that while redistricting should not contribute to discrimination, neither should it carry the burden of compensating for past discriminatory practices. In the words of one expert:

[4] racial quota [affirmative gerrymandering] could easily be superimposed on a legislative body which is elected by a system of proportional representation. It could simply be required that a particular group's proportion of the total population be reflected in the membership of the legislative body. But to attempt to apply a quota to a legislative body which is geographically based (as are the U.S. Congress and every one of the state legislatures) is to mix two fundamentally incompatible concepts.\*

*Time Provisions.* Throughout the redistricting process, there exist steps which may become obstacles to timely action if time limits are not imposed. These include:

- completion of a proposed redistricting plan;
- voter challenge;
- initial court review;
- formulation of an acceptable plan if the initial plan is rejected;
- final judicial decision on acceptance of the plan.

Some improvement advocates believe that there should be few, if any, specifications of time limits since they may be unenforceable if emergencies arise which preclude attention to redistricting matters. These individuals endorse the "as soon as practicable" approach. Others believe that a maximum time limit should be set for some, if not all, major steps. This would help avoid the problem of ultimate plan acceptance after census figures have become outdated or after crucial elections have passed.

Perhaps the most crucial time problems arise in connection with drafting of initial and final plans. Some experts suggest that a time limit be set only for the final product. Interim time limits are unnecessary, they assert, if the final plan is accepted before political interests can predominate. The voter challenge time period is also a subject of controversy. Some proposals allow voters to challenge plans up to 60 days after they have been made public, while others allow up to nine months after establishment of the last district after a decennial census (e.g., S. 596 and Amendment 237 plans, respectively). The shorter period attempts to ensure that litigation will conclude before the next major congressional election takes place. The longer time provision, on the other hand, offers citizens a greater opportunity to participate in the apportionment process and to hold line-drawers accountable. Generally speaking, some articulated time limits, perhaps more as a target than as a rigid goal, would seem desirable in reapportionment standard-setting.

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\*Wells, "'Affirmative Gerrymandering' Compounds District Problems," *National Civic Review* (Jan. 1978) at 16.

This discussion has explored the major options under consideration with respect to standards for congressional redistricting. While the options remain open to debate, it appears that virtually all reform interests view mandated redistricting standards as an important element for improving the electoral process.

#### IV. The Issues: Who Should Make the Redistricting Decisions?

In addition to a determination of the need for and character of standards, the reapportionment "rulemakers" must be identified, *i.e.*, the body or governmental entity which determines where responsibilities lie for making subsequent decisions. This body possesses the authority to determine whether commissions, state legislatures, or other governmental officials draw district boundaries. If the rulemakers decide that specific processes and specific protections should be included in initial plans, such reviewing responsibility must be allocated. The main candidates for these key duties in the reapportionment process will be discussed separately.

##### Who Should be the Redistricting Rulemakers?

The ultimate authority to decide how subsequent redistricting decisions should be made lies with either Congress or the state legislatures.

*Contentions as to Congressional Authority.* It can be readily argued that the Constitution grants Congress this ultimate authority. Article I, Sections 4 and 8 are cited in support of this view. Article I, Section 4 declares that Congress "may at any time by law make or alter" [regulations about the] "times, places and manner of holding . . . [congressional] elections" and Section 8 grants Congress the power "To make all laws which shall be necessary and proper . . ." for carrying out its constitutional powers. This basic authority as well as subsequent judicial interpretations suggest that regulation of redistricting is within Congress' constitutional prerogatives. Indeed, the Supreme Court, on several occasions, has interpreted the Constitution as giving Congress authority over rules affecting congressional elections.\* Another argument supporting this view is the pragmatic contention that Congress has exercised such authority in the past on several occasions without encountering serious objections.

*Contentions as to State Legislative Authority.* The National Conference of State Legislatures (NCSL) is perhaps the leading advocate of preeminent authority in state legislatures over reapportionment, and has officially opposed any federally mandated procedures, structures, or substantive standards on redistricting. Those, like NCSL, who favor the current system (which accords state legislatures an essentially free hand, subject, of course, to Supreme Court constitutional interpretations) advance several arguments. First, they maintain that the framers of the Constitution intended that state legislatures have ultimate control, noting that Article I, Section 4, provides that "the times, places and manner

of holding Congressional elections shall be prescribed in each State by the Legislature thereof." Testifying before the Senate in 1979, NCSL spokespersons contended that congressional power in Article I, Section 4 to "make or alter" such rules is misinterpreted when applied beyond the most compelling emergency situations:

Congressional authority to oversee national elections was controversial and was accepted only as an extraordinary device to be used in extraordinary circumstances. It was not intended to grant the national legislature plenary power over elections or to permit that body to interpose its notion of political fairness.\*

Although Congress has legislated some standards, state legislatures historically have been responsible for making redistricting decisions. This relative congressional inactivity on redistricting stems largely from a history of lack of enforcement of congressional mandates rather than from any irrelevancy of the rules to improving the process or from an absence of congressional authority to make the rules in the first place.\*\*

The debate about "ultimate rulemaking" authority is of greatest moment where the U.S. Congress and state legislatures would assign subsequent responsibilities in a different manner. Perhaps, then, the most crucial question to be answered is who should have responsibility for drawing district boundaries.

##### Who Should be the Initial Apportioning Authority?

This is perhaps the most controversial issue in the reapportionment debate, for it affects a power exercised by state legislatures since the inception of our republic. The two major candidates for the responsibility are commissions and state legislatures. The "commission" concept has generally attracted the "reform" label, yet even some "reformers" hesitate to support it.

Advocates of the "commission" approach feel it has appeal because the "legislated" system allows a great degree of self-interest to operate in the redistricting process. A former Illinois Congressman testified in 1979 that taking redistricting out of legislative hands "greatly reduces the inherent conflict of interest which now exists when the same people who draw a new map and vote on it also have a personal stake in its outcome."\*\*\* State politicians have occasionally admitted to this self-interested motivation; many legislators dislike the redistricting responsibility, but use it in "self-defense," with knowledge that if they do not succumb to the temptation of drawing lines favorable to their political interests, their opponents will certainly seek to do so.

Those groups skeptical about commissions suggest that commissioners might be just as subject to political pressures from congresspersons as are state legislators. If the commissioners are political appointees, they may even be more vul-

\*See Appendix A, *Baker v. Carr, Ex Parte Siebold, Oregon v. Mitchell*.

\*1979 Hearings at 404 (statement on behalf of NCSL of State Senators S. H. Ryan, Arizona, Ross Doyen, Kansas, and Charles Vickery, North Carolina).

\*\**E.g.*, see discussion of Standards, at page 10.

\*\*\*1979 Hearings at 302 (statement of Abner Mikva, formerly 10th Congressional District, Illinois, presently a member of the Circuit Court of Appeals for the District of Columbia).

nerable to political pressures than a legislature elected by the public. Commission supporters respond by endorsing the introduction of safeguards into the appointment process to eliminate "special interest" commission members. In a 1977 article, one redistricting expert pointed to the Arkansas legislative commission (composed mostly of legislative leaders) as a biased body that could not "exercise the independence sought by the advocates of reapportionment reform." He strongly commended, therefore, the "impartiality" restrictions incorporated in the Common Cause proposal.\*

Critics of the commission approach also assert that creating commissions unrealistically attempts to remove politics from an inherently political process. It is impossible, the argument holds, to apportion political power by a non-political process. Further, the fact that citizens can vote directly for legislators but not for commissioners may cause voters to feel disenfranchised and removed from the electoral process. Pro-commission authorities concede the importance of a sensitivity to the danger of removing the redistricting process too far from the legislature. They typically stress, however, that the reform is designed not to deny the legislature its interest in reapportionment, but rather to buffer the process from conflict of interest.\*\*

Some experts contend that entrusting redistricting to a commission may bring the process closer to the voter, as many plans implemented in the recent past were drawn by the courts, a body over which voters have even less control than over commissioners. However, proponents of the current system assert that commissions boast no better "track record" than do legislatures in terms of producing plans acceptable to the courts. While there exist few statistics relating to commissions drawing congressional lines, the information about state legislative commissions and reapportionment commissions in other countries may shed light on the issue. According to NCSL, only a "handful" of states have seen their congressional plans redrawn by the courts, and one recent study of redistricting practices suggests that the overall record of some bipartisan commissions has thus far been shown to benefit the party controlling the state legislature more than have the other methods.\*\*\* Furthermore, according to 1974 data, about a third of the plans initially proposed by both state legislatures and the courts were rejected initially by appellate courts.

While these statistics offer meager support, if any, for the commission concept, commission proponents point to other data that tend to corroborate the improved commission track record. First, many reformers take issue with the "handful of states" estimate. In fact, most estimates are that between 25 percent and 35 percent of current house district lines were drawn by the courts. A 1973 study by the Council of State Governments concluded, moreover, that commissions seemed to establish better track records than state legislatures.\*\*\*\* Other analysts point to commissions in other countries (e.g., Australia, Canada, and

Great Britain), suggesting that their record of electoral equity is better than that of those in the United States. Although the controversy about actual performance may be resolvable only with further study, it does seem clear that more than a "handful" of congressional redistricting plans initially drawn by state legislatures have been found unacceptable in the courts.

A collateral consideration in assessing performances is economy, i.e., whether commissions can save time and money. Because commissions would be created for the specific purpose of efficiently and equitably preparing redistricting plans, their entire organization could be shaped toward that end. Such specialization is, of course, extremely difficult in a state legislature with numerous and diverse responsibilities. Unfortunately, reliable estimates of the comparative costs of commission versus state legislature formulation of plans are not readily available. Yet, there are some figures which provide an initial framework. From 1971 to 1973, the California legislature invested approximately \$1 million developing a redistricting plan (which was ultimately replaced by a court-appointed Special Masters' Committee plan) and in 1971 there were over 26 full-time legislative staff members working on the California redistricting. Hawaii's reapportionment commission spent about \$200,000; Montana's spent approximately \$20,000.\* These figures suggest that the dollar dimension of the debate, even if not an overriding consideration, merits some study.

In addition to criticism of the "commission" approach, advocates of state legislature line-drawing advance several positive claims. It is commonly asserted that state legislatures have not abused their discretionary powers. It is argued that since forty-two states have a population deviation of less than 1 per cent (i.e., in these states, the population of the greatest district does not exceed by more than 1 per cent that of the smallest district),\*\* this demonstrates that legislatures have made a concerted effort to draw fair districts. Thus, since the only constitutional requirement of fairness articulated by the Supreme Court is population equality, and since the legislatures are adhering to that rule, they have made a "good faith" (and largely successful) effort to establish fair district lines. As noted earlier, reformers caution that although population equality is necessary for fair redistricting, it is not alone sufficient.

Even if the commission concept is accepted, controversies can arise concerning both the method of selecting commission members and their number. The greater the number, the more likely it is that the commission will take into account minority views. However, a large membership may increase financial costs while reducing the likelihood of a consensus. An equally troublesome question is, who should mandate the commissions—Congress or the states? Those supporting the congressional approach maintain that it will ensure that all states establish commissions whose members are selected in the most impartial and uniform way possible. Critics, however, question both the political and constitutional advisability of federally mandated commissions. They voice the view that the redistricting mechanism should be left in state hands, where it can be held accountable to the citizens. They also express concern that members of a federally mandated com-

\*Adams, "A Model Reapportionment Process: The Continuing Quest for Fair and Effective Representation," *supra* at 868. Adams is a principal architect of the Common Cause models.

\*\*It is worth noting that the most direct conflict of interest concerns legislative districts. While state representatives may run for congressional seats (and thus benefit directly from congressional lines), they more often run for reelection in their state house and senate.

\*\*\*1979 Hearings at 424 (statement of Eric Uslaner).

\*\*\*\*Council of State Governments, *Reapportionment in the Seventies* 11 (1973).

\*Adams, "A Model Reapportionment Process: The Continuing Quest for Fair and Effective Representation," *supra* at 856, n. 115.

\*\*1979 Hearings at 401 (statement of North Carolina State Senator Charles Vickery, citing *Congressional Quarterly*).

mission may view themselves as ultimately accountable to the federal government, to the detriment of viable state government.

Constitutional questions also have been raised in this area, especially with respect to congressional authority to specify the method of commissioner selection. Plans requiring certain state legislators to appoint commission members, for example, might violate the "appointments clause" of the Constitution which requires that certain "Officers of the United States" be nominated by the President and confirmed by the Senate.\*

Three congressmen advanced this argument in 1979 before a House Subcommittee, pointing out that it was their understanding that (i) commission proposals do not specifically define whether a commission would be a state or federal agency, (ii) if a federal agency has more than investigatory and informatory powers, its members must be selected in conformity with the "appointments clause," and (iii) since the commissions would be responsible for making reapportionment decisions (clearly more than investigatory and informatory powers), the constitutionality of their selection by party members in the state legislatures would clearly be put into question.\*\* They also suggested that congressional specifications as to commission selection and membership might violate states' rights under the Tenth Amendment, by requiring rather than authorizing state officials to perform federal duties. These views are questioned by legal experts for groups espousing redistricting commissions who see no "appointments clause" issue where purely legislative functions are involved (as in preparing district plans) and discern in the broad federal authority recognized by the courts over congressional elections the legitimate power to specify redistricting procedures such as commission mechanisms.\*\*\* Thus, it appears that the issue of congressionally mandated reapportionment commissions must await judicial interpretation for final constitutional validation (although little constitutional question exists that the states may proceed with this technique on their own initiative).

A further line of thinking in this vein merely dismisses commissions as lacking relevancy and meaning with respect to the problems of fair apportionment. On the one hand, it is claimed that if there are fair and clearly defined redistricting standards and if there are "accountability" provisions serving as a check on the redistricting authority, it makes little difference what body holds the redistricting responsibility. Thus, each individual state should choose whatever method of

reapportionment would, in its political context, be consistent with fulfilling these other major requirements. On the other hand, there are those who remain skeptical about articulating any reform measures, feeling that those who wish to exploit the redistricting process for reasons of political self-interest will find a way to circumvent even the most clearly defined rules.

#### Accountability Provisions: Who Should Judge the Plan?

Even if the initial reapportioning authority has built-in fairness safeguards in terms of character, independence, representativeness, and procedural standards, it must be recognized that unforeseen injustices may still result. Thus, the major reform proposals all incorporate some accountability provisions. These include:

- providing for open hearings when the line-drawers are considering redistricting options;
- requiring public notice of redistricting hearings;
- making the record of any hearings publicly available (perhaps by publication in legislative journals);
- affording the opportunity to qualified voters to challenge a proposed plan within a reasonable period (affording sufficient time to become acquainted with the line-drawing proposals and to prepare necessary information for the challenge, but not so long as to delay unduly final determinations) and, possibly, with waiver or reimbursement of attorney's fees for successful challenge;
- placing authority in federal courts for expeditious review of plans, either through challenge initiatives or automatically; and
- allocating responsibility for replacing inadequate or objectionable plans— the redrawing to be accomplished by initial redistricting body, a new group, or the courts.

With respect to judicial review measures, questions arise concerning what specific time provisions should be included in the authorizing bills, and whether there should be automatic judicial review as opposed to review only of those cases which are challenged. Automatic review now occurs for legislative reapportionment plans in Colorado, Florida and Kansas. It offers the advantage of a routine and more thorough check on initial plans, as courts may catch improprieties which public scrutiny misses. However, automatic review also raises questions. In particular, it is interpreted as permitting the courts too great a role in the redistricting process.† The underlying argument stresses that the legislative and not the judicial branch of government should possess the primary authority over redistricting; the courts should not operate as the ultimate arbiter and approver of electoral system arrangements of this kind. An additional problem identified with respect to automatic judicial review is that the courts must make a judgment without the benefit of the adversarial process, a role for which they are not optimally suited.

\*See, e.g., *White v. Weister*, 412 U.S. 781 (1973) where the Court rejected a Texas redistricting plan on the basis of "avoidable" deviations. Four justices dissented, asserting that the ruling in effect established a *de minimis* rule for state legislatures where the state was not even required to justify population variances.

\*Article II, Section 2, cl. 2: "He shall have power, by and with the advice and consent of the senate, to make treaties, provided two-thirds of the senators present concur; and he shall nominate, and by and with the advice and consent of the senate, shall appoint ambassadors, other public ministers and consuls, judges of the supreme court, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law. But the Congress may by law vest the appointment of such inferior officers, as they think proper, in the president alone, in the courts of the law, or in the heads of departments."

\*\*1979 Hearings at 35-36 (statements of Representatives James Leach, Robert Kastenmeier, and William Frenzel relying on *Buckley v. Valeo*, 424 U.S. 1 (1976), interpreting the case as holding in part that if a federal agency has more than investigatory and informatory powers, member selection must conform to the "appointments clause.").

\*\*\*See, e.g., 1979 Hearings at 67-75 (statement of Common Cause General Counsel K. Guido, *The Constitutionality of the Antigerilymandering Act of 1979*, relying on *Ex Parte Seibold* (1880), *Smiley v. Holm* (1932), and *Oregon v. Mitchell* (1970), as establishing Congress's clear power to divest states of all control over redistricting and, therefore, also to exercise more limited prerogatives of specifying procedural rules and methods for that function.)

The problem of revision or redrafting where initial plans are rejected has also generated some differences of approach. One option dictates that courts redraw plans themselves or appoint other apportioning authorities if they reject the first plan proposed. Others follow this course only when the initial apportioning authority fails twice; such a "second-try" approach is usually defended for plans which call for redistricting commissions. An underlying rationale reflects the concern that members of a nonpartisan commission, knowing that a court of their political persuasion will take over the reapportionment process should the commission fail to act, might be inclined to force a deadlock. Moreover, the commission would likely have at its disposal staff, resources, and experience not readily available to the court, which it could employ in formulating a new plan.

Although many of the accountability provisions remain subject to debate, particularly in their detailed content, most redistricting reformers agree that this is a crucial component for improvement. Similarly, while influential groups may differ as to who should make redistricting decisions and how critical these decisional bodies are, most seem to join forces in recognizing the importance of accountability factors to an equitable reapportionment process.

### V. Concluding Observations

This monograph has attempted to identify problems associated with the current congressional redistricting system and to review the various proposals for improvement along with major arguments which have been advanced in favor of and against them. It is hoped that this analysis will enhance understanding of the important issues involved, and that it will motivate groups and individuals both within and outside the legal profession to formulate their own views, consider remedial action and resist deterrence to change by traditional obstacles in this field.

The improvement proposals under consideration and debate fall into two broad categories—structural change (largely focused on the use of special commissions for developing reapportionment plans) and promulgation of standards to help ensure fairness and equity in line-drawing (based on a handful of principles running from population equality through encouragement of minority influence). Concurrently, two levels of legislative initiative for such reforms are under consideration and debate—federal and state.

It is not the intent or function of this pamphlet to advocate specific reform positions. However, redistricting equity remains a problem for the nation and optimal solutions and conditions do not yet appear to have been devised, no less incorporated in existing processes. Thus, a measure of experimentation with the new reform concepts seems desirable; the American Bar Association has formally endorsed such a posture in relation to the 1980 census redistricting process.\*

The nation's experience with redistricting commissions has not been sufficiently widespread or intensively evaluated to draw final conclusions as to universal value or the most desirable subfeatures and characteristics. Thus, it would seem that those who call for state initiatives in jurisdictions so inclined, rather than for a mandate that all states establish commissions, would offer the most promise and the best opportunity to evolve optimal structures for reapportionment.

Federal rules governing redistricting standards, rather than governing methods to apply these standards, however, may be beneficial, although existing uncertainties as to the best "mix" and order of priority among the most commonly cited standards (e.g., population equality, compactness, contiguity, avoidance of intentional political preference) suggest that such formulations might do well to leave some room for state flexibility and experimentation in detailed definition and ordering of any standards articulated.

Whatever the case, carefully studied and soundly conceived redistricting reform promises to aid many sectors of society:

- voters in general whose voice will be heard more clearly when election results are not predetermined by gerrymandering, when competition for congressional seats is maximized, and when representatives must focus their responsiveness on voters rather than on line-drawers;
- racial and ethnic minorities whose interests have often been subordinated in past redistricting practices;
- congressional candidates from minority parties and challenger groups who no longer need hurdle undue barriers of self-protection constructed by incumbent politicians;
- state legislators who will be liberated from political pressures which may influence them to manipulate the line-drawing process;
- courts which will have clearer guidelines concerning the acceptability of redistricting plans; and
- rural and suburban communities (when gerrymandering has been used to strengthen unduly the urban voice) and urban residents (when line-drawers have attempted to increase unduly rural representation).

Indeed, virtually all sectors of society can benefit from congressional redistricting improvement which aids the American electoral machinery in functioning according to our highest ideals of representative government. The time is right—for thought, for decision, and for new levels of achievement.

\*See Appendix B.

## APPENDIX A

### IMPORTANT DATES IN REDISTRICTING HISTORY

DATE	ACTOR	EVENT	DESCRIPTION	STATE LEGISLATIVE/ CONGRESSIONAL
1842	U.S. Congress	5 Stat. 491	First federal statute requiring states to establish congressional districts. First congressional attempt to impose standards in congressional redistricting: compactness, contiguity, single-member districts.	C
1872	U.S. Congress	17 Stat. 28	Reiterated 1842 standards; set forth population equality standard. Reiterated in 1882, 1891, 1901.	C
1880	U.S. Supreme Court	<i>Ex Parte Siebold</i>	Congress has supreme authority over congressional election rules.	C
1911	U.S. Congress	1,2,37 Stat. 13,14	Reiterated 1872 requirements. Fixed number of U.S. House members at 435.	C
1929	U.S. Congress	46 Stat. 21	Required automatic reapportionment on basis of population after each decennial census.	C
1932	U.S. Supreme Court	<i>Ex. Rel. Smiley v. Holm (Minnesota)</i>	Congress has "authority to provide a complete code for congressional elections."	C
1946	U.S. Supreme Court	<i>Colegrove v. Green (Illinois)</i>	Courts lack authority to judge fairness of a political matter such as redistricting plans.	C
1960	U.S. Supreme Court	<i>Gomillion v. Lightfoot (Alabama)</i>	Gerrymandering of city boundaries with a clearly defined racial motive is unconstitutional.	L
1962	U.S. Supreme Court	<i>Baker v. Carr (Tennessee)</i>	Federal courts have authority to judge fairness of legislative redistricting plans	L
1964	U.S. Supreme Court	<i>Wesberry v. Sanders (Georgia)</i>	"One man, one vote" ("as nearly as practicable") standard: strict numerical equality among populations in congressional districts.	C

DATE	ACTOR	EVENT	DESCRIPTION	LEGISLATIVE/ CONGRESSIONAL
1964	U.S. Supreme Court	<i>Reynolds v. Sims</i> (Alabama)	Both houses in state legislature must meet the "as nearly as practicable" standard; some deviation is allowed to accommodate other relevant considerations. (e.g., preserving political subdivisions).	I.
1964	U.S. Supreme Court	<i>Wright v. Rockefeller</i> (New York)	To prove gerrymandering unconstitutional on grounds of discrimination, challenger must show evidence of discriminatory effect and purpose.	C
1965	U.S. Congress	Voting Rights Act, 42 U.S.C., 1971, 1973 et seq.	States with past history of discrimination must submit electoral changes to Department of Justice for preclearance. State plan may be rejected if either intent or effect is to dilute minority power. Protected language minorities include Alaskan natives, American Indians, Asian Americans, persons of Spanish heritage.	C, L
1966	U.S. Supreme Court	<i>Burns v. Richardson</i> (Hawaii)	Redistricting plans are not necessarily unconstitutional if merely designed to reduce competition among incumbent legislators.	I.
1967	U.S. Congress	2 U.S.C. § 2c	Banned at-large congressional elections.	C
1967	U.S. Supreme Court	<i>Swann v. Adams</i> (Florida)	Although rejecting legislative apportionment plan, the court recognized that <i>de minimis</i> numerical deviations are unavoidable in state legislative apportionment.	I.
1969	U.S. Supreme Court	<i>Kirkpatrick v. Preister</i> (Missouri)	States must make "good faith effort" to achieve "precise mathematical equality" and must justify all population deviations.	C
1969	U.S. Supreme Court	<i>Wells v. Rockefeller</i> (New York)	Strict mathematical equality is required. Invalidated plan which set up a New York congressional district with maximum deviation of 6.6%.	C
1970	U.S. Supreme Court	<i>Oregon v. Mitchell</i> (Oregon)	Reiterated Congress's ultimate authority over congressional elections.	C

DATE	ACTOR	EVENT	DESCRIPTION	LEGISLATIVE/ CONGRESSIONAL
1971	U.S. Supreme Court	<i>Whitcomb v. Chavis</i> (Indiana)	Multimember state legislative districts are not unconstitutional <i>per se</i> ; challengers must prove unconstitutional dilution of voting strength.	I.
1971	U.S. Supreme Court	<i>Connor v. Johnson</i> (Mississippi)	Where a federal court fashions a redistricting plan, single-member districts are preferable to multi-member districts.	I.
1973	U.S. Supreme Court	<i>White v. Regester</i> (Texas)	Certain population deviations are permissible in legislative redistricting plans if effected to accommodate rational state policies (e.g., preserving political subdivisions). Multi-member districting is unconstitutional if it dilutes the votes of a racial minority.	I.
1973	U.S. Supreme Court	<i>White v. Weiser</i> (Texas)	Deviations of 2.43% above average and 1.7% below average in Texas congressional districting plan deemed unacceptable, since districts were not as mathematically equal as practicable.	C
1973	U.S. Supreme Court	<i>Gaffney v. Cummings</i> (Connecticut)	States not required to justify minor population deviation in legislative districts; a legislative district plan may constitutionally be drawn with intent to reflect political make-up of state.	I.
1973	U.S. Supreme Court	<i>Mahan v. Powell</i> (Virginia)	Upheld a Virginia legislative plan which produced a maximum population deviation of 16.4%, deeming the plan a rational means to preserve political subdivisions.	I.
1977	U.S. Supreme Court	<i>United Jewish Organizations v. Carey</i> New York	Racial criteria may be used in drawing legislative district lines if designed to comply with Voting Rights Act.	I.
1980	U.S. Supreme Court	<i>City of Mobile v. Bolden</i> (Alabama)	Public officials may be elected at-large even though preclusion of election of minorities may thereby result, where plaintiffs in non-Voting Rights Act jurisdiction fail to show intent to discriminate in the election mechanism or procedure.	I.

## APPENDIX B

### AMERICAN BAR ASSOCIATION RESOLUTION ON FAIR REDISTRICTING

(House of Delegates: February 1979)

*Note:* The following resolution relates to voter participation initiatives extending well beyond legislative reapportionment. While the complete resolution is set forth, only that commentary from the underlying report which relates to redistricting has been excerpted.

#### RECOMMENDATIONS

BE IT RESOLVED, that the American Bar Association urges the President of the United States to appoint a commission of distinguished persons from various walks of life to study the decline in voter participation in the electoral process and to make appropriate recommendations, such study to culminate in a White House conference on the subject of declining voter participation; and

BE IT FURTHER RESOLVED, that the American Bar Association supports the enactment of legislation that encourages voter participation, eliminates mechanical barriers to voting and provides for fair redistricting pursuant to the 1980 census without regard to partisan advantage; and

BE IT FURTHER RESOLVED, that the state and local bar associations be urged to support and join with the American Bar Association in this program to improve and enhance voter participation.

#### REPORT (Excerpts)

##### 3. Redistricting Pursuant to the 1980 Census

Many of the participants in the Palo Alto conference\* stated that persons frequently do not vote because politically motivated manipulation of the borders of legislative districts has prevented citizens from developing a sense of community identity with the area in which they vote. Also, such districting practices actively skew the voting power that does exist, such as when cohesive communities are broken into several legislative districts. Such gerrymandering was said to have resulted to a large extent from the judicial prescription of "one man, one vote." The sense of the conferees was that legislative districts can comply with that principle and still represent cohesive communities. Accordingly, they suggested that, at the next chance for redistricting, the ABA take an active role in supporting fair and representative legislative districts, drawn without regard to partisan advantage.

Among our recommendations for action is that the Association support the concept of fair redistricting pursuant to the 1980 census. We believe that there

should be a statement of principle at this time because of the proximity of the census, following which virtually every state will be required to redraw the boundaries of congressional and state legislative districts. We believe that well in advance of the required redistricting the Association should be on record in support of the goal of fair representation for all citizens without regard to partisan advantage. In this regard, we should note that one of the recurrent themes at the Palo Alto conference was that one of the side effects of gerrymandering was a lack of competition in electoral politics, thereby decreasing the level of participation. Our redistricting recommendation does not endorse any specific method of reapportionment. Toward that end we plan to sponsor a future conference on the subject of redistricting.\*

\*Symposium on Citizen Participation in Government, sponsored by the Special Committee on Election Law and Voter Participation, June 1978. See proceedings published in *The Disappearance of the American Voter* (1979).

\*Held in San Diego, California, June 1980. Attended by approximately forty election law experts, state legislators, attorneys, citizen groups and mathematicians, the three day session has been transcribed for publication. See *Representation and Redistricting in the 1980s*, ed. by Grofman, Lijphart, McKay, and Searrow (Lexington Books, 1981, forthcoming).

## APPENDIX C

### ABA SPECIAL COMMITTEE REPORT ON REDISTRICTING

(Excerpts, August 1980)

Since its last report to the House of Delegates in February 1980, the Special Committee has focused its attention on three major areas of election law: districting, absentee voting, and campaign finance.

#### REDISTRICTING: Introduction

In February 1979 the House of Delegates of the American Bar Association adopted, on the recommendation of our Committee, a series of resolutions on the subject of voter participation, among which was a resolution calling for "fair districting pursuant to the 1980 census without regard to partisan advantage." In launching a program to encourage voter participation, the Association authorized our Committee to co-sponsor, with the National Science Foundation, a conference on representation and apportionment issues in the 1980s.

This conference was held in San Diego, California, June 11-15, 1980. It was attended by distinguished political scientists, mathematicians, reapportionment and election law experts, representatives of congressional and state legislative committee staffs, lawyers, and representatives of various public interest groups including the League of Women Voters, Common Cause and the Mexican American Legal Defense and Educational Fund. The conference discussions focused on such districting subjects as the use of single-member districts, the legal criteria for determining the fairness of single-member districts, electoral mechanisms other than single-member districts, the policy consequences of reapportionment, representation within the political party system, and theories of representation. A number of scholarly papers were prepared for the conference, which, along with commentaries on the proceedings, will be published in a separate volume.\* We believe this volume will be an invaluable aid to members of legislative bodies, lawyers and judges, as they grapple with the important representation and apportionment issues of the 1980s. How these issues are handled will be of critical importance to our nation and to the integrity, vitality and effectiveness of our electoral system and government for the next ten years.

For that reason, we believe it of great importance that a national dialogue be opened at this time on the mixed legal and political issues of districting and apportionment. Although our examination of these issues will continue into 1981, we felt it valuable to set forth in this informational report some of the preliminary conclusions we have reached as a result of our study of this area.

#### General Observations

We feel that the entire problem of reapportionment and districting is exceedingly complex, and quite possibly does not permit a national solution that

\*One paper presented at the conference, by Professor Michel Balinski, raised questions about the formula that should apply in allocating congressional seats among the states. Another paper, by Professor Steven Brams, suggested the introduction of a new voting system called "approval voting."

is either appropriate or realistic in all fifty states. Of fundamental concern is the fact that reapportionment and districting are important aspects of deciding the allocation of political power within an electorate.

Because the districting process amounts to an allocation of political power and because of the obvious conflicts in having the legislatures control the process, various proposals have been submitted, some of which would create independent commissions to do the actual job of redrawing district lines. While these commission proposals may have merit (a proposition on which we now express no opinion, pro or con), it is probably utopian to expect that many legislatures are now prepared to adopt such proposals.

We do feel, however, that the time is ripe for each state to consider the standards it will apply in its actual districting process. Adopting standards before beginning the actual districting process has at least three advantages. First, it would make more open and public the bases upon which political power would be reallocated. Second, it would establish a framework for accomplishing the districting itself. And third, it would establish the benchmark against which the eventual districting plan could be evaluated by the public, the press, and (in the event of judicial appeal) the courts.

An underlying assumption is that the districting process—both the adoption of standards and the drawing of district lines—should be open and public. It is certainly apparent that the conflicts of interest inherent in the process are reduced by public and media scrutiny.

#### The Districting Standards

The next, and most fundamental, question is, specifically, what should these standards be? While one scholar has identified at least sixteen standards, not all possible standards will be relevant or appropriate in each state.\* Nonetheless, there are certain basic standards which deserve consideration in every state.

The most obvious standard is population equality. Ever since the "apportionment" decisions of the U.S. Supreme Court, very close population equality has been constitutionally required. Many states have set their own standards in this regard, and it is worth noting that some states allow even less population variance from district to district than do the federal court decisions.

Other standards include the extent to which electoral districts should be compact and/or contiguous; follow local political boundaries; and be drawn to concentrate identifiable groups (whether political, ethnic, or economic) in the district.

Two other standards, which have not received the in-depth judicial scrutiny that population equality has, pertain to the functioning of a democratic form of government. The first of these is the principle that the party or faction receiving a state-wide majority of votes should also receive a majority of the seats in the legislature, so that it is able to carry out its mandate to govern. Another standard involves an application of the principle of competitiveness so as to ensure voter interest in district elections.

\*The San Diego conference volume will contain an extremely useful section on the criteria for districting and reapportionment.

## Standards: Conclusions

In considering the adoption of standards, each state will be faced with some very hard choices. This is because, by adopting and following one standard, a state may in certain cases make it impossible to follow another. Therefore, the adoption of standards likely will require their prioritization. The critical point is that because the process is a difficult one, now is the time for the states to begin dealing with the complexities of redistricting before the process is upon us.

### Single-Member Districts as a Norm

As a result of its consideration of the consequences of using different types of districting, our Committee believes that a single-member districting system generally is the best and most effective form of district representation.

Single-member districts allow voters in a district to choose one representative, *i.e.*, one legislator or one county commissioner. Multi-member districting permits a citizen to select more than one representative. The geographical area and population of multi-member districts are usually much larger than those of a single-member district. Some states and localities use a combination of single and multi-member districts, including at-large elections, where all voters in a political subdivision vote for several representatives. The impact of districting is fundamentally the same no matter what type of governmental entity (city, county, state) is involved.

In favoring the use of single-member districts, we note that such a districting system has worked well for congressional elections. Authorities who have studied the subject point to a number of advantages to the single-member districting system:\* a single-member district is smaller than an at-large or multi-member district, which permits closer contact between the single representative and his or her constituency. The smaller district also provides greater accountability to the electorate, who will be better informed of the activities and voting record of the sole representative. In addition, political and racial minority groups who at times have had their voting power and strength diluted by larger multi-member districts will have greater impact on the elections and a better opportunity for election to office from within the district. Finally, election campaigns would also be affected by the choice of single-member districting. It is likely that campaign costs would be decreased as a result of reducing the size of the area and population of a district and limiting the election to one representative. The nature of campaigning might also change, by reducing the impact and necessity of extensive media advertising. More effort could then be expended on neighborhood and local campaigning, which should allow the electorate to become better acquainted with the candidates. Significantly, by reducing the cost of campaigns, it is likely that more individuals would be able to run for office, thereby making the process more competitive.

While single-member districting is by no means the panacea to representation problems, we believe it would go a long way toward ensuring more effective representation and a greater opportunity to participate in government and the electoral process.

The foregoing discussion outlines the intricate nature of the redistricting question. In view of the complex issues which require resolution before "fair district-

ing without regard to partisan advantage" can take place, our Committee urges that legislators, lawyers and all reapportionment experts take up the question at this time.

Respectfully submitted,

John D. Feerick, Chairman

August 1980

\*The San Diego conference volume will contain an extensive section on this subject.

## APPENDIX D

### Further References

- Adams, Bruce. "A Model State Reapportionment Process: The Continuing Quest for 'Fair and Effective Representation,'" *Harvard Journal on Legislation*. June 1977, at 825-904.
- Baker, Gordon. "Redistricting in the Seventies: The Political Thicket Deepens," *National Civic Review*. June 1972.
- Barone, Michael, Grant Ujifusa and Douglas Matthews. *The Almanac of American Politics*. New York: E.P. Dutton, 1979.
- Boyd, William J.D. "Apportionment and Districting: Problems of Compliance," *National Civic Review*. April 1971, at 199-203.
- Common Cause. *Reapportionment: A Better Way*. Washington, D.C., November, 1977.
- Congressional Research Service. *The Voting Rights Act of 1965, as Amended: History, Effects & Alternatives*. Washington, D.C., U.S. Government Printing Office, June 1975.
- Council of State Governments. *Reapportionment in the Seventies*. Lexington, KY, 1973.
- Dorfner, Armand. "Multi-Member Districts and Black Voters," 2 *Black Law Journal*. Summer 1972, at 120-129.
- Dixon, Robert, Jr. "'One Man, One Vote'—What Happens Next?" *National Civic Review*, May 1971, at 259-296.
- Grofman, Bernard, Arend Lijphart, Robert McKay and Howard Scarrow (eds.). *Representation & Redistricting in the 1980s*. Lexington Books, 1981.
- Kenton, Carolyn and Susan W. Wanat. "Reapportionment: The Issues," *State Government*, Vol. 45, No. 4. Fall 1972, at 214-221.
- McKay, Robert. "Reapportionment: Success Story of the Warren Court," 67 *Michigan Law Review* 223 (1978).
- Niemi, Richard and J. Deegan, Jr. "Theory of Political Districting," *American Political Science Review* 72. December 1978, at 1304-1323.
- O'Rourke, Terry. *Reapportionment Law, Politics, Computers*. American Enterprise Institute. Washington, D.C., 1971.
- Polsby, Nelson (ed.). *Reapportionment in the 1970s*. University of California Press, Berkeley, CA., 1971.
- Smith, George Bundy. "The Failure of Reapportionment: The Effect of Reapportionment on the Election of Blacks to Legislative Bodies," 18 *Howard Law Journal* 639 (1975).
- Wells, David. "'Affirmative Gerrymandering' Compounds Districting Problems," *National Civic Review*. January 1978, at 11-17.
- Wollock, Andrea (ed.). *Reapportionment: Law and Technology*. National Conference of State Legislatures, June 1980.

# Reapportionment—Dividing the Power

BY CAROLYN KENTON, CSG, Lexington

The decennial struggle for controlling political power and influence is in full swing. The process of recarving the political pie, which is called redistricting, was triggered by the 1980 census on the congressional and the state legislative levels.

## Congressional Redistricting

The political composition of Congress will be altered by the redistribution of seats among the states due to population shifts. In addition, it appears as though most states will have redrawn congressional district lines prior to the 1982 elections. Six states will have only one congressman and require no districting—Alaska, Delaware, North Dakota, South Dakota, Vermont and Wyoming. Another 14 states—Alabama, Arkansas, Idaho, Indiana, Iowa, Mississippi, Nebraska, Nevada, North Carolina, Oklahoma, Oregon, Tennessee, Texas and Virginia—have redrawn congressional district lines to conform to the 1980 census figures. Of the remaining 30 states, eight are expected to address the issue before the first of the year.

The standard for drawing congressional districts is simple and straightforward. The districts must be as nearly equal in population as possible. So far, the U.S. Supreme Court has not been willing to interject any other criterion except that imposed by the Voting Rights Act and the equal protection provisions of the 14th and 15th Amendments to the U.S. Constitution.

The new congressional districts appear to be satisfying the court's requirements for "one man, one vote." Eight of the 14 new congressional plans have an overall population difference between the largest and smallest district of less than 1 percent. The remaining six have a population difference of 2-3 percent or less.

## Gerrymandering Charged

The reliance on population equality gives redistricting cartographers leeway in drawing lines and leaves the door open to gerrymandering.

Partisan battles in the states have been intense. In states controlled by a single party—governor and legislature—the party out of power and some political observers have accused the controlling party of gerrymandering. Republican Gov. John Spellman of Washington considered the Republican-drawn plan so badly gerrymandered that he vetoed

it. In Indiana, the legislature and governor apparently tried to change the congressional delegation from the present 6-5 Democratic edge to a 7-3 Republican edge (Indiana lost one congressman). To accomplish this, two existing Democratic districts were divided into four new ones and three Democratic congressmen were placed into one district.

States with divided political control—one or more houses of the legislature controlled by the opposition party—have also suffered problems. Democratic Gov. Richard Lamm of Colorado has vetoed two congressional plans drawn by the Republican legislature although the largest and smallest districts had a population difference of only 41 people in one plan.

The governors of Idaho, Oregon and Tennessee allowed the opposing legislative party's congressional plans to become law without their signatures.

Three states—Illinois, Minnesota and Missouri—have suits pending which would declare the existing congressional districts invalid, therefore requiring that they be redrawn before new elections could be held. These suits were filed after an apparent political impasse on the enactment of a plan developed by the parties in the legislature and/or the governor.

The majority of congressional districts will be redrawn through the normal legislative process. The exceptions are Hawaii and Montana, where commissions are responsible, and Connecticut, where a commission will be appointed to draw them because the legislature was unable to meet an Aug. 1 deadline.

Plans will be prepared in Iowa by the Legislative Service Bureau and in Maryland by the governor, but the legislatures must still act on them. Generally speaking, however, congressional districts are much easier for state legislators to redraw than are legislative districts.

## Legislative Redistricting

State legislatures have doggedly plunged ahead with their own redistricting. Redistricting is expected to be completed before the next legislative election in all states except Kansas, Kentucky, Maine, Massachusetts, Montana and New York. To date, 22 states have adopted a plan for one or both legislative houses.

The Texas and Virginia house plans have been ruled unconstitutional. The Texas Supreme Court ruled the house plan split counties unnecessarily in violation of the state constitution. The Texas plan will now be drawn by the Legislative Redistricting Board which will also draw the senate districts. In Virginia, a three-judge federal district court ruled the house plan invalid because of the large disparity—over 26 percent—between the largest and smallest districts. The court allowed the election for delegates to the house to proceed on schedule this fall, but shortened their terms to one year and required the legislature to redraw the house plan before Feb. 1982.

## State Legislative Criteria Differs

The rules governing legislative redistricting as set out by the U.S. Su-

(continued)



## STATISTICAL MEASURES OF POPULATION EQUALITY

Ideal District Population equals the Total State Population divided by the Number of Districts.

### FOR INDIVIDUAL DISTRICTS

Absolute Deviation equals the District Population minus the Ideal Population.

Relative Deviation equals the District Population divided by the Ideal Population (usually expressed as a percent).

### FOR ALL DISTRICTS COLLECTIVELY

#### Range

Absolute Range is the largest District Population and the smallest District Population.

Relative Range is the largest district Relative Deviation and the smallest district Relative Deviation.

Overall Range equals the largest district (Absolute, Relative) Deviation plus the smallest district (Absolute, Relative) Deviation (ignoring + and - signs).

Absolute Mean Deviation equals the sum of all the districts' Absolute Deviations divided by the Number of Districts (ignoring + and - signs).

Relative Mean Deviation equals the sum of all the districts' Relative Deviations divided by the Number of Districts (ignoring + and - signs).

Standard Deviation equals the square root of the sum of all the squares of all the districts' Deviations divided by the Number of Districts.

# BIBLIOGRAPHY

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## FOREWORD

This Bibliography is the second in a series of resource materials to be released by the Reapportionment Information Service of The Council of State Governments. The first document released in December 1980, was a Directory of people and organizations actively involved in reapportionment.

The Bibliography includes published and unpublished materials on reapportionment, legislative districts, elections and representation. It covers the years from the early 1970's to the present comprehensively. Citations to earlier documents reflect their long term relevance to the understanding of the current reapportionment process.

The Bibliography is organized into two parts. The first part is a numbered, alphabetical listing of all entries. The second part is a brief index dividing entries into broad subject areas.

For additional information on the 1981 Reapportionment process, interested persons should contact Carolyn L. Kenton, Director, Reapportionment Information Service, The Council of State Governments, P. O. Box 11910, Lexington, Kentucky, 40578 (606) 252-2291.

REAPPORTIONMENT BIBLIOGRAPHY

1. Adams, Bruce. "Model State Reapportionment Process - Continuing Quest for Fair and Effective Representation." Harvard Journal on Legislation. vol. 14, no. 14 (1977): 825-904.
2. Adams, Bruce. "The Unfinished Revolution: Beyond 'One-Person, One-Vote.'" National Civic Review. vol. 57, no. 1 (January, 1978): 19-25.
3. "Apportionment Problems in Local Government." Notre Dame Lawyer: 49 (Fall, 1974) 671-685.
4. Askin, C. A. "Burger Court and Reapportionment--From One Person, One Vote to One Corporation, Many Votes." Georgetown Law Journal. vol. 62, no.3 (1974) 1001-1018.
5. "At-Large Voting Dilution Claims: The Fifth Circuit Requires Racially Motivated Discrimination." Cumberland Law Review 9 (Fall 1978): 443-455.
6. Austin, Robert Jackson. "The Redistricting Process after One Man-One Vote: The Case of Virginia." Ph.D. dissertation, University of Virginia. 1976.
7. Baker, G. E. "One Man, One Vote, and 'Political Fairness'--or, How the Burger Court Found Happiness by Rediscovering Reynolds v. Sims." Emory Law Journal, 23 (Summer 1974): 701-723.
8. Baker, Gordon E. "Redistricting in the Seventies: The Political Thicket Deepens." National Civic Review. vol. 61, no. 6 (June 1972): 277-285.
9. Baker, Gordon E. "Quantitative and Descriptive Guidelines to Minimize Gerrymandering," Annals of the New York Academy of Sciences. (November 9, 1973).
10. Baker, Gordon E. "The Contributions of Robert G. Dixon, Jr. to Theory and Practice of Reapportionment: A Critique and an Appreciation." Unpublished paper presented at the Conference on Representation and Apportionment Issues in the 1980's, June 12, 1980, San Diego, California.
11. Balinski, M. L. and Young, H. P. "New Method for Congressional Apportionment" Proceedings of the National Academy of Sciences of the United States of America. vol. 71, no. 11 (1974): 4602-4606.

12. Ball, H. "Warren Courts Conceptions of Democracy - Evaluation of Supreme Court's Apportionment Opinions." University of Pennsylvania Law Review. vol. 122, no. 2 (1973): 505-508.
13. Basehart, Harry. "The Nature of Representation: What the Court Guidelines Say." National Civic Review. vol. 69, no. 10 (November 1980): 546-554.
14. Belsky, M. H. "Reapportionment in 1970s - Pennsylvania Illustration." Temple Law Quarterly, vol. 47, no. 1 (1973): 3-37.
15. Bickerstaff, Steve. "Reapportionment by State Legislatures: A Guide for the 1980's." Southwestern Law Journal, vol. 34, no 2 (June 1980): 607-686.
16. Bickerstaff, Steve. "Reapportionment by State Legislatures: A Guide for the 1980's, Addendum." Unpublished paper Bickerstaff and Heath (November 21, 1980): 61p.
17. Billingsley, Keith R. and Dunn, Delmer D. "The States and the Bureau of the Census." State Government. vol. 47, no. 3 (Summer 1974): 180-184.
18. Bingham, Richard D. Reapportionment of the Oklahoma House of Representatives: Politics and Process. University of Oklahoma, Norman, Oklahoma, 73069. Bureau of Government Research. 1972.
19. Blackstrom, Charles; Robins, Leonard; and Eller, Scott. "Issues in Gerrymandering: An Exploratory Measure of Partisan Gerrymandering to Minnesota." Minnesota Law Review. vol. 62, no. 6 (July 1978): 1121-1159.
20. Blackstrom, Charles. "Problems of Implementation of Redistricting." Unpublished paper presented at the Conference on Representation and Apportionment Issues in the 1980's, June 12, 1980, San Diego, California.
21. Brace, Kimball. "New Census Tools." American Demographics. (July - August 1980): 27.
22. Bradley, Clark R. and Wiggins, Charles W. "Persistence of Divided Party Control of State Governments - Post-Reapportionment Note." Polity. vol. 8, no. 3 (1976): 490-495.
23. Buchanan, Christopher. "GOP Hopes for Seat at Redistricting Table." Congressional Quarterly Weekly Report. 36 (July 29, 1978): 1933-1936.
24. Buchanan, Christopher. "States Seek Ways to Make Redistricting Less Partisan." Congressional Quarterly Weekly Report 35 (November 26, 1977): 2481-2483.

25. Bushnell, Eleanore (ed.). Impact of Reapportionment on the Thirteen Western States. Salt Lake City, Utah: University of Utah Press. 1970.
26. Bushnell, Eleanore and Dyer, G. E. "Impact of Reapportionment on 13 Western States." Social Science Quarterly. vol. 53, no. 1 (1972): 187.
27. Bullock, Charles S. III. "Redistricting and Congressional Stability, 1962-1972." Journal of Politics. vol. 37, 569-575.
28. Carlucci, Carl P. "The Impact of an Adjustment to the 1980 Census on Congressional and Legislative Reapportionment." Proceedings of the 1980 Conference on Census Undercount, U. S. Department of Commerce. (July 1980): 145-153.
29. Carpeneti, Walter L. "Legislative Apportionment: Multimember Districts and Fair Representation." University of Pennsylvania Law Review, vol. 120, no. 3. (1972): 666.
30. Casjens, Robert S. "The California Senate: The Impact of Reapportionment on Its Educational Policy Decisions." Ph.D. dissertation, Claremont Graduate School, 1974.
31. Casper, G. "Apportionment and Right to Vote - Standards of Judicial Scrutiny." Supreme Court Review (1973): 1-32.
32. "Challenges to At-Large Election Plans: Modern Local Government on Trial." University of Cincinnati Law Review 47 (1978): 64-77.
33. "Chavis v. Whitcomb: Apportionment, Gerrymandering, and Black Voting Rights." Rutgers Law Review 24 (Spring 1970): 521.
34. Cho, Yong Hyo and Frederickson, George. "The Effects of Reapportionment: Subtle, Selective, Limited." National Civic Review. vol. 63, no. 6 (June 1974): 357-362.
35. Clem, Alan L. and Farher, W. O. "Manipulated Democracy, The Multimember District." National Civic Review. vol. 68, no. 5 (May 1979).
36. Clinton, R. N. "Further Explorations in the Political Ticket: The Gerrymander and the Constitution." Iowa Law Review 59 (October 1973): 1-47.
37. Common Cause. Toward A System of "Fair and Effective Representation": A Common Cause Report on State and Congressional Reapportionment. 2030 M Street N.W., Washington, D.C., 20036. (1977): 129 pp.
38. Common Cause in Wisconsin, Reapportionment in Wisconsin: Decades Ago and Decades to Come. April 1979

39. "Compensatory Racial Reapportionment." Stanford Law Review 25 (November 1972): 84-106.
40. "Compensatory Racial Redistricting: United Jewish Organizations of Williamsburg, Inc. v. Carey." Southwest Law Journal 31 (Winter, 1977): 1143-1149.
41. Congressional Quarterly. Guide to U. S. Elections. Washington, D.C. (1971): 523-541.
42. Congressional Research Service. Political Redistricting: The Role of Computer Technology, Revised. Washington, D.C. (April 1, 1973).
43. Congressional Research Service. The Voting Rights Act of 1965, as Amended History, Effects, and Alternatives. Washington, D.C. (June 17, 1975).
44. Conrad, Charles J. The Equal Weight Factor in Reapportionment. Thousand Oaks, California: By the Author. (February 22, 1978): 12 pp.
45. "Constitutional Challenges to Gerrymanders." University of Chicago Law Review 45 (Summer 1972): 845-881.
46. "Constitutional Law--Congressional Districting--'One Man-One Vote' Demands Near Mathematical Precision." DePaul Law Review 19 (Autumn 1969): 152.
47. "Constitutional Law--Congressional Reapportionment--Equal Representation Requirement Requires a Good Faith Effort to Achieve Absolute Equality." Villanova Law Review 15 (Fall 1969): 223.
48. "Constitutional Law--Due Process--Non Retrogressive Reapportionment Plan Upheld." Marquette Law Review 60 (Fall 1976): 173-185.
49. "Constitutional Law--Elections--Representative Government--in Apportioning Its Legislative Districts, a State May Deviate from One Man, One Vote if It Can Show a Rational State Policy and Maintain Substantial Equality." University of Cincinnati Law Review 42 (1973): 788-794.
50. "Constitutional Law--Equal Protection--At-Large Election of Parish Officials Unconstitutionally Dilutes Voting Strength of Black Voters Where There Persist the Effects of a State Policy that Has Historically Hindered Participation of Blacks in Electoral Process." Alabama Law Journal 26 (Fall 1973): 163-176.
51. "Constitutional Law--Local Reapportionment--'One Man, One Vote' Held Applicable to Special-Function Units of Local Governments." Villanova Law Review 16 (November 1970): 158.

52. "Constitutional Law--Mahan v. Howell (93 Supreme Court 979)--Forward or Backward for the One Man-One Vote Rule." DePaul Law Review 22 (Summer 1973): 912-925.
53. "Constitutional Law--Multimember Districting as a Violation of Equal Protection." Wisconsin Law Review (1970): 552-558.
54. "Constitutional Law--One Man, One Vote--Application to Election of School District Trustees." Land & Water Law Review 7 (1972): 289.
55. "Constitutional Law--Reapportionment--Compensatory Racial Reapportionment but No Right to Community Unity." Suffolk University Law Review 9 (Summer 1975): 1496-1511.
56. "Constitutional Law--Reapportionment--Legislative Consideration of Race in Reapportionment Allowed Where State Districting Plan Directed and Approved by Attorney General under Federal Statute and Resulting Districts Not Unfairly Prejudicial to White Group." Georgetown Law Journal 63 (July 1975): 1321-1335.
57. "Constitutional Law--Reapportionment--Potential Dilution of Minority Voting Strength Not Within Area of Constitutional Review." St. Mary's Law Journal 7 (1975): 447-454.
58. "Constitutional Law--Reapportionment--a Substantive Constitutional Right to Minority Representation in the Legislature?" North Carolina Law Review 50 (December 1971): 104.
59. "Constitutional Law--Reapportionment--Variation of 16.4 Percent in the Population of Districts of a State Legislature Held Constitutional." Cumberland-Samford Law Review 4 (Fall 1973): 387-393.
60. "Constitutional Law: State Apportionment--a Still Emerging Standard for Equal Protection." University of Florida Law Review 25 (Summer 1973): 829-837.
61. "Constitutional Law--Supreme Court Declares New Standard of Proof for Groups Alleging Submergence in a Multi-Member Election District." Seton Hall Law Review 3 (Fall 1971): 178.
62. "Constitutionality of the Use of a One Unit-One Vote Rule by Maturing Councils of Governments." Utah Law Review (Spring 1971): 94.
63. Cook, B. B. "Judicial Roles and Redistricting in Kansas." Kansas Law Review 17 (April 1969): 391.
64. Coomer, James Chester. "The Impact of Reapportionment on the Tennessee Legislative Process: An Analysis of the Tennessee General Assembly, 84th and 85th Sessions." Ph.D. dissertation, University of Tennessee, 1975.

65. Cortner, R. C. and Atkins, B. M. "Apportionment Cases." Publius. vol. 2, no. 2 (1972): 152-153.
66. Cortner, R. C. and Lamb, K. A. "Apportionment Cases." American Political Science Review. vol. 67, no. 3 (1973): 1010-1012.
67. "Councils of Governments Mark Their Initial Escape from Equal Apportionment." Connecticut Law Review 7 (Spring 1975): 529-551.
68. Dauer, Manning J. and Maggiotto, Michael A. "The Status of Multi-Member Districts in State and Local Government." National Civic Review. vol. 68, no. 1 (January 1979): 24-27.
69. Dauer, Manning J., Multimember Districts vs. Single-member Districts in the Florida Legislature: An Analysis. Public Administration Clearing Service, University of Florida, Civic Information Series, No. 60 (1977).
70. Days, Drew S. III. "The Voting Rights Act and Reapportionment." Remarks by the Assistant Attorney General, Civil Rights Division, Department of Justice, before the National Conference of State Legislatures' Assembly on the Legislature, February 15, 1980 24 pp.
71. Delong, Dennis Richard. "Reapportionment, Representativeness, and Rural County Legislators in New York State." Ph.D. dissertation, SUNY at Albany, 1978.
72. Derfner, Armand, "Racial Discrimination and the Right to Vote." 26 Vanderbilt Law Review (1973): 523.
73. Derfner, Armand. "Affirmative Action in Districting." Unpublished paper presented at the Conference on Representation and Apportionment Issues in the 1980's, June 12, 1980, San Diego, California.
74. Dignan, John and Wright, Boyd L. County Commissioner Redistricting in North Dakota. North Dakota State University, Fargo, North Dakota. Bureau of Governmental Affairs, 1971.
75. "Discriminatory Effects of Elections-at-Large: The 'Totality of Circumstances' Doctrine." Albany Law Review 91 (June 1978): 363-387.
76. Dixon, Karl H. "Reapportionment and Reform: The Florida Example." National Civic Review. vol. 62, no. 10 (November 1973): 548-553.
77. Dixon, Robert G., Jr. "Computers and Redistricting." Symposium on Legislative Reapportionment. Rutgers Journal of Computers and Law 2 (1971): 13.
78. Dixon, Robert G. Jr. "One Man, One Vote -- What Happens Next." National Civic Review. (May 1971): 259-265.

79. Dobson, D. "Reapportionment Problems." North Dakota Law Review 48 (Winter 1972): 281.
80. Doody, J. J., III. "Equal Protection and Connecticut's Regional School Boards: The Parameters of 'One Person, One Vote.'" Connecticut Bar Journal 51 (September 1977): 243-65.
81. Dudis, J. "Apportionment - Past to Future." Montana Law Review. vol. 33, no. 1 (1972): 101-125.
82. Dunn, Delmer D. and Billingsley, Keith R. "Small-Area Data and Reapportionment Process - Critique." Review of Public Data Use. vol. 2, no. 4 (1974): 2-9.
83. Dunn, Delmer D. and Billingsley, Keith R. "Small-Area Data and Reapportionment Process - Reply." Review of Public Data Use. vol. 3, no. 1 (1975): 22.
84. Edwards, James M. "The Gerrymander and 'One-Man, One-Vote.'" New York University Law Review 46 (November 1971): 879-899.
85. Eisenberg, Ralph. Guide to County Redistricting. Charlottesville, Virginia: Institute of Government, University of Virginia, 1970.
86. "Election Law - Multimember Districts." Annual Survey of American Law (1978): 91-112.
87. "Elections--Reapportionment--Section 5 of the Voting Rights Act of 1965, Which Requires Prior Approval by Federal Officials of Changes in State Voting Laws, Held Applicable to Reapportionment Plans of State Legislatures." Indiana Law Review 7 (1974): 579-591.
88. Elliot, W. "Prometheus, Proteus, Pandora, and Procrustes Unbound: The Political Consequences of Reapportionment." University of Chicago Law Review 37 (Spring 1970): 474.
89. Elliott, Ward E. Guardian Democracy: The Supreme Court and Reapportionment. Cambridge: Harvard University Press, 1974.
90. Engstrom, R. L. "Supreme Court and Equipopulous Gerrymandering: A Remaining Obstacle in the Quest for Fair and Effective Representation." Arizona State Law Journal (1976): 277-319.
91. Engstrom, Richard L. and Wildgren, John K. "Pruning Thorns from the Thicket: An Empirical Test of the Existence of Racial Gerrymandering." Legislative Studies Quarterly (November 1977).
92. "Equal Protection in Legislative Apportionment: A New Double Standard." North Carolina Central Law Journal 5 (Spring 1974): 308-326

93. "Equal Protection of the Laws--Reapportionment--Multimember Districting of County Governing Bodies May Work Unconstitutional Dilution of Minority Voting Strength." Harvard Law Review 87 (June 1974): 1851-1860.
94. Erikson, Robert S. "The Partisan Impact of State Legislative Reapportionment." Midwest Journal of Political Science. vol. 15. (February 1971): 47-51.
95. Erikson, Robert S. "Reapportionment and Policy - Further Look at Some Intervening Variables." Annals of the New York Academy of Sciences. vol. 219 (November 9, 1973): 280-290.
96. Eshleman, Kenneth. "Affirmative Gerrymandering Is a Matter of Justice." National Civic Review. vol. 69, no. 11 (December 1980): 608-613.
97. "Fair and Effective Representation: Power to the People." Hastings Law Journal 26 (September 1974): 190-214.
98. "Federal Courts - Supervisory Power - Court Ordered Legislative Apportionment." Duquesne Law Review 14 (Spring 1976): 521-530.
99. Feig, Douglas G. "Expenditures in the American States: The Impact of Court-Ordered Legislative Reapportionment." American Politics Quarterly. vol. 6 (July 1978); 309-324.
100. Ferejohn, John A. "On the Decline of Competition in Congressional Elections." American Political Science Review. 71 (1977): 166.
101. Firestin, R. E. "Impact of Reapportionment on Local Government Aid Receipts within Large Metropolitan Areas." Social Science. vol. 54, no. 2 (1973): 394-402.
102. Fishman, C. "Reapportionment and Racial Gerrymandering." Black Law Journal 2 (Summer 1972): 103.
103. Fox, Russell H. "Achieving Effective Representation: The Rome and Mobile Decisions." vol. 69, no. 10. (November 1980): 555-565.
104. Frederickson, H. George and Cho, Yong Hyo. "Legislative Apportionment and Fiscal Policy in the American States." Western Political Quarterly. vol. 27, no. 1 (March 1974): 5-37.
105. "Group Representation and Race Conscious Apportionment: The Roles of States and the Federal Courts." Howard Law Review 91 (June 1978): 1847-1873.
106. Gardner, S. "Fulle v. Dunne: The Limits of Local Reapportionment." Chicago-Kent Law Review 50 (Winter 1973): 446-464.
107. Georgia General Assembly. Reapportionment Program Documentation (May 1980), 32.

108. Gilliard, Joseph F. "Racial Gerrymandering in the Deep South." Alabama Law Review 22 (Spring 1970): 319-348.
109. Gordon, J. H. and Woodward, J. D., "Congressional Reapportionment: The Pandora's Box of Judicial Intervention in Politics and How to Put the Lid Back On." Memphis State University Law Review 6 (Spring 1976): 1847-1873.
110. Green, Allan. "Reapportionment Background Information". Research Monograph 79:260. Oregon Legislative Research (August 17, 1979): 9 pp.
111. Green, Allan. "Reapportionment In Other States." Research Monograph 79:262. Oregon Legislative Research (August 24, 1979): 5 pp.
112. Green, Allen. "Reapportionment Policy Issues." Research Monograph 79:281. Oregon Legislative Research (September 12, 1979): 3 pp.
113. Grofman, Bernard and Scarrow, Howard A. "The Riddle of Apportionment -- Equality of What?". Unpublished paper. University of California, Irvine (January 5, 1979).
114. Grofman, Bernard. "Election Mechanisms Other Than Single Member Districts: Legal and Empirical Issues." Unpublished paper presented at the Conference on Representation and Apportionment Issues in the 1980's, June 12, 1980, San Diego, California.
115. Grofman, Bernard. "Inventory of Criteria for Judging 'Fair' Representation." Unpublished paper presented at the Conference on Representation and Apportionment Issues in the 1980's, June 12, 1980, San Diego, California.
116. Grofman, Bernard. "Synopsis of Seventeen Recent Articles on At-Large Districting and Minority Representation." Unpublished paper presented at the Conference on Representation and Apportionment Issues in the 1980's, June 12, 1980, San Diego, California.
117. Gruenberg, Mark. "First It Was One - Now It May Be Two Illinois Seats Lost in the U. S. House." Illinois Issues. vol. V, no. 6 (June 1975): 32.
118. Hagman, D. G. and Disco, S. G., "One-Man One-Vote as a Constitutional Imperative for Needed Reform of Incorporation and Boundary Change Laws." Urban Law 2 (Fall 1970): 459.
119. Hallett, George. "The Reapportionment Game, Time to Change the Rules?" Empire State Report. vol. 5, no. 1 (February 1979): 15-16.

120. Halpin, Stanley A., Jr. and Engstrom, Richard L. "Racial Gerrymandering and Southern State Legislative Redistricting: Attorney General Determinations Under the Voting Rights Act." Journal of Public Law. vol. 22, no. 1 (1973): 37.
121. Hanson, Roger A. and Crew, Robert E., Jr. "The Policy Impact of Reapportionment." Law and Society Review 8 (Fall 1973): 69-93.
122. Hamilton, Howard D. "Choosing A Representation System: More Than Meets the Eye." National Civic Review. vol. 69, no. 8 (September 1980): 427-434.
123. Hardy, L. C. "Congressional Redistricting in California, 1965-67: The Quilting Bee and Crazy Quilts." San Diego Law Review 10 (June 1973): 757-792.
124. Hardy, L. C. "Considering the Gerrymander." Pepperdine Law Review 4 (Spring 1977): 243-284.
125. Hardy, Richard J. and Harmon, Kathryn Newcomer. "The Impact of Reapportionment on Policy Expenditures: A Quasi-Experimental Time-Series Analysis, 1957-1977." Unpublished paper prepared for 1979 meeting of the Midwest Political Science Association. University of Missouri, Columbia. (1979)
126. Heath, Robert and Melrose, Joseph H. Jr. "Pennsylvania Reapportionment: A Study in Legislative Behavior." National Municipal League(1972).
127. Heslop, Alan. "Redistricting: The Key to Politics in the 1980's." Unpublished paper prepared by the Director of the Rose Institute of State and Local Governments -- Claremont, California (1978): 21 pp.
128. Heslop, Alan. "Government by the Numbers." American Demographics (July - August 1980): 24-26.
129. Hess, S. W. "One-Man One-Vote and County Political Integrity: Apportion to Satisfy Both." Jurimetrics Journal 11 (March 1971): 123.
130. Hirschfe, D.; Meyer, M. A.; and Turner, M. L. "Small-Area Data and Reapportionment Process - Comment." Review of Public Data Use. vol. 2, no. 4 (1974): 10-12.
131. Jewell, Malcolm. "Commentary: The Consequences of Single and Multi-member Districting." Unpublished paper presented at the Conference on Representation and Apportionment Issues in the 1980's, June 12, 1980, San Diego, California.
132. Joras, Charles O. "From the Suffrage of the People: An Essay of Support and Worry for Legislatures." State Government. vol. 47, no. 3 (Summer 1974): 137-141.

133. Jones, Murel Matthews, Jr. "The Impact of Annexation-Related City Council Reapportionment on Black Political Influence: The Cities of Richmond and Petersburg, Virginia." Ph.D. dissertation, Howard University, 1977.
134. "Judicial Deference in the Representation Controversy: A Further Erosion of the Judiciability Doctrine." Brooklyn Law Review 44 (Fall 1977): 143-174.
135. Katz, Ellis. "Apportionment and Majority Rule." Publius vol. 1, no. 1 (1971): 141-161.
136. Keefe, William J. and Ogul, Morris. The American Legislative Process: Congress & the States. 4th ed. Prentiss Hall (Illus.). (1977). Chapter 3: "Representation and Apportionment."
137. Kenton, Carolyn L. and Wanat, Susan W. "Reapportionment: The Issues." State Government. vol. 45, no. 4 (Autumn 1972): 214-221.
138. Knight, Barbara B. "The States and Reapportionment: One-Man, One-Vote Reevaluated." State Government. vol. 49, no. 2 (Summer 1976): 155-160.
139. Knoke, David and Henry, Constance. "Political Structure of Rural America." Annals of the American Academy of Political and Social Science 429 (January 1977): 51-62.
140. Kugisaki, Craig. Hawaii Constitutional Convention Studies, 1978: Article 3, v. 2, Reapportionment in Hawaii. Honolulu, Hawaii: Hawaii Legislative Reference Bureau, May 1978.
141. Lebedoff, D. "Essential Reform: Redistricting." Harper 253 (October 1976): 16.
142. "Legislative Apportionment: The Contents of Pandora's Box and Beyond." Hastings Constitutional Law Quarterly 1 (Spring 1974): 289-309.
143. "Legislative Reapportionment: A Policy Emerges." Baylor Law Review 25 (Fall 1973): 660-673.
144. "Legislature Struggles with Reapportionment Problems Behind the Scenes (California)." California Journal. vol. II, no. 6 (June 1971): 68-74.
145. Lehne, Richard C. "New York Reapportionment: The City and the State." Maxwell Review. 8 (Winter 1971-72): 27-32.
146. Lehne, Richard C. Reapportionment of the New York Legislature: Impact and Issues. New York National Municipal League. 1972.

147. Lingle, James I. "Participation, Representation, and Democratic Party Reform." Unpublished paper presented at the Conference on Representation and Apportionment Issues in the 1980's, June 12, 1980, San Diego, California.
148. Leventhal, Harold. "Courts and Political Thickets." Columbia Law Review vol. 77, no. 3 (April 1977): 345-387.
149. Library of Congress, Congressional Research Service. Congressional Districting; The Constitutional Standard in the Decade of the 1970's. January 20, 1971, (71-40A).
150. Liittschwager, J. M. "Political Redistricting Criteria for 1980." Unpublished paper presented at the CRSAS/TIMA Joint National Meeting. Los Angeles, California. (November 13-15, 1978): 10 pp.
151. Lijphart, Arend. "Comparative Perspectives on Fair Representation: The Plurality-Majority Rule, Geographical Districting, and Alternative Electoral Arrangements." Unpublished paper presented at the Conference on Representation and Apportionment Issues in the 1980's, June 12, 1980, San Diego, California.
152. "Limits to State Reapportionment through Multimember Districting." DePaul Law Review 23 (Winter 1974): 821-837.
153. Lindall, G. J. "Judicial Review and the Composition of the House of Representatives." Federal Law Review 6 (1974): 84-106.
154. McLowell, James Lynn. "Changes in the Apportionment System: The Illinois General Assembly." Ph.D. dissertation, University of Illinois, 1972.
155. McGehee, John Michael. "Reapportionment Commissions: The Reform We Don't Need." State Legislatures. vol. 5. no. 9. (December 1979): 11-15.
156. McKay, Robert B. Reapportionment: The Law and Politics of Equal Representation. New York: Clarion Press, 1970.
157. McKeever, E. D. "Flexible Standard for State Reapportionment Cases." Fordham Law Review. vol. 42, no. 3 (1974): 450-453.
158. Markowitz, Joseph C. "Constitutional Challenges to Gerrymanders." University of Chicago Law Review vol. 45, no. 4 (Summer 1978).
159. Martin, P. L. "Courts and Reapportionment - Exemption of Judicial Elections." Kentucky Law Journal. vol 62, no. 1 (1973): 43-57.
160. Martin, P. L. "The Constitutional Status of Local Government Reapportionment." Valparaiso University Law Review 6 (Spring 1972): 237-259.

161. Martin, P. L. "Local Reapportionment." Journal Urban Law 47 (1969-1970): 345.
162. Martin, P. L. "Local Reapportionment: The Exemption of Water Management Districts." Santa Clara Lawyer 14 (Fall 1973): 31-45.
163. Martin, P. L. "Quest for Racial Representation in Legislative Apportionment." Howard Law Journal 21 (1978): 455-479.
164. Martin, P. L. "The Supreme Court and Local Government Reapportionment: The Second Phase." Baylor Law Review 21 (Winter 1969): 5-17.
165. Martin, P. L. "The Supreme Court and Local Reapportionment: The Fourth Phase." South Carolina Law Review 23 (1971): 749.
166. Martin, P. L. "The Supreme Court and Local Reapportionment: The Third Phase." George Washington Law Review 39 (October 1970): 102-122.
167. Martin, P. L. "Supreme Court and Local Reapportionment: Voter Inequality in Special-Purpose Units." William and Mary Law Review 15 (Spring 1974): 601-614.
168. Martin, P. L. "Supreme Court and State Legislative Reapportionment: The Retreat from Absolutism." Valparaiso University Law Review 9 (Fall 1974): 31-54.
169. Massachusetts, Legislative Research Council. Changing the Size of the House of Representatives and the Census Basis of Legislative Redistricting. (Proposed Constitutional Amendment) May 30, 1973. (House No. 7020).
170. "Minority Challenges to At-Large Elections: The Dilution Problem." Georgia Law Review 10 (Winter 1975): 353-390.
171. Moller, John. "Reapportionment: A Legal Remedy for a Political Problem." Paper prepared for delivery at the 1980 Annual Meeting of the Midwest Political Science Association April 24-26, 1980 23 p.
172. Montana Constitutional Convention Commission. "Legislative Reapportionment." Constitutional Convention Memorandum No. 10. by Ellis Waldron. (1971-72).
173. Morrill, R. L. "Ideal and Reality in Reapportionment." Annals of the Association of American Geographers. vol. 63, no. 4 (1973): 463-477.
174. Morrill, R. L. "Lampadephoria on Criteria for Redistricting." Washington Law Review 48 (August 1973): 847-856.

175. "Multimember Legislative Districts: Requiem for a Constitutional Barrier." University of Florida Law Review 29 (Summer 1977): 703-729.
176. Murray, W. Richard and Lutz, Donald S. "Redistricting Decisions in the American States: A Test of the Minimal Winning Coalition Hypothesis." American Journal of Political Science (May 1974): 233-256.
177. Musgrove, Philip. "The General Theory of Gerrymandering." Sage (1977).
178. Nagel, Stuart S. "Computers and the Law and Politics of Redistricting." no. 5, Polity vol. no. 77 (1972).
179. Nagel, Stuart S. "Computers: The Law and Politics of Redistricting." Symposium on Legislative Reapportionment. Rutgers Journal of Computers and Law 2 (1971): 13.
180. National Conference of State Legislatures Reapportionment Subcommittee. "Federal Caselaw and State Legislative and Congressional Districting." (August 1979).
181. Neighbor, Howard D. City Council Districting in the 1980's. National Municipal League (1980): 74.
182. Niemi, R. G. and Deegan, J., Jr. "Theory of Political Districting." American Political Science Review 72 (December 1978): 1304-1323.
183. Niemi, Richard G. "Comments: Effects of Districting on Trade-offs Among Party Competition, Electoral Responsiveness and Seat-vote Relationships." Unpublished paper presented at the Conference on Representation and Apportionment Issues in the 1980's, June 12, 1980, San Diego, California.
184. "One Foot In, One Foot Out: The Political Ticket." Urban Law Annual (1974): 408-413.
185. "One Man-One Vote and Judicial Selection." Nebraska Law Review 50 (Summer 1971): 642.
186. "One Person, One Vote." North Kentucky Law Review 5 (1978): 241-269.
187. O'Rourke, Terry B. "Reapportionment - Law, Politics, Computer." American Political Science Review. vol 67, no. 3 (1973): 1001-1012.
188. O'Rourke, Terry B. Reapportionment: Law, Politics, Computers. (Domestic Affairs Study 1). Washington: American Enterprise Institute (1972).

189. O'Rourke, Timothy Gerald. "A Comparative Analysis of the Impact of Reapportionment on Six State Legislatures." Ph.D. dissertation, Duke University, 1977.
190. O'Rourke, Timothy Gerald. The Impact of Reapportionment. 161p. forthcoming. New Brunswick, N.J., Transaction Books, 1979.
191. Orr, Douglas M. Jr. "The Persistence of the Gerrymander in North Carolina Congressional Redistricting." Southeastern Geographer 9 (November 1969): 39-54.
192. Padillo, Fernando V. "Legislative Gerrymandering of California Chicanos." Ph.D. dissertation, University of California at Santa Barbara, 1977.
193. Padillo, Fernando V. and Gross, Bruce. "Judicial Power and Reapportionment." Idaho Law Review vol. 15 (1979).
194. Parker, F. R. "County Redistricting in Mississippi: Case Studies in Racial Gerrymandering." Mississippi Law Journal 44 (June 1973): 391.
195. Peters, Alexander. "Voting Rights Act -- Reapportionments." Remarks before the National Conference of State Legislatures' Assembly on the Legislature, February 15, 1980 13 pp.
196. "Political Gerrymandering: A Statutory Compactness Standard as an Antidote for Judicial Impotence." University of Chicago Law Review 41 (Winter 1974): 398-416.
197. "Political Representation: The Search for Judicial Standards." Brooklyn Law Review 43 (Winter 1977): 431-487.
198. Polsby, Nelson W. (ed.). Reapportionment in the 1970's. Berkeley: University of California Press, 1971.
199. Polsby, Nelson W. and Flinn, T. A. "Reapportionment in 1970s." American Political Science Review. vol. 67, no. 4 (1973): 1378-1380.
200. Polsby, Nelson W. and McKay, R. B. "Reapportionment in 1970s." Columbia Law Review. vol. 73, no. 1 (1973): 170-175.
201. Porter, A. C. and Daiser, H. F. "Fortran Program for Computing a Measure of Population Quality of Legislative Apportionment." Behavior Research Methods and Instrumentation. vol. 7, no. 6 (1975): 566.
202. "Proportional Representation by Race: The Constitutionality of Benign Racial Redistricting." Michigan Law Review 74 (March 1976): 820-841.
203. Quinlan, P. J. "Legislative Reapportionment - Policy Emerges." Baylor Law Review. vol. 25, no. 4 (1973): 660-673.

204. Quinn, Tony. "The Rapid Disappearance of Safe Political Territory." California Journal. vol. X, no. 5 (May 1979).
205. Rabinovitz, Francine F., Hamilton, Edward K. "Alternative Electoral Structures and Responsiveness to Minorities." National Civic Review. vol. 69, no. 7 (July 1980): 371-385.
206. "Racial Gerrymandering." Chicago-Kent Law Review 51 (1974): 584-596.
207. Reapportionment: A Selected Bibliography. National Conference of State Legislatures. 1976.
208. Reapportionment Bibliography, 1969-1979. Compiled by R. D. Sloan, Jr. Bureau of Government Affairs. University of Colorado, Boulder. (July 1979).
209. "Reapportionment and Minority Politics." Columbia Human Rights Law Review 6 (Spring 1974): 107-128.
210. Reapportionment Background Information. Salem, Oregon: Oregon Legislative Research, August 17, 1979.
211. "Reapportionment Controversy--The Process of Dilution." Memphis State University Law Review 4 (Spring 1974): 565-577.
212. "Reapportionment: The Delicate Balance." Howard Law Journal 18 (1973): 184-199.
213. Reapportionment in the States. Lexington, Kentucky: Council of State Governments, June 1972.
214. "Reapportionment--Nine Years into the 'Revolution' and Still Struggling." Michigan Law Review 70 (January 1972): 586-616.
215. "Reapportionment--'One Man One Vote' -- Local Government." Kentucky Law Journal 58 (Spring 1969-1970): 599.
216. "Reapportionment by State Legislatures: A Guide for the 1980's" Southwestern Law Journal, vol. 34, no. 2 (June 1980), p. 607-686.
217. "Reapportionment on the Sub-State Level of Government: Equal Representation or Equal Vote?" Boston University Law Review 50 (Spring 1970): 231.
218. "Representative Government - Constitutional Law - Elections - Deliberate Use of Race to Reapportion is Constitutional Provided It Results in No Racial Slub or Stigma, Regardless of Compliance with the Voting Act Rights." University of Cincinnati Law Review 46 (1977): 912-923.
219. Robeck, Bruce W. Legislators and Party Loyalty: The Impact of Reapportionment in California. Washington, D. C.: University Press of America, 1978.

220. Robertson, James. "Reapportionment and Minority Political Power." Civil Rights Digest 4 (Spring 1971): 2-6.
221. Rosenberg, S. I. "Reapportionment and Minority Politics." Columbia Human Rights Law Review. vol. 6, no. 1 (1974): 107-128.
222. Rossotti, Jack Edward. "Measuring Some Effects of Apportionment on State Policy Outcomes, 1957-1969." Ph.D. dissertation, Syracuse University, 1972.
223. Ruberti, Ernest Michael. "The Diversity of Interest Principle: A Proposal for an Apportionment System." Ph.D. dissertation, Syracuse University, 1971.
224. Rutkowski, Conrad P. "State Politics and Apportionment: The Case of New York." Ph.D. Dissertation, Fordham University, 1971.
225. Saffell, David C. "Reapportionment and Public Policy: State Legislators' Perspective." Unpublished paper presented at the Conference on Representation and Apportionment Issues in the 1980's, June 12, 1980, San Diego, California.
226. Saizman, Ed. "Masters' Redistricting Outlook." California Journal. vol. IV, no. 10 (October 1973): 333-338.
227. Scarrow, Howard. "Reapportionment and Party Representation in the State of New York." Unpublished paper presented at the Conference on Representation and Apportionment Issues in the 1980's, June 12, 1980, San Diego, California.
228. Schwab, Larry Minard. "The Effects of the Court Ordered Redistricting and the 1970 Reapportionment and Redistricting on the U. S. House of Representatives." Ph.D. dissertation, Case Western Reserve University, 1975.
229. "Section 5: Growth or Demise of Statutory Voting Rights?" Mississippi Law Journal 48 (Summer 1977): 818-851.
230. Sheth, P. S. and Hess, S. W. "Multiple Criteria in Political Redistricting: Development on Relative Value." Symposium on Legislative Reapportionment. Rutgers Journal of Computers and Law. 2 (1971): 13.
231. Shulman, W. Z. "Legislative Reapportionment: From Jackman to Davenport--End of a Decade." Rutgers Law Review 28 (1975 Special Issue): 272-306.
232. Simons, Janet. "Reapportionment: Here It Comes Again." State Legislatures (November-December 1978): 14-17.
233. Smith, George Bundy. "Reapportionment and Black America: A Study of the Effect of Reapportionment on the Election of Blacks to American Legislatures." Ph.D. dissertation, New York University, 1974.

234. Smith, George Bundy. "The Failure of Reapportionment: The Effect of Reapportionment on the Election of Blacks to Legislative Bodies." Howard Law Journal. vol. 18. no. 3 (1975): 639-684.
235. Sokolow, A. D. "Legislative Pluralism, Committee Assignments, and Internal Norms - Delayed Impact of Reapportionment in California." Annals of the New York Academy of Sciences. vol. 219, no. 9 (1973): 291-313.
236. "Special Service Districts in a City-County Consolidation: Conflict between Metropolitan Reform and "One Man-One Vote" in Indianapolis-Marion County." Indiana Law Journal 47 (Fall 1971): 101.
237. Starr, K. W. "Federal Judicial Invalidation as a Remedy for Irregularities in State Elections." New York University Law Review 49 (December 1974): 1092-1129.
238. State Constitutional Provisions on Apportionment and Districting. National Municipal League. New York. 1971.
239. "State Legislative Reapportionment: A New Era." Albany Law Review 38 (1974): 798-825.
240. Stauber, Richard L. County Board Reapportionment Handbook. Madison: University of Wisconsin (University Extension Bookstore), 1971.
241. Stern, Robert S. "Political Gerrymandering: A Statutory Compactness Standard as an Antidote for Judicial Impotence." University of Chicago Law Review 41 (1974): 398-416.
242. Stewart, W. H., Jr. "Reapportionment with Census Districts: The Alabama Case." Alabama Law Review 24 (Summer 1972): 693.
243. "Student Voting and Apportionment: The "Rotten Boroughs" of Academia." Yale Law Journal 81 (November 1971): 35-60.
244. Taylor, Peter J. and Johnston, R. J. Geography of Elections Holmes and Meier, Inc. 1979.
245. Texas House of Representatives. House Study Group. "Redistricting: A Preview of 1981." no. 37 (October 1978).
246. Theobald, H. Rupert. "Equal Representation in Wisconsin: A Study of Legislative and Congressional Apportionment." Ph.D. dissertation, University of Wisconsin, 1972.
247. Thompson, W. N. "Problems of Legislative Representation: A Proposed Solution." Wake Forest International Law Review 6 (March 1970): 235.
248. Thornton, J. "To Wean a Judge from Tyranny." Alabama Lawyer 36 (January 1975): 29-63.

249. Todd, John Richard. "Reapportionment and Legislative Outputs: A Florida Case Study." Ph.D. dissertation, University of Florida, 1971.
250. Tufte, Edward R. "The Relationship between Seats and Votes in Two-Party Systems." American Political Science Review (June 1973): 540-554.
251. Turnbull, H. Rutherford, III. "Election Laws — Apportionment of Legislative Bodies and Section 5, Voting Rights Act." Popular Government vol. 44. No. 3. (Winter 1979): 14.
252. U. S. Congress. House. Committee on Post Office and Civil Service. Tabulation of Population for Purposes of Apportionment of State Legislative Bodies. Hearings before the Subcommittee on Census and Statistics on H. R. 9290. Sept. - Nov. 1973. (93d Cong. 1st. Sess. Serial No. 93-29).
253. U. S. Senate Committee on Governmental Affairs. "Hearings on Congressional Anti-Gerrymandering Act of 1979." (June 20, 21 and July 10, 1979). (96th Congress, 1st Session).
254. "United Jewish Organizations v. Carey and the Need to Recognize Aggregate Voting Rights." Yale Law Journal 87 (January, 1978): 571-602.
255. Uslaner, Eric M. and Weber, Ronald E. "Reapportionment, Gerrymandering, and Change in the Partisan Balance of Power in the American States." Unpublished paper. University of Maryland.
256. Van Meter, Donald Stuart. "The Policy Implications of State Legislative Apportionment: A Longitudinal Analysis." Ph.D. dissertation, University of Wisconsin, 1972.
257. Vocino, T.; Morris, J. H.; and Gill, D. S. "Population Apportionment Principle - Its Development and Application to Mississippi's State and Local Legislative Bodies." Mississippi Law Journal. vol. 47, no. 5 (1976): 943-978.
258. Vocino, Thomas. "Urban Representation and Key Legislative Positions: Another View." Virginia Social Science Journal 9 (April 1974): 1-10.
259. Walker, R. E., Jr. "One-Man, One-Vote: In Pursuit of an Elusive Ideal." Hastings Constitutional Law Quarterly 3 (Spring 1976): 453-484.
260. Warden, Moxley, compiler. Congressional Districts in the 1970's. Washington, D.C. Congressional Quarterly, Inc., 1973.
261. Washington. Attorney General. Legislature - Districts - One Man One Vote - Referendum - Guidelines for Congressional and Legislative Redistricting. December 1970 (Attorney General's Opinion 1970 NO. 28).

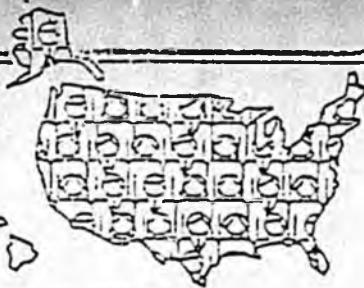
262. Washington, Robert B., Jr. "Does the Constitution Guarantee Free, Fair, and Effective Representation to All Interest Groups Making Up the Electorate?" Howard Law Journal 17 (No. 1, 1971): 90-120.
263. Weiner, Peter H. "Chapter Eight: Boundary Changes and the Power of the Vote." University of Detroit Journal of Urban Law, vol. 54 (1977): 959.
264. Wells, David I. "'Affirmative Gerrymandering' Compounds Districting Problems." National Civic Review. vol. 67, no. 1 (January 1978): 10-12.
265. Wells, David. "Affirmative Gerrymandering: Malignant or Benign?" Unpublished paper presented at the Conference on Representation and Apportionment Issues in the 1980's, June 12, 1980, San Diego, California.
266. Wells, David I. "The Impact of Gerrymandering: The 1972 Elections." American Federationist 79 (February 1972): 14-20.
267. Wells, David I. "The Reapportionment Game." Empire State Report. vol. 5, no. 1 (February 1979): 8-14.
268. Wells, David I. "Redistricting in New York State: It Is a Question of Slicing the Salami." Empire State Report. vol. 4, no. 5 (October-November 1978): 9-13.
269. Wheeler, Charles N., III. "Reapportionment Begins Now!" Illinois Issues 4 (August 1978): 7-14.
270. "Whitcomb v. Chavis (91 Sup. Ct. 1858): A Step Forward for Multi-Member Districts--A Step Backward for Effective Representation." Indiana Legal Forum 5 (Fall 1971): 167.
271. Williams, N. B., Jr. "New Three-Judge Courts of Reapportionment and Continuing Problems of Three-Judge-Court Procedure." Georgetown Law Journal 65 (April 1977): 971-997.
272. Williamson, Charles G. "Post-Census Redistricting - A Primer for State Legislators." Kentucky Law Journal 59 (Winter 1971): 386-406.
273. Wisconsin. Legislative Reference Bureau. "Reapportionment in the 1980's: A Summary of Recent U.S. Supreme Court Decisions." 80-IB-2 (January 1980).
274. Wollock, Andrea J. (ed.). Reapportionment: Law and Technology. National Conference of State Legislatures (June 1980): 82.
275. Zimmerman, Joseph F. "Local Representation: Designing a Fair System." National Civic Review. vol. 69, no. 6 (June 1980): 307-312.

## Reapportionment Bibliography Index

At-Large Districts . . . . .	32, 50, 75, 170
Bibliography . . . . .	207, 16
Census Data . . . . .	17, 28, 82-83, 130, 242, 252
Computers and Technology . . . . .	21, 42, 77, 107, 178-179, 187-188, 201, 230
Congressional Redistricting . . . . .	11, 109, 117, 123, 149, 153, 15, 228, 260
Districts . . . . .	114, 182, 205
At-Large . . . . .	5, 32, 50, 75, 116, 170
Multimember . . . . .	29, 35, 53, 61, 68-69, 86, 93, 131, 152, 175, 270
Elections . . . . .	41, 72, 100, 176, 237, 244
Equal Representation . . . . .	13, 44, 46-47, 49, 52, 59, 71, 78, 92, 97, 103, 113, 115, 116, 128-129, 135, 138, 151, 156, 163, 168, 186, 197, 202, 209, 211, 217, 223, 243, 247, 250, 259, 262
Gerrymandering . . . . .	9, 19, 36, 45, 84, 90, 124, 158, 177, 191, 253, 255, 266
Affirmative/Racial . . . . .	33, 39-40, 55-56, 58, 73, 91, 96, 102, 105, 108, 192, 194, 202, 206, 218, 254, 264-265
Political . . . . .	196, 241
Judicial Intervention . . . . .	57, 63, 89, 98-99, 109, 134, 148, 171, 184, 193, 248, 271
Minority Politics . . . . .	220-221, 233-234
Multimember Districts . . . . .	29, 35, 53, 61, 68-69, 86, 93, 152, 175, 270
Reapportionment	
California . . . . .	144, 219, 226
Commissions . . . . .	1, 24, 37, 154-155
Courts . . . . .	185
Criteria . . . . .	2, 60, 150, 157, 174, 230, 261
Florida . . . . .	76
General . . . . .	4, 6-8, 10, 20, 38, 79, 81, 110-112, 119, 127, 132, 136, 137, 139, 141-143, 147, 173, 198-200, 203-204, 210, 212, 213-214, 231-232, 238-239, 245, 263
Illinois . . . . .	269
Impact . . . . .	22-23, 25-27, 30, 34, 64, 88, 94-95, 99, 101, 104, 121, 125-126, 133, 146, 183, 189-190, 219, 222, 225, 233,

234-235, 249-250, 256, 258

Judicial . . . . .	159
Kansas . . . . .	63
Law . . . . . 15-16, 31, 48, 65-66, 140, 172, 180, 216, 272-274	
Local . 3, 32, 51, 54, 62, 67, 6, 80, 7, 106, 118, 122, 129, 160, 161-162, 164-167, 181, 194, 205, 215, 217, 236, 240, 275	
Massachusetts . . . . .	169
Mississippi . . . . .	19
New York . . . . . 145-146, 224, 227, 267-268	
Oklahoma . . . . .	18
Pennsylvania . . . . .	14
Tennessee . . . . .	64
Washington . . . . .	261
Wisconsin . . . . .	246
Voting Rights Act . . . . . 43, 70, 87, 195, 229, 251	



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LEGISLATURES  
APPORTIONMENT

# Reapportionment Information Update

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COUNCIL OF STATE GOVERNMENTS

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STATES INFORMATION CENTER

## *U.S. SUPREME COURT DECIDES NEW JERSEY AND PENNSYLVANIA REDISTRICTING CASES*

In a landmark decision, the U.S. Supreme Court has tightened the "one-person, one-vote" criterion for assessing congressional redistricting being challenged in the courts. While the High Court found the New Jersey congressional redistricting plan unconstitutional on the issue of population deviation, it upheld the Pennsylvania congressional districts without comment.

On June 22, the U.S. Supreme Court struck down the New Jersey congressional redistricting plan finding that an overall population range just under .70 percent does not conform to the constitutional requirement for equal representation. In a five-to-four vote, the court ruled in Karcher, et al. v. Daggett, et al. (No. 81-2057 and formerly Forsythe, et al. v. Kean, et al.) that there are no de minimis population variations that can stand constitutional muster, and the states must adhere as closely as possible to the "one-person, one-vote" standard of reapportionment. In challenging congressional redistricting plans, the plaintiffs must prove that population differences among districts can be reduced or eliminated in a conscientious effort to design districts of equal population. If the plaintiff's arguments are satisfactory to the court, the states have the burden of proving that deviations from equality are necessary to achieve a legitimate state goal.

In defense of the New Jersey redistricting plan, the legislature argued that the deviation of the plan was justified to protect black urban neighborhoods from being divided into different districts. In addition, the legislature contended that the deviation was less than the predictable undercount in the census figures. In answer to the first assertion, the plaintiffs failed to convince the Court that the population differences were essential to preserve minority voting strength in the congressional plan. The Court further identified legislative policies which, when applied in a nondiscriminatory manner, might have been successfully used in defense of the New Jersey congressional plan, including, compactness, respect for municipal boundaries, preserving the core of prior districts, and avoiding contests between incumbents.



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With regard to the margin of error in the census data, the Court held that the census count "provides the only reliable--albeit less than perfect--indication of the districts' 'real' relative population levels, and furnishes the only basis for good faith attempts to achieve population equality." In the Court's opinion, Justice Brennan wrote: "Adopting any standard other than population equality, using the best census data available would subtly erode the Constitution's ideal of equal representation."

In a dissenting opinion, Justice White objected to the Court's rule of absolute equality on the basis that such a strict standard may be used to justify gerrymandered congressional districts. In addition, Justice White argued that the lack of a de minimis rule encourages the intrusion of federal courts into state legislative affairs. Other dissenters argued that even a miniscule population deviation is now vulnerable to constitutional attack.

Eleven states currently have congressional district maps with an overall population range greater than that of New Jersey: Alabama (2.45%), Arkansas (0.72%), Georgia (2.00%), Indiana (2.96%), Kentucky (1.39%), Massachusetts (1.09%), New Mexico (0.87%), New York (1.64%), North Carolina (1.76%), Tennessee (2.40%), and Virginia (1.31%). Although the Court's decision has no effect on the validity of these 11 plans, one state is currently involved in litigation to resolve the constitutionality of population deviation. In Ohio, a three-judge federal panel has been awaiting a decision on the New Jersey case before making a final decision in Flanagan, et al. v. Gillmor, et al.

On July 5, just two weeks after the New Jersey decision, the Pennsylvania congressional redistricting case, In Re: Pennsylvania Congressional Districts Reapportionment Cases, was decided by the U.S. Supreme Court. In a six-to-three vote, the Supreme Court affirmed the three-judge federal panel which had upheld the congressional plan drawn by the Pennsylvania legislature last year. The plaintiffs challenged the plan's overall population range of .24 percent.

## WYOMING LEGISLATIVE REAPPORTIONMENT PLAN

### UPHELD BY U.S. SUPREME COURT

The U.S. Supreme Court has always held the states to less stringent standards of population equality in legislative reapportionment than congressional redistricting. The decisions made by the U.S. Supreme Court on June 22 prove to be no exception. On the same day the New Jersey congressional case was decided, the High Court ruled in Brown v. Thomson that the Wyoming legislative reapportionment plan, with an overall population range of 39 percent, was constitutional in light of the state's policy of allowing every county its own representation. Under the state constitution, Wyoming's 23 counties are required to have a senator and a representative in each district "apportioned among the counties as nearly as may be according to the number of their inhabitants." The plan included one small county with a population less than one-half the state's ideal district size.

The ultimate question before the Court was the state policy of granting a representative to each county. The Court held that the policy was rational and even "well-suited to the special needs" of the sparsely populated state. Justice O'Connor, in a concurring opinion, emphasized that ensuring equal representation is not simply a mathematical problem. The Court's decision rested on the narrow appeal which was brought before it. If the entire legislative plan had been challenged, rather than the representation of one county, the Court's decision might have been very different.

## STATE NOTES

In ALABAMA, new state legislative elections will be held this fall as a result of the April 11th federal court decision in Burton, et al. v. Hobbie, et al. On June 21, a suit was filed petitioning the federal court for an order to require the governor to call the primary election. The Alabama Democratic Party Executive Committee will nominate all 140 state legislative candidates if the governor does not call for a primary. The plaintiffs in the suit, Bogard, et al. v. Hobbie, et al. (C.A. 83-I-604-N), claim that the executive committee is malapportioned by population and by race. They also question whether Section 5 preclearance provisions under the Voting Rights Act apply to the special elections as mandated by the Burton decision.

CALIFORNIA Governor Deukmejian has called a special election for December 13 on an initiative which recently qualified for the ballot and which would repeal the existing reapportionment and redistricting plans in favor of one drawn by an independent contractor for Assemblyman Sebastiani. Controversy over this proposal reportedly crosses party lines. However, if adopted, the Sebastiani plans could change dramatically the political makeup of both the congressional delegation and the California legislature.

In addition, the California legislature has intervened in the Vadham v. Eu case which was filed in federal court this spring. The suit contests the congressional plan signed into law on January 2, by Governor Jerry Brown, on the basis that it violates constitutional requirements of one-person, one-vote. A dispute has arisen over the authority of the secretary of state to make technical adjustments to the plan to compensate for an 8,000-person census correction. California and several states have reapportionment statutes which allow the secretary of state to make necessary corrections as a result of final population figures provided by the U.S. Bureau of the Census or as a result of minor local election district problems. The plaintiffs contend that the secretary of state does not have the constitutional authority to make these corrections and that the congressional plan must be judged as originally drawn by the legislature. The legislature argues that under state law the plan must be judged as corrected. The Ninth Circuit Court of Appeals has remanded the case back to district court for a trial on its merits. The legislature has been asked to respond.

The HAWAII congressional redistricting and legislative reapportionment plans were reviewed by the federal court on June 17. At the request of the League of Women Voters, the court, which maintained jurisdiction over the plans under the case Travis, et al. v. King, et al., reviewed the master plan and

decided that the districting plans were merely interim. Consequently, the state now has the responsibility to devise a new plan. The same commission has been reformulated with many of the same staff people available to assist. New plans should be complete by December of this year.

On June 7, the IDAHO State Supreme Court remanded Hellar, et al. v. Cenarusa, et al. back to state district court for trial on the issue of county boundary splits. Last year the case was appealed to the state supreme court after the district court upheld the legislature's reapportionment plan as an interim plan for the 1982 elections. The plaintiffs filed the case based on the fact that the state constitution forbids county boundary lines from being split in reapportionment. Defendants argue that the splits were necessary to comply with federal constitutional requirements. The trial is scheduled to begin July 26, but a delay in the proceedings is expected. An election this year under a new legislative reapportionment plan is highly unlikely.

The LOUISIANA case of Major v. Treen is still undecided. On March 7, the three-judge federal panel heard the case which challenges the plan on the issue of minority representation.

In MONTANA, a hearing is scheduled for August 10 and 11 in the case of McBride, et al. v. Waltermire (Docket No. CZ-83-25-PU) filed in the U.S. District Court of Montana, Butte Division. The case challenges the state's legislative reapportionment plan on the issues of population equality and violation by the reapportionment commission of its own criteria including: communities of interest, county boundary splits, compactness, and contiguity. The Manning v. Montana Districting and Apportionment Commission has been dismissed. The suit was originally brought to prevent filing of the redistricting and reapportionment plans with the secretary of state. Since the plans have been filed, the federal court dismissed the case as moot.

In SOUTH CAROLINA, the new Senate redistricting plan has been in conference committee for the last several weeks. The legislature is expected to end its session sine die on July 27 and a resolution will be required for a special session to continue work on the Senate plan. The overall population range of the plan is 9.8 percent.

The TEXAS legislature has redrawn the congressional and legislative reapportionment plans. The overall population range for the congressional plan is .28 percent. The population deviation in the House plan is 9.95 percent and in the Senate is 1.81 percent. All three plans are pending approval from the Department of Justice and from the federal court under the case of Terrazas v. Clements. During this session, the Senate passed a resolution authorizing the attorney general to make changes in the Senate plan if the Department of Justice does not drop its objections. The Senate basically accepted the interim Senate plan ordered by the federal court after initial department objections coincided with court action.

WISCONSIN Governor Anthony Earl signed the new legislative redistricting plan into law on July 15, after having vetoed a similar plan passed with the Wisconsin budget bill just two weeks earlier. The overall population range of the Assembly is 1.73 percent, and the population deviation for the Senate

is 1.05 percent. There are rumors of possible court challenges to this latest reapportionment plan, but nothing has been filed to date.

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SUMMARY OF STATE LITIGATION ON  
CONGRESSIONAL REDISTRICTING AND LEGISLATIVE REAPPORTIONMENT

<u>State</u>	<u>Court Case</u>	<u>Issues</u>	<u>Status</u>
Alabama	<u>Burton v. Hobbie</u> Federal Court (L - 11/5/81)	<ul style="list-style-type: none"> <li>• Malapportionment</li> <li>• Population equality</li> <li>• Dilution of minority voting strength</li> </ul>	U.S. Supreme Court affirmed plan drawn by legislature. (8/83)
	<u>Booard v. Hobbie</u> Federal Court (L - 6/21/83)	<ul style="list-style-type: none"> <li>• Petition to require governor to call primary</li> <li>• Determine if election subject to Sec. 5 preclearance of Voting Rights Act</li> </ul>	Pending trial
Alaska	None		
Arizona	<u>Hamilton v. Babbitt</u> Federal Court (C, L - 12/13/81)	<ul style="list-style-type: none"> <li>• Gerrymandering</li> <li>• Violation of due process</li> <li>• Dilution of minority voting strength</li> </ul>	Federal court approved corrected legislative plan per settlement agreement. (4/12/82)
Arkansas	<u>Doulin v. White</u> Federal Court (C)	<ul style="list-style-type: none"> <li>• Population equality and deviation</li> </ul>	Federal court orders court plan. (2/25/82)
	<u>Bizzell v. White</u> <u>Wells v. White</u> State Supreme Court (L - 10/5/81)	<ul style="list-style-type: none"> <li>• Gerrymandering</li> </ul>	State Supreme Court dismissed. (11/2/81)
California	<u>Brown v. Deukmejian</u> State Supreme Court (C, L - 10/25/81)	<ul style="list-style-type: none"> <li>• Challenges 3 initiatives to prevent plans from going into effect</li> </ul>	State Supreme Court upholds all 3 initiatives. (1/28/82)
	<u>Vadhan v. Eu</u> Federal Court (C - 2/83)	<ul style="list-style-type: none"> <li>• Population deviation</li> <li>• Authority of Secretary of State to make technical corrections to plan</li> </ul>	Court of Appeals orders federal court to proceed on the merits of the case. (7/11/83)
	<u>Richardson v. Eu</u> Federal Court (L - 2/82)	<ul style="list-style-type: none"> <li>• Numbering of Senate districts with regard to staggered terms</li> </ul>	Federal Court dismissed case. (10/13/82)
	<u>Chavez v. Eu</u> Federal Court (L)	<ul style="list-style-type: none"> <li>• Numbering of Senate districts with regard to staggered terms</li> </ul>	Federal Court dismissed case. (5/82)
	<u>Hallowell v. Eu</u> Federal Court (L - 2/82)	<ul style="list-style-type: none"> <li>• Malapportionment</li> </ul>	Pending trial
Colorado	<u>Carstens v. Lamm</u> Federal Court (C - 10/8/81)	<ul style="list-style-type: none"> <li>• Proposed to break stalemate through judicial intervention</li> </ul>	Federal Court orders court plan. (1/25/82)
	<u>Kellenburger v. Buchanan</u> State District Court (L - 6/82)	<ul style="list-style-type: none"> <li>• Vacancy election</li> <li>• Deferred vote of electorate</li> </ul>	State Supreme Court orders election to be held using 1980 senatorial boundaries. (9/82)

<u>State</u>	<u>Court Case</u>	<u>Issues</u>	<u>Status</u>
Connecticut	<u>Locan v. O'Neill</u> State Superior Court (C, L - 10/81)	<ul style="list-style-type: none"> <li>• Municipal boundary splits</li> <li>• Constitutionality of backup commission</li> <li>• Method of devising districts</li> </ul>	State Supreme Court upheld plans. (8/3/82)
Delaware	None		
Florida	<u>Bucniconti v. Firestone</u> Federal Court (C)	<ul style="list-style-type: none"> <li>• To stop Secretary of State from conducting elections</li> <li>• Sought redistricting deadline of 3/29, after which court to enact plan</li> </ul>	Federal Court dismissed case. (6/23/82)
	<u>Clem v. Haben</u> Federal Court (C - 6/23/82)	<ul style="list-style-type: none"> <li>• County and municipal boundary splits</li> </ul>	Federal Court upheld plan. (9/3/82)
	<u>In re Apportionment Law</u> (SUR 1E) 414 So. 2d 1040 (1982) (L)		State Supreme Court reviewed plan as provided by law.
Georgia	<u>Susbee v. Smith</u> Federal Court (C)	<ul style="list-style-type: none"> <li>• Contested objection by Department of Justice</li> </ul>	Federal Court upheld justice objection (7/22/82); approves plan (8/24/82).
Hawaii	<u>Travis v. King</u> Federal Court (C, L)	<ul style="list-style-type: none"> <li>• Malapportionment</li> <li>• Gerrymandering</li> <li>• Registered voter population base used as formula</li> </ul>	Federal Court approved masters' plan (4/2/82); state directed to draw new plan (6/17/82).
Iowa	<u>Susce v. Canarrusa</u> Federal Court (I - 3/82)	<ul style="list-style-type: none"> <li>• Proposes to break stalemate through judicial intervention</li> </ul>	Federal Court dismissed after legislature and governor agreed on plan.
	<u>Waller v. Canarrusa</u> State District Court (I - 5/82)	<ul style="list-style-type: none"> <li>• County boundary splits</li> <li>• Request to enjoin general election</li> </ul>	Supreme Court remands case to district court to try case on merits. (6/7/82)
Illinois	<u>In Re Illinois Congressional Districts Reapportionment Cases</u> Federal Court (C - 7/1/81)	<ul style="list-style-type: none"> <li>• Congressional redistricting not complete</li> </ul>	U.S. Supreme Court affirmed court plan (1/11/82)
	<u>Schrade and Wolf v. State Board of Elections</u> State Supreme Court (L - 10/19/81)	<ul style="list-style-type: none"> <li>• Violation of compactness criteria of state constitution</li> <li>• Petition court to approve plan</li> </ul>	State Supreme Court upheld map with changes to conform to compactness criteria
	<u>Rybicki v. State Board of Elections</u> State Supreme Court (L - 10/27/81)	<ul style="list-style-type: none"> <li>• Dilution of minority voting strength</li> <li>• Municipal and county boundary splits</li> </ul>	State Supreme Court approves commission plan as amended with regard to population variance (1/12/82); amended to conform to 1982 amendments to Voting Rights Act (1/21/82).
Indiana	<u>Orr v. Baldrige</u> Federal Court (C - 8/6/81)	<ul style="list-style-type: none"> <li>• Challenges census procedures resulting in the loss of one congressional seat</li> </ul>	Pending decision

<u>State</u>	<u>Court Case</u>	<u>Issues</u>	<u>Status</u>
Indiana	<u>Sandemer v. Davis</u> Federal Court (L - 1/12/82)	<ul style="list-style-type: none"> <li>• Political gerrymandering</li> <li>• Request injunction to prevent plan from going into effect</li> <li>• Dilution of minority voting strength in multimember districts</li> <li>• Incongruent legislative and congressional districts</li> <li>• Districts inconsistent with communities of interest</li> </ul>	Pending trial
	<u>Garton v. O'Sannon</u> Federal Court (L)		Federal Court dismissed case. (3/24/81)
Iowa	None		
Kansas	<u>O'Sullivan v. Brier</u> Federal Court (C - 4/23/87)	<ul style="list-style-type: none"> <li>• Requests court to draw plan</li> </ul>	Federal Court ordered court plan.
Kentucky	None		
Louisiana	<u>Major v. Treen</u> Federal Court (C, L - 3/25/82)	<ul style="list-style-type: none"> <li>• Dilution of minority voting strength</li> </ul>	Pending decision
Maine	None		
Maryland	<u>Wiser v. Holmes</u> State Court of Appeals (L - 3/3/82)	<ul style="list-style-type: none"> <li>• Communities of interest</li> <li>• Natural boundaries</li> <li>• Political boundaries</li> <li>• Compactness</li> <li>• Dilution of minority voting strength</li> <li>• Partisan gerrymandering</li> </ul>	State Court of Appeals upheld enacted plan (6/4/82); U.S. Supreme Court refused to hear case for want of substantial federal question.
Massachusetts	None		
Michigan	<u>Akerstrand v. Austin</u> Federal Court (C)	<ul style="list-style-type: none"> <li>• Violation of one-person, one-vote because new districts not drawn</li> </ul>	Federal Court ordered court plan. (5/24/82)
	<u>In Re Apportionment of State Legislatures</u> State Supreme Court (L - 1/82)	<ul style="list-style-type: none"> <li>• Requests court to assume jurisdiction for reapportionment</li> </ul>	State Supreme Court declared reapportionment statutes unconstitutional (3/25/82); interim plan approved as drawn by special master (5/21/82); U.S. Supreme Court refuses to hear case (10/12/82).
Minnesota	<u>Orwell v. Lacombe and Growe</u> U.S. Supreme Court (C)	<ul style="list-style-type: none"> <li>• Challenge to court plan on basis lower court exceeded its authority in drawing plans ignoring overriding state policy</li> </ul>	U.S. Supreme Court affirms court plan. (5/13/82)
	<u>Lacombe v. Growe</u> Federal Court (C, L - 3/25/81)	<ul style="list-style-type: none"> <li>• Requests deadlines for re-districting and reapportionment</li> </ul>	Federal Court ordered court plans. (3/11/82)
Mississippi	<u>Mississippi v. Smith</u> Federal Court (C - 4/7/82)	<ul style="list-style-type: none"> <li>• Contested objection by Department of Justice</li> </ul>	Federal Court upheld department's objection. (5/25/82)