ALASKA LEGISLATURE COMMITTEE FILES 1983-1984

2984 HSA HJR 53

TABLE 3g

EFFECT OF REAPPORTIONMENT ON TERMS OF SENATORS

State	All Senators Elected at Same Time	Senators Elected in Staggered Terms	Senators Will be Required to Run for Reelection	Senators Will be Allowed to Serve Out Term
Alabama	*	...	...	...
Alaska	...	*	*	...
Arizona	*	...	...	...
Arkansas	...	*	*	...
California	...	*	...	*
Colorado	...	*	...	*
Connecticut	*	...	...	...
Delaware	...	*	*	...
Florida	...	*	*	...
Georgia	*	...	...	...
Hawaii	...	*	...	*
Idaho	*	...	...	...
Illinois	...	*(a)	...	...
Indiana	...	*	...	N.A.
Iowa	...	*	...	*(b)
Kansas	*	...	...	...
Kentucky	...	*	...	*
Louisiana	*	...	...	...
Maine	*	...	...	...
Maryland	*	...	...	...
Massachusetts	*	...	...	...
Michigan	*	...	...	...
Minnesota	*	...	...	...
Mississippi	*	...	...	...
Missouri	...	*	...	*
Montana	...	*(c)	*	...
Nebraska	...	*	...	*
Nevada	...	*	*	...
New Hampshire	*	...	...	...
New Jersey	*	...	...	...
New Mexico	...	*	*	...
New York	*	...	...	...
North Carolina	*	...	...	...
North Dakota	...	*	*	...
Ohio	...	*	...	*
Oklahoma	...	*	...	*
Oregon	...	*	...	*
Pennsylvania	...	*	...	*
Rhode Island	*	...	...	...
South Carolina	*	...	...	...
South Dakota	*	...	...	...
Tennessee	...	*	...	*
Texas	...	*	*	...
Utah	...	*	*	...
Vermont	*	...	...	...
Virginia	*	...	...	...
Washington	...	*	...	*
West Virginia	...	*	...	*
Wisconsin	...	*	...	*
Wyoming	...	*	*	...

Key: N.A. - not available or not yet determined
(a) - all terms end in 1983
(b) - unless 2 or more incumbents are placed in same district
(c) - after each reapportionment, lots will be drawn for ⅓ the senators to serve an initial 2-year term. Subsequent elections will be for 4-year terms.

TABLE 3h

JURISDICTIONS COVERED UNDER SECTION 5 OF THE VOTING RIGHTS ACT

State	Coverage	Date Covered
Alabama.....	Statewide	November 1, 1964
Alaska.....	Statewide	November 1, 1972
Arizona.....	Statewide	November 1, 1972
California.....	Kings County	November 1, 1972
	Merced County	November 1, 1972
	Monterey County	November 1, 1968
	Yuba County	November 1, 1968
Colorado.....	El Paso County	November 1, 1972
Connecticut ...	Groton Town	November 1, 1968
	Mansfield Town	November 1, 1968
	Southbury Town	November 1, 1968
Florida.....	Collier County	November 1, 1972
	Hardee County	November 1, 1972
	Hendry County	November 1, 1972
	Hillsborough County	November 1, 1972
	Monroe County	November 1, 1972
Georgia.....	Statewide	November 1, 1964
Hawaii.....	Honolulu County	November 1, 1964
Idaho.....	Elmore County	November 1, 1968
Louisiana.....	Statewide	November 1, 1964
Massachusetts..	Amherst Town	November 1, 1968
	Ayer Town	November 1, 1968
	Belchertown	November 1, 1968
	Bourne Town	November 1, 1968
	Harvard Town	November 1, 1968
	Sandwich Town	November 1, 1968
	Shirley Town	November 1, 1968
	Sunderland Town	November 1, 1968
	Wrentham Town	November 1, 1968
Michigan.....	Buena Vista Township	November 1, 1972
	Clyde Township	November 1, 1972
Mississippi....	Statewide	November 1, 1964
New Hampshire..	Antrim Town	November 1, 1968
	Benton Town	November 1, 1968
	Millsfield Township	November 1, 1968
	Newington Town	November 1, 1968
	Pinkhams Grant	November 1, 1968
	Ringe Town	November 1, 1968
	Stewartstown	November 1, 1968
	Stratford Town	November 1, 1968
	Unity Town	November 1, 1968
New York.....	Bronx County	November 1, 1968
	Kings County	November 1, 1968
	New York County	November 1, 1968
North Carolina..	Anson County	November 1, 1964
	Beaufort County	November 1, 1964
	Bertie County	November 1, 1964
	Bladen County	November 1, 1964
	Camden County	November 1, 1964
	Caswell County	November 1, 1964
	Chowan County	November 1, 1964
	Cleveland County	November 1, 1964
	Craven County	November 1, 1964
	Cumberland County	November 1, 1964
	Edgecombe County	November 1, 1964
	Franklin County	November 1, 1964
	Gaston County	November 1, 1964
	Gates County	November 1, 1964
	Granville County	November 1, 1964
	Greene County	November 1, 1964
	Guilford County	November 1, 1964
	Halifax County	November 1, 1964
	Harnett County	November 1, 1964
	Hertford County	November 1, 1964
	Hoke County	November 1, 1964
	Jackson County	November 1, 1964
	Lee County	November 1, 1964
	Lenoir County	November 1, 1964
	Martin County	November 1, 1964
	Nash County	November 1, 1964
	Northampton County	November 1, 1964
	Onslow County	November 1, 1964
	Pasquotank County	November 1, 1964
	Perquimans County	November 1, 1964
	Person County	November 1, 1964
	Pitt County	November 1, 1964
	Robeson County	November 1, 1964
	Rockingham County	November 1, 1964
	Scotland County	November 1, 1964
	Union County	November 1, 1964
	Vance County	November 1, 1964
	Washington County	November 1, 1964
	Wayne County	November 1, 1964
	Wilson County	November 1, 1964
South Carolina..	Statewide	November 1, 1964
South Dakota....	Shannon County	November 1, 1972
	Todd County	November 1, 1972
Texas.....	Statewide	November 1, 1964
Virginia.....	Statewide	November 1, 1964
Wyoming	Campbell County	November 1, 1968

TABLE 4

LEGISLATIVE REAPPORTIONMENT DATA PROCESSING ASSISTANCE

State	Data Processing Assistance	Computer Graphics
Alabama	Yes - University of Alabama	...
Alaska	Yes - Open	...
Arizona	Yes - Datapol, Phoenix, Ariz.	...
Arkansas	Yes - University of Arkansas, Industrial Research & Extension Center	*
California	Yes - Open	...
Colorado	Yes - State Computer System	...
Connecticut	Yes - Market Opinion Research	...
Delaware	Yes - Unknown	...
Florida	Yes - Legislative Data Processing Center	*
Georgia	Yes - Institute of Government, University of Georgia	...
Hawaii	Unknown	...
Idaho	No	...
Illinois	Yes - Open	...
Indiana	Yes - Open	*
Iowa	Yes - Prof. John Lilitschwager, University of Iowa	...
Kansas	No	...
Kentucky	Yes - State Data Processing	...
Louisiana	Yes - State Planning Office	...
Maine	Unknown	...
Maryland	Yes - Open	...
Massachusetts	No	...
Michigan	Yes - Open	...
Minnesota	Yes - APT	...
Mississippi	Unknown	...
Missouri	Yes - Open	...
Montana	Unknown	*
Nebraska	Yes - State Central Data Processing	...
Nevada	Yes - State Central Data Processing	*
New Hampshire	No	...
New Jersey	Yes - Open	...
New Mexico	No	...
New York	Yes - Legislative Advisory Task Force on Reapportionment	*
North Carolina	Yes - Open	...
North Dakota	Yes - Open	...
Ohio	Yes - Open	...
Oklahoma	Yes - State Data Processing	...
Oregon	Yes - State Data Processing	*
Pennsylvania	Yes - State Legislative Data Processing Center	...
Rhode Island	Unknown	...
South Carolina	Yes - State Data Processing	...
South Dakota	No	...
Tennessee	No	...
Texas	Yes - Synercom Technology, Inc.	...
Utah	Yes - State Systems Planning; Wang Laboratories, Inc.	*
Vermont	Yes - Open	...
Virginia	No	...
Washington	Yes - Open	...
West Virginia	No	...
Wisconsin	No	...
Wyoming	No	...

NOTE REGARDING THE FOLLOWING FRAME(S) ON MICROFILM:

COMPLETE DOCUMENT IS AVAILABLE IN ORIGINAL FILES.

TITLE PAGE ONLY HAS BEEN FILMED.

REAPPORTIONMENT AND REDISTRICTING PLAN FOR THE ALASKA STATE LEGISLATURE

Prepared by: The Reapportionment Board

June 10, 1981

common cause
2030 M STREET, N.W., WASHINGTON, D. C. 20036 (202) 833-1200

Archibald Cox
Chairman

David Cohen
President

John W. Gardner
Founding Chairman

Revised September 1980

Model Reapportionment Amendment to State Constitution

Section ___. Legislative and Congressional Reapportionment.

(a) Reapportionment Mandate. In each year ending in one, the state shall be divided into as many congressional districts as there are United States Representatives apportioned to the state, as many representative districts as the number of members of the state house of representatives as provided by law, and as many senate districts as the number of members of the state senate as provided by law. [All legislative districts shall be single-member districts.]

(b) Reapportionment Commission. In each year ending in zero and at any other time of court ordered reapportionment, a commission shall be established to prepare a reapportionment plan for state legislative and congressional districts. The commission shall consist of five members, none of whom may be public officials. The president of the senate, the speaker of the house, the minority leader of the senate, and the minority leader of the house shall each select one member. The four members so selected shall select, by a vote of at least three members, a fifth member who shall serve as chair. Failure to select the

fifth member within the time prescribed by law shall constitute an impasse which shall automatically discharge the commission, and a new commission shall be appointed in the same manner as the original commission. The legislature shall establish by law qualifications of commissioners and procedures for their selection and filling of vacancies. The legislature shall establish by law the duties and powers of the commission and shall appropriate funds to enable the commission to carry out its duties.

[ALTERNATIVE SECTION/(b) Reapportionment Commission. In each year year ending in zero and at any other time of court ordered reapportionment, a commission shall be established to prepare a reapportionment plan for state legislative and congressional districts. The commission shall consist of seven members, none of whom may be public officials. The president of the senate, the speaker of the house, the minority leader of the senate, the minority leader of the house, and the chair of the political party that received the second highest vote in the previous gubernatorial election shall each submit to the governor and make public a list of not less than three persons. The governor shall appoint six members of the commission who are broadly representative of the people of the state including one person from each list and one additional person. The six members shall select, by a vote of at least four members, a seventh member who shall serve as the chair. Failure to select the seventh member within the time prescribed by law shall constitute an impasse which shall automatically discharge the commission, and a new commission shall be appointed in the same manner as the original commission. The legislature shall establish by law qualifications of commissioners and procedures for their selection

and the filling of vacancies. The legislature shall establish by law the duties and powers of the commission and shall appropriate funds to enable the commission to carry out its duties.]

(c) Reapportionment Standards.

(1) State legislative districts in each house shall have population as nearly equal as is practicable based on the population reported in the federal census taken in each year ending in zero. In no case shall the absolute value of the total percentage deviations of all districts of a house divided by the number of districts exceed two percent. In no case shall a district have a population which varies from the average population of all districts, unless a population variance is necessary to comply with one of the other standards set forth in this section. In no case shall a single district have a population which varies by more than five percent from the average population of all districts. When a petition challenging a plan adopted by the commission is filed with the supreme court, the commission shall have the burden of justifying any variance between the population of a district and the average population of all districts.

(2) Congressional districts shall have population as nearly equal as is practicable based on the population reported in the federal census taken in each year ending in zero. No district for election of members to the United States House of Representatives shall have a population which varies by more than one percent from the average population of all congressional districts in the state. When a petition challenging a plan adopted by the commission is filed with the supreme court, the commission shall have the burden of justifying any variance between the population of a district and the average population of all districts.

(3) To the extent consistent with subsections (1) and (2), district lines shall be drawn to coincide with the boundaries of local political subdivisions.

(4) Districts shall be composed of convenient contiguous territory.

(5) Districts shall be compact in form. The aggregate length of all district boundaries shall be as short as practicable consistent with the standards contained in subsections (1), (2), (3), and (4).

(6) The commission shall exercise its powers to provide fair and effective representation for all citizens, and, consistent with the criteria contained in subsections (1), (2), (3), (4), and (5), shall encourage electoral competition. No plan shall be drawn for the purpose of favoring any political party, incumbent legislator, or other person or group. In preparing a plan, the commission shall not take into account the addresses of incumbent legislators. The commission shall not use the political affiliations of registered voters, previous election results, or demographic information other than population head counts for the purpose of designing a plan that favors any political party, incumbent legislator, or other person or group.

(7) No district shall be drawn for the purpose of diluting the voting strength of any language or racial minority group.

(8) The legislature may define by law any of the standards enumerated in this subsection and may establish by law additional standards, not in conflict with the Constitution of the United States or this constitution, designed to guarantee fair and

Enclosure #3

common cause
2030 M STREET, N.W., WASHINGTON, D. C. 20036 (202)

Archibald Cox
Chairman

David Cohen
President

John W. Gard
Founding Chairman

September 1980

MEMORANDUM

To: State Chairs, State Offices

From: Bruce Adams, Director, Issue Development
Ted Stein, Research Associate

Re: Revisions to the Common Cause Reapportionment Model

Since its publication in 1977, the Common Cause reapportionment model has helped focus the debate over reapportionment reform in the states, and on the federal level. Some version of our model proposal has been introduced in more than twenty states. Reapportionment reform measures have been enacted or await voter approval in five states--Arkansas, California, Iowa, Minnesota, and Oregon. The Common Cause model has held up well under the intense spotlight of legislative debate. We have always recognized that our model offers a basic framework for reapportionment reform--not the final word. Based on discussions over the past three years with legislators, legislative staff, political scientists, and others, we believe that certain improvements can and should be made.

We have indicated the revisions on the attached copy of the Common Cause model constitutional amendment. A clean copy of the revised model amendment also in enclosed. Additional copies are available from Field Central. Keep in mind that if you decide to use the CC model statute, it will have to be modified to be

consistent with the revised amendment. A revised CC model statute is being prepared.

The revisions are as follows:

(1) Commission structure: The model should offer as an alternative the commission structure proposed in 1978 by the Florida Constitution Revision Commission (see page 2 of attachment, "Revisions to Reapportionment Model Constitutional Amendment"). This plan called for a seven-member commission. Six members would be appointed by the governor. The governor would select one and one each from lists supplied by the four legislative leaders and the chair of the opposite political party. The six members then would have selected a seventh member or tiebreaker. The potential advantage of this proposal over the original model is twofold. First, it allows the governor to provide for racial, ethnic, and geographic balance and diverse expertise in making appointments. This is aided by the size of the commission, which is larger than the five-member panel proposed by the CC model, and the fact that a single person makes the final choices. Second, the alternative places some distance between the legislature and commission appointments.

In addition, either commission structure (i.e., the CC model or the Florida alternative) should require that the commission be discharged if a deadlock develops over selection of the tiebreaker. (pages 1 and 2). Such a deadlock is a real possibility. In Montana, one of the three states with a commission system that meets our test, commissions have deadlocked twice over the selection of a tiebreaker--in 1973 and again in 1979. This same situation

occurred in Pennsylvania in 1971. In each case, the state's supreme court selected the tiebreaker. A discharge mechanism would provide a powerful incentive to select the tiebreaker. It also would avoid the possibility--raised by court participation--of a partisan tiebreaker in states where supreme courts are dominated by one party.

(2) Compactness: According to computer experts, our original compactness definition, which requires a plan's aggregate boundary length to be within five percent of the shortest possible aggregate length, raises serious practical problems. Finding the shortest possible aggregate length, these experts say, would greatly increase the necessary data base with a commensurate cost increase. We have deleted the five percent requirement (page 4). The revised standard still requires that the aggregate length of all district boundaries be as short as practicable. This establishes a standard beyond the mere requirement of compactness while avoiding the political and technical problems inherent in a complex mathematical formula.

(3) Fair representation: A reapportionment commission has an affirmative obligation to provide fair and effective representation for all citizens of the state. The need for "fair and effective representation" was eloquently stated in the Supreme Court's famous "one person, one vote" rulings of the mid-1960s. Within the constraints of the Common Cause standards, there are various ways that lines can be drawn to ensure or to undermine fair representation in the state legislature and in Congress. While the goal of fair and effective representation has always been Common Cause's guiding principle, the original model did

not directly state it. The revised CC model clearly states the objective as part of the sixth standard (page 4).

(4) Competition: In the past, reapportionment has been used to undermine electoral competition. Attempts to produce a bias in favor of incumbents or majority parties robs our political system of its vitality. Legislators who never face close re-election races are less responsive to their constituents. Reapportionment reform is designed to encourage competition, not discourage it. To guard against a bipartisan gerrymander by the bipartisan commission, we have added competition as a standard (page 4). It is important to note that the competition standard is to be used only after application of the more fundamental standards of population equality, respect for political subdivision, and compactness. Otherwise, the standard could lead to bizarre-shaped districts that did not respect city and county lines.

(5) Population deviation: To prevent line drawers from using population deviations to gerrymander, the model requires all population deviations to average one percent or less. This denies the majority party, for example, the opportunity to gain an advantage by making majority party districts underpopulated and minority party districts overpopulated. The revised model changes this standard in two ways (see page 3). First, the standard has been increased from one to two percent to insure that this test is not overly rigid. Second, it adds the word "percentage" to clarify that the average of all percentage deviations must be one percent or less.

(6) Anti-gerrymandering provisions: In the revised model, no reapportionment plan shall be drawn for the purpose of favoring any political party, incumbent legislator, or other person or group. The change in this standard involves the substitution of "plan" for "district" (page 4). This revision recognizes that to achieve fairness it may be necessary to benefit a certain political or ethnic group in one district and a second group in another. The key is that the overall plan does not purposefully favor or disadvantage any person or group. To be consistent, the use of political or demographic data to design a plan that favors any person or group is prohibited (page 5).

One additional point, not addressed in the attached revised model, involves the relationship of our proposal to the federal Voting Rights Act. Some legislators have incorrectly charged that the Common Cause model violates the Voting Rights Act. Among its provisions, the federal Act requires the Justice Department to invalidate any reapportionment plan or voting change that has a racially discriminatory effect--in certain states. Obviously, the federal Voting Rights Act would prevail over any state provision in the event that a conflict should arise between our model and the Act. This establishes a two-track system. First, states covered by the Voting Rights Act*--states with histories of discrimination

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*The Voting Rights Act of 1965, as amended in 1970 and 1975, requires Justice Department review of voting changes in nine states: Alabama, Alaska, Arizona, Georgia, Louisiana, Mississippi, South Carolina, Texas, and Virginia. Some jurisdictions in another thirteen states are also covered: California, Colorado, Connecticut, Florida, Hawaii, Idaho, Massachusetts, Michigan, New Hampshire, New York, North Carolina, South Dakota, and Wyoming. In some of these thirteen states coverage is quite limited (e.g., four counties in California, five counties in Florida, two townships in Michigan). The Act will be in effect through most of the reapportionment of the 1980s--until August 1982 when it will be up for review by Congress.

against minority voters--would be subject to an effect test. Second, states not covered by the Act would be subject to the model's purpose test.

Attachment: Revisions to Reapportionment Model Constitutional Amendment

Enclosure: Model Reapportionment Amendment to State Constitution (Revised September 1980)

APPENDIX III: REAPPORTIONMENT: A BETTER WAY

Common Cause first proposed a model reapportionment process in 1977 for adoption at the state level. The model proposal relies heavily on the Colorado, Hawaii, and Montana reapportionment procedures.* The Hawaii and Montana processes were recommendations of constitutional conventions that received voter approval in 1968 and 1972, respectively, (Hawaii and Montana commissions draw congressional as well as state legislative boundaries.) The Colorado process was the result of a citizen initiative approved by the voters in November of 1974 by a vote ratio of three to two.

The Common Cause model proposes a reapportionment process designed to produce districts that are fairly drawn as well as districts of substantial population equality. Unlike district lines produced by political gerrymandering, fair district lines are not drawn to pre-determine election results. The model proposes a system of reapportionment that is equitable in its treatment of incumbent legislators, political parties, and others. This replaces the present system where people with political power are able to manipulate district lines for personal and partisan advantage.

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* A description of reapportionment commission activities in Colorado and Hawaii is found on page 26. Montana will not complete redistricting until 1983.

The Common Cause model has three main elements -- strict anti-gerrymandering standards; an independent, nonpartisan reapportionment commission; and prompt judicial review. All three elements of the model are crucial. They are designed to reinforce each other and to produce fairly drawn district lines. The reapportionment standards are designed to produce fair district lines by limiting the discretion of the commission to gerrymander for political or partisan purposes. The nonpartisan reapportionment commission replaces the legislature, providing much needed independence. Fair district lines are more likely if district lines are drawn by persons not directly affected by them. Judicial review provides finality and acts as the final safeguard of the public's interest in fair and effective representation.

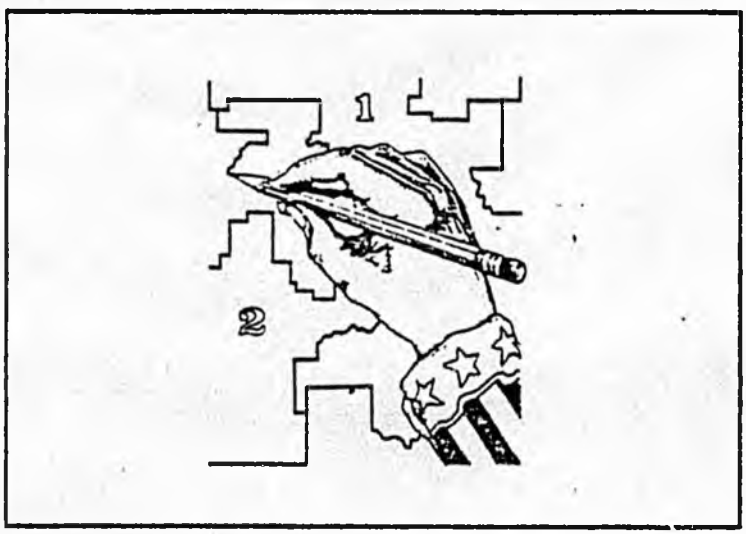
Four states have enacted legislation in the last three years that strengthens the standards that legislators must use in drawing congressional and state legislative districts -- California (1980), Iowa (1980), Oregon (1979), and Washington (1982). In addition, proposals to establish a redistricting commission will appear on November 1982 ballots in California and Missouri.

Common Cause will continue to lobby for reapportionment reform in the states. To obtain a copy of Common Cause's report on state and congressional reapportionment, Toward a System of Fair and Effective Representation, and the Common

Cause model reapportionment amendment to a state constitution, please call or write to the Common Cause Redistricting Clearinghouse, 2030 M Street, N.W. Washington, D.C. 20036 (202) 833-1200.

Common Cause Report on Congressional and State Redistricting

June 1982 — Number Two



This is the second report
prepared by the Common Cause
Redistricting Clearinghouse

common cause

COMMON CAUSE REPORT ON CONGRESSIONAL AND STATE REDISTRICTING

This is the second report to be prepared by the Common Cause Redistricting Clearinghouse. This report focuses on state efforts to establish new congressional and legislative districts based on the 1980 census.

This study was researched and written by Marcy Stephens of the Issue Development Staff with the assistance of Joseph Zwerdling. Staff members Janet Kaufmann, Vicky Kim, and Phyllis Sickels also provided assistance.

TABLE OF CONTENTS

For further information, contact:

Marcy Stephens
Common Cause Redistricting Clearinghouse
2030 M Street, N.W.
Washington, D.C. 20036
(202) 833-1200

INTRODUCTION

Every ten years citizens in many states observe their elected officials fighting to draw new election districts to accommodate population changes reflected in the latest U.S. census. Redistricting as a result of the 1980 census changes has been characterized by heavy litigation activity and skyrocketing costs. Once again, in this highly partisan process, Democrats and Republicans alike have proven that they can manipulate and "gerrymander" district lines with great skill and verve.*

A number of states are taking action to counter gerrymandering practices. Voters in California and Missouri, for example, will have a chance to vote on reapportionment reform measures on the November 1982 ballot. In both states the move to change the present system of redistricting -- requiring legislators to design their own districts -- was triggered by a sense of frustration over the 1980 redistricting events. In California, new congressional districts were likened to jigsaw puzzle pieces, while in Missouri the House and Senate deadlocked over redistricting congressional seats. A three-judge federal district panel ultimately drew up the final plan.

Except for Kansas and two states -- Maine and Montana -- that will act in 1983, congressional redistricting plans

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* The term "gerrymandering" is not new; it was inspired by the efforts of Governor Elbridge Gerry of Massachusetts in 1812. An attempt to gerrymander generally means an attempt at one of four things: (1) to protect an incumbent; (2) to gain partisan advantage; (3) to eliminate a political maverick; or (4) to exclude a racial minority.

based on the 1980 census are now drawn. Seven states must still complete redistricting for their own legislatures. However, court challenges or Justice Department rejection of plans under Section 5 of the Voting Rights Act has prolonged the process in many states. In some cases, primary election dates have been postponed until litigation has been resolved.

The purpose of this report is to examine the redistricting process, court activity, and the outcome of redistricting itself. A state-by-state status report for congressional redistricting is provided and a survey of interesting state legislative redistricting activity in 20 states follows.

Redistricting and the Courts

Article 1, Section 2 of the Constitution specifically provides that representatives be apportioned among the states according to population every ten years.* Despite this mandate, up until the 1960's many states failed to redistrict to adjust for population changes and the courts declined to get involved. The U.S. Supreme Court decisions of the mid-1960's established certain one-person, one-vote standards, requiring states to eliminate gross population inequalities in redistricting. Beyond that, however, the Supreme Court did not spell out specific substantive standards for redistricting. Few state constitutions describe in much detail either the procedure for preparation of reapportionment

* Technically, reapportionment is the distribution of seats among units of government and redistricting is the drawing of lines.

plans or the standards to be used in drawing congressional and legislative districts.

The absence of clear criteria for redistricting leaves map makers with wide discretion in drawing up plans. The results are often controversial. Consequently, lawsuits challenging redistricting plans have been brought by aggrieved political parties, citizens' groups, and individual citizens on a variety of issues. In this round of redistricting, most of the action has been at the federal district court level, although the Supreme Court has been involved in a number of actions concerning congressional plans as follows:

- On March 22, 1982 the U.S. Supreme Court rejected an appeal by California's Republican Party to overturn the State Supreme Court's decision to allow 1982 elections to be held in districts drawn by the Democratic legislature in September 1981.

- In Illinois, a Democratically-oriented map adopted November 23, 1981 in a ruling by a federal panel in Chicago was upheld by the U.S. Supreme Court.

- Republicans in Missouri and Minnesota appealed District Court decisions on redistricting to the U.S. Supreme Court. In both cases motions to expedite were denied. However, in summary dispositions on May 17, 1982 the high court affirmed plans for both states.

- On March 29, 1982, the U.S. Supreme Court refused to overturn a stay of a decision on New Jersey's congressional map granted by Associate Justice William Brennan. A federal panel had earlier declared the Democratic-styled plan unconstitutional.

- In April 1982, a number of New Mexico candidates asked the U.S. Supreme Court to stay a decision by a federal panel to delay the primary, because it found the plan for the state legislature to be unconstitutional. The U.S. Supreme Court approved the scheduled primary for all but legislative races.

- On May 3, 1982 the U.S. Supreme Court rejected an appeal to defer reapportionment of New York's state legislature until 1983. The appeal was made by state Senate Republicans.

- A Texas congressional map was drawn by the legislature in August 1981. A three judge federal panel, in February 1982, ordered changes in six districts. The U.S. Supreme Court subsequently ruled that the federal panel acted improperly in readjusting boundaries. However, the high court left it up to the federal panel to decide what plan will go into effect for the May 1 primary. The District Court opted to have its own version in place for the election.

In states where the legislature has responsibility for drawing redistricting maps and legislators have failed to produce a plan because the House and Senate could not agree or where the legislature passed a plan which was then vetoed by the governor, the federal courts have stepped in with maps of their own:

- In Arkansas, a three-judge panel overturned a commission drawn plan and absent any corrective action by the legislature, adopted its own map on February 25, 1982.

- In Colorado, the Governor vetoed three successive plans passed by the legislature. A federal panel in Denver finally approved its own plan on January 28, 1982.

- On May 24, 1982 a federal panel issued a decision adopting a congressional plan for Michigan. An appeal has been filed with the U.S. Supreme Court.

- A U.S. District Court in Minnesota adopted a congressional plan after the legislature failed to come up with a redistricting bill.

- In Missouri, on January 7, 1982, a federal court issued a map. The state Senate had adjourned without approving redistricting legislation.

- A three-judge federal panel in Columbia, South Carolina adopted its own congressional plan on March 8, 1982, when the legislature failed to adopt a plan by the court-imposed deadline.

Federal courts have found the respective congressional redistricting maps in Arkansas, Hawaii and New Jersey to be unconstitutional. (Details of congressional redistricting are provided in the state-by-state survey beginning on page 9.)

A number of state legislative maps have met with a similar fate. State legislative plans in Hawaii, Michigan, New Mexico, Oregon, Tennessee, Texas, and Virginia have been overturned in the courts. In Michigan, the court overturned the process by which state legislative redistricting is accomplished.

Court involvement in reapportionment is not a new phenomenon. According to a 1973 survey by the Massachusetts Legislative Research Council, courts determined districts for one or both houses in at least twenty-one states between 1962 and 1972 because the state reapportionment procedure failed to produce acceptable results.

Justice Department Approval of Redistricting Plans

States that are subject to the preclearance provisions of Section 5 of the Voting Rights Act because of evidence of past voting discrimination must submit their redistricting plans to either the Justice Department or the U.S. District Court in the District of Columbia for approval within 60 days (see Appendix II for a listing of states covered by the Voting Rights Act and the status of plans submitted to the Justice Department).

The Justice Department has issued objections to a number of plans where statewide preclearance is required. For example, congressional plans for Georgia, Mississippi and Texas were rejected by the Justice Department and must be resubmitted. Action on a number of other plans is still pending.

The Time and Money Factor

Apart from inciting cynicism by voters and legislators themselves over this highly partisan process, there are other visible drawbacks to the way this round of reapportionment has been conducted -- the time and the cost. This aspect of reapportionment is especially striking at a time when state governments -- which often meet in only two or three month sessions -- are facing grave financial difficulties.

The Los Angeles Times (March 13, 1982) reported that the "Democratic-controlled legislature ... has spent $2.7 million in public funds drawing new political districts." The L.A. Times compared California's expenses with the amount spent by the New York Legislature so far, cited as "about $2.5 million."

In Virginia in early April 1981, legislators made an inauspicious start at redistricting when they came up with a House of Delegates plan that created 101 districts; that is one more than is mandated in the Constitution. Since then two House plans were vetoed by former Governor John Dalton (R), one was declared unconstitutional in federal court, and

two plans were rejected by the Justice Department under Section 5 of the Voting Rights Act. The Washington Post (April 15, 1982) reported that "[t]he entire process, including 14 special sessions and bills paid to a Richmond law firm to defend the state in court, have been estimated to cost taxpayers $1 million."

Opting for Reform

Despite the inherent conflict of interest in having legislators design their own districts, efforts at reapportionment reform have not come easily. Legislators resist giving up the responsibility and generally turn a deaf ear to groups or individuals who are seeking a more equitable process.

This could, however, change in the 1980's. Large-scale reform efforts have been launched in a number of states:

° California - San Francisco's Field Institute published the results of a February poll that found greater than 4 to 1 disapproval among both Democrats and Republicans for the present system of redistricting. Citing redistricting abuses following the 1980 census and before, Republicans and Common Cause members teamed up to conduct a petition drive for a state constitutional amendment initiative to establish a nonpartisan commission. The proposed 10-member commission would be required to draw lines according to standards designed to promote fair and effective representation for all citizens of the state. If the amendment is approved by the voters in November, the commission will draw new lines for state Senate, House, and congressional districts in 1984.

° Missouri and Washington State, after struggling with reapportionment following the 1980 census, opted to establish commissions to remove direct control for drawing lines from the legislature. Missouri already has a commission structure for state legislative redistricting; the new commission, if approved by voters on the November ballot, will be responsible for drawing congressional lines. Washington legislators, after great pressure from Common Cause and other public interest groups, established a commission to conduct state legislative and congressional redistricting, following certain apportionment standards.

° Florida, Virginia, and South Dakota - Other reform efforts have been specifically focused on standards for redistricting. Common Cause/Florida lobbied successfully for state legislative plans that included single member rather than multi-member election districts and a congressional plan that creates compact districts of convenient contiguous territory. Virginia adopted a House of Delegates plan (approved by the U.S. Justice Department) that is comprised of only single member districts. In the past Virginia had traditionally elected delegates from citywide, at-large districts. Both states hope to see improved minority access under their new single member plans. In South Dakota, the Farmers Union, AFL-CIO, League of Women Voters, We the People, ACORN, and Common Cause are conducting a petition drive to initiate a constitutional amendment to create certain single-member Senate districts to replace current multi-member districts in three urban areas.

Overview of Congressional Redistricting

The political parties have proven that they will gerrymander if they have the opportunity to do so. For example, an initial victory by Republicans in Indiana -- where the GOP turned a 6-5 Democratic edge to a projected 7-3 Republican majority of congressional seats -- was revenged by Democratic map makers in California, where the Republicans could lose five seats.

1980 census changes resulted in a 17-seat shift of congressional seats, mainly frostbelt to sunbelt. Republicans, who launched an expensive and sophisticated congressional reapportionment campaign, anticipated a gain of 10 to 12 congressional seats. But Democrats hold both houses of state legislatures in 28 states, and they proved to be tough opponents. The Baron Report (March 1, 1982) summed up the action this way: "The result, with some plans in major states still uncertain, is that reapportionment, per se, will be a 'wash' for the two parties."

Maine and Montana will not redistrict until 1983; otherwise, only Kansas must finish drawing up a congressional district plan. The Kansas legislature adopted two plans -- each subsequently vetoed by the Governor.

Georgia, Mississippi, and Texas are struggling to win Justice Department approval of their congressional redistricting plans. In other states, litigation surrounding new maps threatens to prolong reapportionment action to the end of 1982, or beyond.

The following is a summary of the action on congressional redistricting:

ALABAMA - The Democratic legislature passed a redistricting plan which was signed into law by Governor Forrest James (D) on August 18, 1981. The current congressional makeup -- four Democrats and three Republicans -- is not likely to change. The American Political Report (August 28, 1981) notes that the plan by the state legislature "makes only minor adverse changes in GOP'er Albert Lee Smith's sixth district." The state's other six districts are essentially unchanged. The Justice Department precleared the legislature's plan on February 26, 1982.

ACTION: Complete

ALASKA - One congressional district

ARIZONA - On December 7, 1981 Arizona legislators voted to override Democratic Governor Bruce Babbitt's veto of a congressional plan. Within minutes of the override, the Democratic party filed a suit in federal district court, attacking the constitutionality of both the congressional and state legislative plans and charging Voting Rights violations (Art Hamilton v. Babbitt). There is also a petition drive to put the map on the referendum ballot on November 2, 1982. Congressional Quarterly (January 30, 1982) terms the new Arizona districts "a quandary for Udall." Democratic Rep. Morris K. Udall's Tuscon base was split in the creation of a fifth congressional seat.

On April 2, 1982 a Phoenix Federal District Court issued a settlement plan redrawing both the state legislative and congressional plans to eliminate the splitting of San Carlos Apache Reservation. The settlement plan requires Justice Department approval. Justice had previously rejected the plan because of dilution on the San Carlos Apache Reservation.

ACTION: Complete

ARKANSAS - In March 1981 Arkansas became the first state to draw new congressional district lines based on the 1980 census. Residents and state representatives of Garland County (Hot Springs) filed a lawsuit in district court (Doulin v. White) charging that the legislature could have adopted a plan that has a lower population deviation and more compact districts.

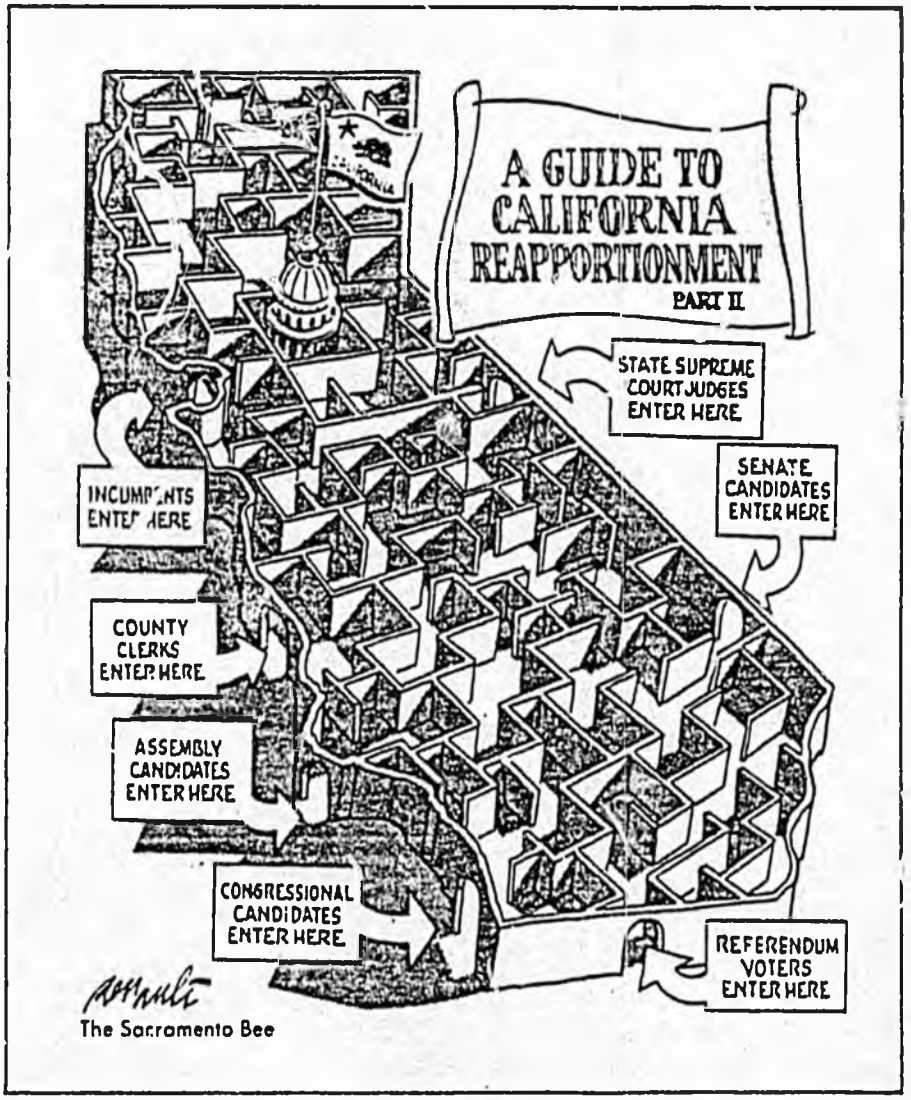
On January 6, 1982 a three-judge federal panel held that the plan was unconstitutional. On February 25 the Court, in the absence of any corrective action by the legislature, issued an opinion adopting its own redistricting plan for the 1982 elections, reflecting a .78% population deviation. On March 8 the Court denied the plaintiffs' motion to reconsider. The deadline for filing an appeal to

the Supreme Court is 60 days from that date, and it is not expected that an appeal will be filed.

According to Congressional Quarterly (March 6, 1982), the Court's plan "will have little effect on the re-election efforts of the state's incumbent House members." (Two Republicans and two Democrats.)

ACTION: Complete

CALIFORNIA - The Los Angeles Times (September 18, 1982) reported that on September 16, 1981 Democratic Governor Edmund Brown, Jr. signed a redistricting package: "All three Democratic-oriented bills were designed to perpetuate the political party now in power ..." Observers say that under the new plan -- drafted by Representative Phillip Burton (D) -- the Republicans could lose at least five congressional seats.



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On November 18, 1981 the California Republican Party submitted enough petition signatures to election officials to require a referendum on the June 1982 primary ballot regarding the three redistricting bills. The State Supreme Court was forced to come to a decision about which districts the candidates will run in this year. The Court decided to allow the Democratic plan to go into effect for one year only, allowing the referendum to take place. If the bills are rejected in June, the legislature will be required to redistrict again next year. In March 1982, the U.S. Supreme Court rejected an appeal by the California Republican Party to overturn the State Supreme court's decision.

Meanwhile, the State Republican Committee and Common Cause launched an initiative to establish a ten-member independent redistricting commission. The initiative drive, begun in January 1982, is targeting the November election.

ACTION: Complete -- referendum and initiative pending

COLORADO - Colorado gains a sixth congressional seat (there are now three Democrats and two Republicans). In December 1981, "[t]hree federal judges began trying to do what the Colorado Legislature and governor couldn't -- redraw congressional district boundaries" (Denver Post, December 4, 1981). This action followed a series of three vetoes by Republican Governor Richard Lamm of three redistricting bills.

On January 28, 1982, a three judge panel in Denver issued a court drawn plan which protects the current officeholders and puts the new sixth district in Republican Denver suburbs.

ACTION: Complete

CONNECTICUT - A General Assembly Committee failed to draw congressional districts so a nine-member commission took over the task. The commission, on October 28, 1981, adopted a "Democratic plan that made minimal changes in the 6th District ... less Republican in makeup than it would have been under the GOP plan. Other incumbents appear strengthened" (Washington Post, February 14, 1982). Connecticut retains six congressional seats.

ACTION: Complete

DELAWARE - One congressional district

FLORIDA - Florida picked up four congressional seats, the largest increase of any state. The House and Senate resisted compromise over a new map, prompting two lawsuits (Kiser v. Firestone and Buoniconti v. Firestone). The suits were consolidated in U.S. District Court in Tallanassee. However, the legislature arrived at a plan on May 21, 1982. Governor D. Robert Graham signed the plan two days later; however, Rep. Curtis Kiser (R), whose lawsuit asks the federal court

to draw a plan, "declined to withdraw a lawsuit on the matter until his lawyer returns next week," according to the Washington Post (May 25, 1982).

ACTION: Complete -- litigation pending

GEORGIA - Georgia's congressional map was signed by Governor George Busbee on September 22, 1981 and submitted to the Justice Department for Voting Rights clearance on October 1. In February 1982 the Justice Department objected to the congressional (and state House and Senate) plans. The Washington Post reported (February 12, 1982) that Justice objected to the 'division between two congressional districts of a 'cohesive black community' in Fulton and Dekalb counties in the Atlanta metropolitan area."

The U.S. District Court in the District of Columbia will hear a suit by the state of Georgia, appealing the Justice Department decision (Busbee v. Smith, et al.)

ACTION: Justice Department rejected plan -- litigation pending

HAWAII - A nine-member reapportionment commission that is responsible for conducting redistricting approved new congressional districts on September 28, 1981.

On March 23, 1982 a three-judge federal panel heard two redistricting challenges; however, only one of these suits (Craig Travis, et al. v. Jean King, et al.) concerns congressional redistricting. Plaintiffs challenged the use of voter registration, instead of census data, as a reapportionment base and charged malapportionment and gerrymandering in the congressional and legislative plans.

On March 25, the federal panel determined that the State legislative and congressional maps were unconstitutional based on the voter base issue and unacceptable population deviations. The federal court appointed special masters to supervise redrawing of the three maps. New maps were submitted to the Court on April 28, and approved in early May.

ACTION: Complete

IDAHO - Idaho keeps the same number of congressional seats (it has two, both Republican). Democratic Governor John Evans signed the congressional redistricting plan on July 29. The major action in the July special session concerned a shift of voters from the first to the second congressional district. Steve Ahrens of the Idaho Statesman (August 17, 1981) commented: "Not since 1964 have the Democrats elected a Congressman in the first district. The loss of 21,000 votes doesn't help their chances in 1982.

ACTION: Complete

ILLINOIS - Legislators -- who had the task of remapping a drop from 24 to 22 representatives -- could not come up with a plan. A three-judge federal panel charged with the responsibility subsequently considered Democratic, Republican, and bipartisan plans respectively, and "approved a Democratic-sponsored congressional redistricting proposal that would eliminate the seats of two Republicans and preserve the seats of two Democrats," according to the New York Times (November 24, 1981).

Republican legislators, including state House Speaker George H. Ryan, appealed the decision of the federal panel. In the first reapportionment case based on the 1980 census to reach the Supreme Court, the high court issued a one-line order upholding the congressional map. The Chicago Sun Times (November 24, 1981) reported that House Democratic Leader Michael J. Madigan, of Chicago, said the map "gives Democrats a strong edge in 10 districts, gives Republicans an edge in 11 districts and produces one swing district in central Illinois now represented by Republican Representative Paul Findley."

ACTION: Complete

INDIANA - The Indiana congressional plan was signed by Republican Governor Robert Orr on May 5, 1981. Indiana Republicans, who have sizable majorities in both legislative houses, used the most sophisticated computer technology available to draw up their plans. Pollster Robert Teeter's Market Opinion Research provided mapmakers with 92 separate items of information on the state's subdivisions according to The Washington Post (May 11, 1981). The Indiana Republican leadership has been candid about its reapportionment effort. Bruce Melchert, Indiana Republican chairman, told ABC news on July 22 that "there are three or four incumbent Democrats that we would like to see defeated." That would mean a transformation of the present 6-5 Democratic edge to a Republican 7-3 majority (Indiana lost one seat).

As Congressional Quarterly (May 2, 1981) describes the plan: "Its lines weave in and out of counties, concentrating Democratic voting strength into three districts and creating seven others in which the GOP believes it can win." The major victims of this design were Watergate Democrats Philip Sharp, David Evans and Floyd Fithian, whose districts were balkanized. Fithian's and Evans' districts were dispersed into four new congressional districts. Evans, Sharp, and Democratic Representative Lee Hamilton now live in the same district. The Republicans, in an attempt to try the case before a friendly judge, quickly requested a ruling on the constitutionality of their plan from the Marion Circuit Court. In an attempt to move the case to a more friendly court, the Democrats removed to federal court and filed a motion to dismiss, arguing that there was no case or controversy. The federal district court agreed and dismissed the

suit, because, at the time, no defendants said they were prepared to argue that the plan was unconstitutional.

ACTION: Complete

IOWA - Legislators rejected an initial plan that the legislature's nonpartisan research bureau produced, putting GOP Representatives Tom Tauke and Jim Leach in the same district. (Iowa's six-man delegation is currently split, three Republicans and three Democrats, and the Governor and the Legislature are Republican). American Political Report on July 3, 1981 reported that the Legislature rejected the second plan because "incumbent GOP Representative Tom Tauke got a shaky district." A third plan was finally passed on August 14. It puts Democratic Representatives Neal Smith and Tom Harkin in the same district, but Harkin is apparently expected to move elsewhere in his state to seek re-election. The Des Moines Register (August 14, 1981) stated that the approved redistricting plan will end up "preserving the balance between parties."

ACTION: Complete

KANSAS - Governor John Carlin (D) vetoed a congressional plan (SB 664) on February 18, 1982. The Kansas City Times (February 19, 1982) stated that Governor Carlin accused Republican lawmakers of "drawing a map without hearing from Democrats," and of splitting "the state's two metropolitan areas, Kansas City and Wichita, among congressional districts." Governor Carlin vetoed a second version as well. This action prompted two court challenges, which have been consolidated by a federal district court. Democrats are asking the court to take over responsibility for redistricting (O'Sullivan v. Brier). Republicans are seeking court approval of the plan passed by the legislature (Carson v. Carlin).

ACTION: Congressional plan vetoed

KENTUCKY - A congressional map was signed by Governor John Y. Brown, Jr. (D) on March 10, 1982 (HB 235). Kentucky has seven congressional seats (no losses or gains). American Political Report (February 26, 1982) noted that "Democrats think that redistricting gives them a better shot at defeating GOP Rep. Gene Snyder."

ACTION: Complete

LOUISIANA - Louisiana Governor David Treen (R) signed the state's congressional plan on November 19, 1981. The Morning Advocate observed that the "new congressional districts will look much like the present ones -- to the benefit of Louisiana's eight present members of Congress."

A lawsuit asking the Court to allow candidates to run in the old congressional districts was filed in district court (Robert E. Couhig v. James L. Brown). A second lawsuit -- charging one person, one vote violations and minority voting dilution in congressional and state house redistricting -- was also filed in district court (Barbara Major v. David Tree and James Brown).

ACTION: Complete - litigation pending

MARYLAND - The General Assembly needed to approve eight congressional districts (no change in the number of districts). Legislators completed their task on April 9, 1982.

ACTION: Complete

MASSACHUSETTS - The Boston Globe (December 10, 1981) reported that, "[the] Special Commission on Redistricting adopted a plan ... which carves 11 new districts out of the present 12 and merges the districts of Frank and Heckler." The plan was approved by Governor Edward J. King (D) on December 16, 1981.

ACTION: Complete

MICHIGAN - also loses one congressional seat, leaving the state with 18 districts. On April 8, 1982 the House adopted a plan, giving it immediate effect. On April 8, the Senate adopted a bill, but did not give it immediate effect. Governor William G. Milliken (R) vetoed the plan on April 27. A three-judge federal panel held hearings on May 7 on proposed plans submitted by the parties (Acerstrand v. Austin), and on May 24 the court issued a decision adopting a plan. The Republican party filed an appeal with the U.S. Supreme Court.

ACTION: Plan vetoed -- litigation pending

MINNESOTA - On March 11, 1982 a three-judge panel issued a plan for Minnesota's eight congressional districts. The Court took over responsibility for adopting a plan following its ruling of September 30, 1981, in which it required the state's legislature to submit both congressional and legislative maps to the court by January 29 (Lacomb v. Joan Growel). The court acted when the legislature failed to meet the deadline. American Political Report (March 12, 1982) stated that the new court-drawn map "essentially mirrors the Democratic plan. GOP Rep. Tom Hagedorn's seat was wiped out, throwing him in a new district with freshman GOPer Vin Weber ..."

The Republican congressional delegation appealed the decision to the U.S. Supreme Court. The St. Paul Pioneer Press (March 25, 1982) reported that Independent-Republican

party attorneys "argued that the panel exceeded its constitutional authority by departing dramatically from existing congressional district lines and carving out a new district within the Twin Cities metropolitan area." The U.S. Supreme Court denied a motion to expedite on April 5, 1982. On May 17, 1982 the U.S. Supreme Court upheld the plan.

ACTION: Complete

MISSISSIPPI - Governor William Winter (D) signed the congressional redistricting plan on August 28 -- the conclusion of a special summer session. The Jackson Clarion-Ledger (August 28, 1981) reported that the plan shifted six counties and parts of four other counties between districts and has been termed the "least change plan." The plan maintains five white majority districts. The overall population variance was low (.0336 percent) but the state split county lines for the first time.

Justice Department approval is required. On January 11, 1982 Justice requested additional information on the redistricting plans. On March 30, Justice rejected the congressional remap because of the minority makeup of the Delta area. The state of Mississippi is appealing the Justice Department rejection in U.S. District Court in the District of Columbia.

Two lawsuits have been filed challenging the new congressional remap for one person, one vote and Voting Rights Act violations. The suits (David Jordon v. William Winters & Owen H. Brooks v. William Winters) have been consolidated in U.S. District Court.

ACTION: Justice Department rejected plan

MISSOURI - The Missouri state House approved a congressional map, but the state Senate could not come to an agreement on nine new congressional seats (Missouri lost one district). A U.S. District Court three-judge panel filed its own plan on January 7, 1982, making it "the second time in the last two decades a federal panel has had to come up with a congressional map because of lawmakers' inability to reach agreement." Kansas City Times (Dec. 29, 1981). The court drew up its new map by essentially eliminating the rural central Missouri district of Republican representative Wendell Bailey. The three Democratic congressional seats in St. Louis, however, appear to be safe.

An appeal of the District Court decision was filed with the U.S. Supreme Court by officials of the local Farm Bureau and others (Schatzle, et al. v. Kirkpatrick). On March 29, 1982, a motion to expedite was denied by the Supreme Court. On May 17, the U.S. Supreme Court affirmed the lower court's plan.

ACTION: Complete

NEBRASKA - enacted a plan which was signed by Governor Charles Thone (R) on May 29, 1981. As the Baron Report (June 22, 1981) puts it, "GOP governor ... Nonpartisan GOP legislature ... Three GOP districts ... Little population shifts ... Add up to no change."

ACTION: Complete

NEVADA - now has two congressional seats instead of one. Questions about where to put the second congressional district culminated in a plan which creates one Las Vegas district and one district spreading across the rest of the state. (There had been talk of an east-west split.) The American Political Report (June 19, 1981) figures that the southern seat (Las Vegas) is sure to be Democratic (as it is now) and that the northern district "could go either way but probably leans to the GOP."

ACTION: Complete

NEW HAMPSHIRE - maintains its two congressional seats (one Democrat, one Republican). Democratic Governor Hugh Gallen signed the new congressional remap on March 4, 1982.

ACTION: Complete

NEW JERSEY - In a final action before leaving office, Democratic Governor Brendan Byrne signed a congressional remap developed by the Democratic legislature. New Jersey had the task of cutting back from 15 to 14 districts. Congressional Quarterly (March 6, 1982) noted that "The map had joined the districts of two Republican incumbents, created a new Democratic-leaning constituency and presented several Democratic incumbents with safe seats."

New Jersey Republicans challenged the plan based on its population deviation (0.69 percent), and on March 3, 1982 a three-judge federal panel, in a 2-to-1 vote, declared the plan unconstitutional because it violated the one person, one vote requirement.

On March 11, 1982, Democrats filed a request for a stay with Supreme Court Justice William J. Brennan, Jr., which was granted pending an appeal to the Supreme Court. New Jersey Republicans requested an expedited hearing; however, on March 29 the court rejected a request by New Jersey Republicans to vacate the stay. Subsequently, Republicans filed another lawsuit in an attempt to have the plan voided on the grounds that the redistricting process was not done in accordance with the state constitution.

ACTION: Litigation pending

NEW MEXICO - added one seat to give it three congressional districts. A new map was signed by Governor Bruce King (D) on January 19, 1982. Congressional Quarterly (January 23, 1982) noted that the plan "places New Mexico's new congressional district in the Albuquerque area and divides the rest of the state roughly between a district in the north and one in the south."

In April 1982, a federal court held that the plan was constitutionally impermissible based on the use of a votes-cast formula to estimate precinct populations and sent the plan back to the legislature. However, the U.S. Supreme Court allowed a June 1 primary for all but state legislative races, staying the federal court order that could have delayed the election.

ACTION: Complete

NEW YORK - New York's congressional delegation had to be reduced from 39 to 34 seats. As expected, the Senate and Assembly deadlocked over a plan. Senate Republicans appealed to the U.S. Supreme Court to stay a lower court order to complete a plan by May 10 (Flateau, et al. v. Anderson, et al.). The U.S. Supreme Court rejected the appeal.

The legislature enacted a congressional redistricting bill on May 11, amended May 17, and signed by the Governor on May 20. In spite of this, the court-appointed master in the pending U.S. District Court suit is reported to be proceeding to draw up his own proposed map. It is not clear what course this court proceeding will take.

American Political Report (May 21, 1982) stated: "If the congressional remap put through by the legislature holds up, the major face-offs necessitated in the new districts -- New York lost 5 seats -- will be Rep. Ben Gilman (R) vs. Rep. Peter Peyser (D), Rep. Guy Molinari (R) vs. Rep. Leo Zeferetti (D), Rep. Ted Weiss (D) vs. Rep. Jonathan Bingham (D), Rep. John Le Boutillier (R) vs. Rep. Greg Garman (R), unless Garman decides not to seek re-election. If the remap is accepted by the governor, courts and the Justice Department, Democrats would wind up bearing most of the burden..."

ACTION: Complete -- litigation pending

NORTH CAROLINA - On August 4, 1981, The Southern Political Report stated that, "the North Carolina legislature completed action on a redistricting plan that helps incumbent Congressmen and encourages a continuation of the 7 Democrats - 4 Republicans ratio on the Tarheel delegation." Under the plan, Representative L.H. Fountain's new district was nicknamed "Fountain's Fishhook" because of the way it wound around Durham county, a black-dominated area that had been proposed for inclusion in the conservative Fountain's district.

As required by the Voting Rights Act, the Justice Department reviewed the plan and failed to preclear the congressional map. The congressional map was rejected on the grounds that it diluted black voting strength.

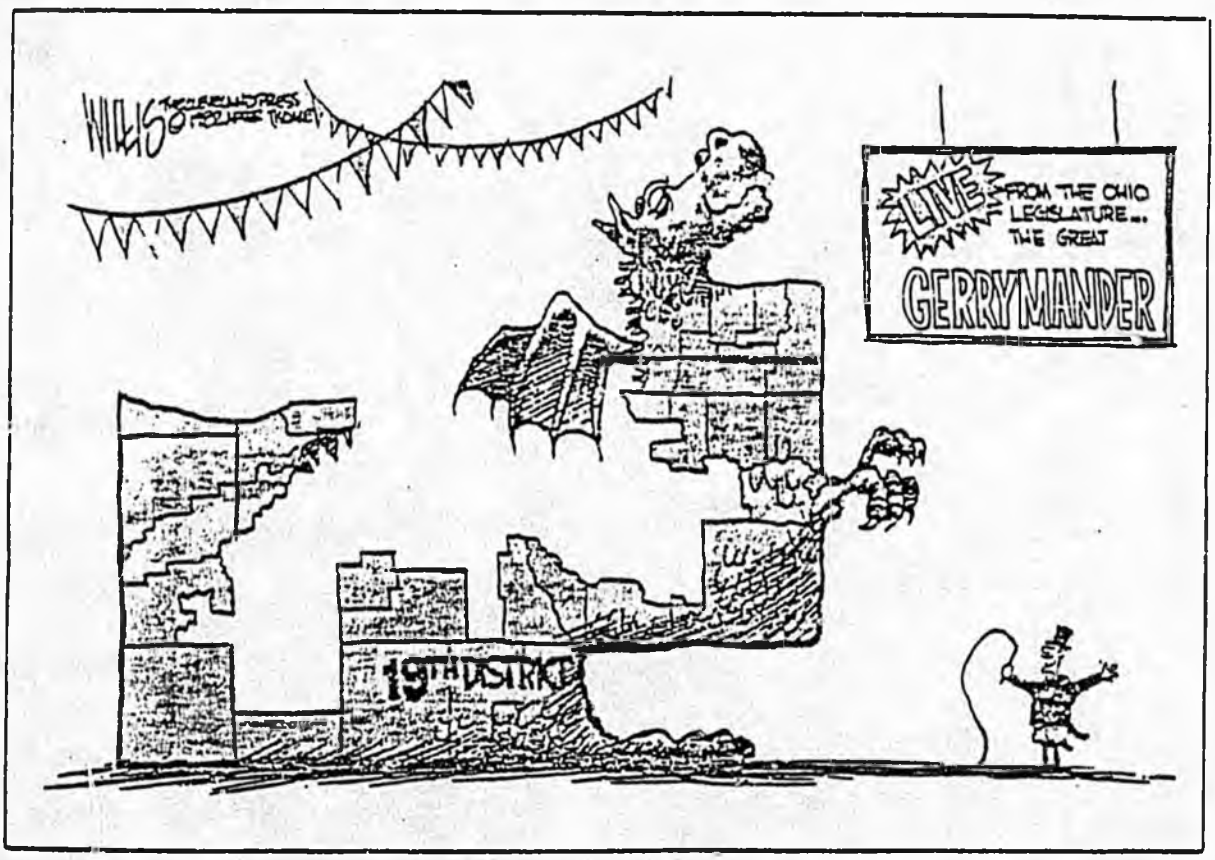
In February 1982 the North Carolina General Assembly passed a new plan that includes Durham County in Representative Fountain's 2nd district. In March the Justice Department precleared the plan.

Meanwhile, the NAACP Legal Defense and Education Fund had challenged the congressional base based on the racial dilution issue (Gingles v. Edmisten).

ACTION: Complete -- pending litigation

NORTH DAKOTA - One congressional district

OHIO - Redistricting means a loss from 23 to 21 seats (the current delegation is now 10-D, 13-R). A bill was finally signed by Governor James Rhodes (R) on March 25, 1982. According to the Columbus Citizen-Journal (March 25, 1982): "The final version basically protects most incumbent congressmen but knocks out the 17th District now held by Republican Rep. John M. Ashbrook of Johnstown, a candidate for the U.S. Senate. It also consolidates the districts of Democratic Reps. Eckart and Ronald M. Mottle of Parma, forcing them to run against each other this year." The



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district in which they have been placed (District 19) has been called the Pac-Man district because its shape is similar to a route in the electronic game (see cartoon on page 20).

Ohio Democrats have intervened in a pending U.S. District Court suit (Patrick Flanagan v. Gillmor) to challenge the constitutionality of the plan.

ACTION: Complete -- litigation pending

OKLAHOMA's congressional district plan was signed by Democratic Governor George Nigh on July 22, 1981. The state has six seats (currently five Democrats and one Republican) and American Political Report (July 31, 1981) has noted that the new lines "solidify most of the state's Congressmen."

The Oklahoma Republican Party obtained the 92,000 signatures needed to validate an initiative petition asking voters to repeal the redistricting plan and enact a substitute plan. Initiative News Report (March 22, 1982) noted that "the State Supreme Court ruled in late February hearing to allow initiative opponents to re-check petition signatures ... until the end of April. Then, the Court must rule on 5/26/82 on ballot placement." Regardless of the pending initiative, however, congressional candidates in the November, 1982 election will run on the basis of the redistricting plan already enacted.

ACTION: Complete -- pending litigation and initiative

OREGON - The Democrats control the legislature and have a 3-1 edge in Congress. The state picks up a new district. According to Congressional Quarterly (August 8, 1981), "the redistricting bill gives Republicans a good chance to win the state's new 5th district and assures GOP control in the 2nd district." Democrats should retain control of their three congressional seats under the new plan. Governor Victor Atiyeh (R), voicing objections to diluted GOP voting strength in a Portland suburb, allowed the bill to become law without his signature.

ACTION: Complete

PENNSYLVANIA - must drop two of its 25 seats. The current delegation is 13 Republicans and 12 Democrats, following Representative Eugene V. Atkinson's switch from the Democratic to the Republican party in October 1981. On March 2, 1982 -- after many months' effort and in the face of potential federal court action and a March 9 primary filing date -- the Legislature approved a plan. Republican Governor Richard Thornburgh signed the plan on March 3.

Congressional Quarterly (March 6, 1982) noted that under the new plan, "[t]wo pairs of incumbent Democrats -- John P. Murtha and Don Bailey in the western part of the state, and Thomas M. Foglietta and Joseph F. Smith of

Philadelphia -- will have to run against each other for renomination. Democrat Doug Walgren's Pittsburgh-area district becomes more difficult for him to win, and Republican convert Eugene V. Atkinson is given territory in which he has a good chance to hold on." Lawsuits challenging the plan were filed by Democratic officials and a number of other groups. The consolidated suits were the subject of a hearing before a three-judge federal panel in March 1982. (In Re: Pennsylvania Congressional Districts Reapportionment Cases.)

ACTION: Complete -- litigation pending

RHODE ISLAND - has two congressional seats (no gains or losses). On April 2, 1982 the legislature completed action on a Congressional plan. The plan became law without the governor's signature.

ACTION: Complete

SOUTH CAROLINA - A legislative conference committee was unable to reach a compromise on South Carolina's six seats (2 Democratic, 4 Republican), so a three-judge panel U.S. District Court took over the task and adopted its own congressional redistricting plan on March 8, 1982. There is discussion of an appeal by the NAACP.

ACTION: Complete -- litigation possible

SOUTH DAKOTA - One congressional district

TENNESSEE - The legislature enacted a congressional redistricting plan in 1981. Currently Democrats have a 5-3 edge and control the legislature. Reportedly they were shooting for a 7-2 margin in Congress (the state picks up a seat). Observers say the newly-created 4th district, which has no incumbent, looks like a salamander because of the way it winds halfway across the state -- apparently made up of leftover counties from other districts. On August 25, 1981 the Tennessee Journal commented that "the makeup of the district leans slightly Democratic but a strong Republican candidate could have a good chance of winning." Democrats also targeted the new 7th district, but in the end the shift of precincts won't affect the number of Democrats and Republicans voting in the district. Republican Governor Lamar Alexander allowed the plan to become law without his signature.

ACTION: Complete

TEXAS - picks up three new seats (the current delegation is 19 to 5 Democratic). Last summer Republicans and conservative Democrats joined forces to give Republican Governor William Clements "precisely what he demanded -- a

Dallas -- Fort Worth minority district and improved Republican prospects statewide," according to the Dallas Morning News (August 11, 1981).

A lawsuit, charging racial discrimination (Seamon v. Clements) was filed in U.S. District Court. On January 29, the Justice Department filed objections concerning two southern districts, noting dilution of Hispanic voting strength.

On February 27, a three-judge federal panel ordered a redrawing of six congressional districts. According to the New York Times (February 29, 1982), "The plan adopted by the Federal judges would eliminate any distinctly black district for Dallas County. The court plan would also create a new district that appears likely to be won by a Republican."

Republicans appealed to the U.S. Supreme Court, which indicated that the lower court drew a congressional plan when the legislature's plan was not found to be unconstitutional or to violate the Voting Rights Act. The Supreme Court noted that the three-judge panel could make the redistricting change before or after the May 1 primary, as long as the legislature's map is in place for the next election. The federal court, on April 5, ordered the May 1 primary to be held under the federal court's plan.

ACTION: Plan must be redrawn by court order

UTAH - has two Republican seats and picked up a seat. The legislature adopted a congressional redistricting plan on October 30, 1981. As Congressional Quarterly (January 2, 1982) puts it: "the GOP dominated Legislature saw to it that Republicans have a strong chance of winning all three districts in 1982."

ACTION: Complete

VERMONT - One congressional district

VIRGINIA - The Democratic Virginia General Assembly adopted a redistricting plan on May 1 that "fails to loosen the Republican party's stranglehold on the state's 10-member U.S. House delegation," according to The Washington Post (May 2, 1981). Republican Prince William County was moved out of Representative Stanford Parris' (R) 8th district; observers feel that it may make him more vulnerable to a challenge. The plan was approved in a special session and precleared by the Justice Department as required by the Voting Rights Act.

ACTION: Complete

WASHINGTON - In the 1981 legislative session Republican Governor John Spellman vetoed the legislature's congressional plan, which must reflect an increase from seven to eight seats. This year the Republican legislature had better

luck; Governor Spellman signed the congressional remap on February 17. (Legislators also approved a redistricting commission to take over reapportionment after 1990.)

ACTION: Complete

WEST VIRGINIA - has four congressional districts (two Republican and two Democratic). A congressional map was signed by Democratic Governor John D. Rockefeller IV on February 11, 1982. The Washington Post (February 14, 1982) noted that "after considering more drastic changes, the Democratic legislature passed a plan making only minor adjustments in four districts, now equally divided between the parties." The legislature was pressured to act because of a lawsuit (Brookover v. Manchin). A U.S. District Court issued an order on February 23, 1982 affirming the validity of the enacted plan.

ACTION: Complete

WISCONSIN - retains nine congressional seats. A new map was enacted on March 24, 1982. Legislators were pressured by a lawsuit asking a federal court to takeover redrawing both congressional and state legislative plans (AFL-CIO v. State Elections Board). Enactment of a congressional plan effectively excluded congressional redistricting from the court challenge.

ACTION: Complete

WYOMING - One congressional district

Overview of State Legislative Redistricting

With the exception of just seven states (Maine, Massachusetts, Montana, New Hampshire, New Mexico, South Carolina and Wisconsin), legislative redistricting based on the 1980 census is completed.

Litigation brought by groups or individual citizens concerning legislative plans has been resolved in at least a dozen states, but court challenges continue to protract the process in other states. Moreover, the Justice Department, under Section 5 of the Voting Rights Act, has current objections to Alabama's state Senate plan and Texas' state Senate and House plans.

Democrats have control of state legislatures in 28 states and have total control -- the legislature and the governorship -- in 17 states. Despite this advantage, political forecasters pointed to potential Republican gains in Illinois, Pennsylvania and other states that were subject to population movement from major urban and industrial areas to outlying suburban regions.

This theory, for example, held true in Pennsylvania, where Republicans have majorities in both houses. However, in Illinois, Democrats were able to control the process and ensure enactment of a Democratic-leaning plan. The following survey looks at 20 states in which the redistricting process has been particularly noteworthy.

Highlights of Legislative Redistricting

ALABAMA - On May 6, 1982 the state House and Senate plans were rejected by the Justice Department under Section 5 of the Voting Rights Act. The Justice Department objected to a number of districts where black voting strength was decreased through redistricting decisions.

ARKANSAS - A commission composed of the Governor, a Republican, and the Attorney General and Secretary of State, both Democrats, adopted a plan for both legislative houses in June, 1981. Two lawsuits were subsequently filed. Siloam Springs residents charged that the Senate plan discriminated against voters in their area. The Senate plan was upheld by the Arkansas Supreme Court. A second challenge to the plan was dismissed.

COLORADO - A 1974 constitutional amendment proposed by the League of Women Voters established a reapportionment commission to conduct state legislative redistricting. The 11-member commission included four members appointed by House and Senate party leaders, three appointed by the Governor, and four appointed by the Chief Justice of the Colorado Supreme Court.

A plan was unanimously approved by the Commission in December 1981 and submitted to the state Supreme court for review. The court approved the commission-drawn plan but ordered revision of the sequencing of two Senate districts so that no district would be without representation from 1982 to 1984. The commission filed an amended plan that completely redrew the two Senate districts. The court rejected the changes and ordered the Commission to simply make the election date adjustments. The final plan was complete by the March 15 deadline.

FLORIDA - On April 7, 1982 the Florida legislature adopted a legislative plan, which was sent to the state Supreme Court for review. The Justice Department must also approve the plan under provisions of the Voting Rights Act. The new plan creates only single-member legislative districts.

HAWAII - The League of Women Voters, Republicans, and Democrats challenged the legislative plan prepared by Hawaii's nine-member bipartisan reapportionment commission on an issue that is unique to Hawaii -- the reapportionment base. The commission based its 1981 map on the number of registered voters rather than on census data. A [illegible] District Court panel invalidated the state Senate and House plans and ordered the appointment of a special master to make a comparison of voter registration and census figures to determine if the deviation is great enough to violate the one person, one vote doctrine. The new plan created the first multicounty, single-member districts in Hawaii's history.

IDAHO - Governor John Evans (D) vetoed the Republican legislature's first and second attempts at redrawing state legislative districts, prompting Republican legislators to file a suit in district court (Budge v. Cenarrusa). By March 24, however, the legislature and the Governor approved a plan so the case -- along with a second suit charging improper splitting of political subdivisions -- was dismissed. A separate state District Court suit challenging the splitting of Sandpoint (Bonner County) Indian Reservation is pending.

ILLINOIS - The Legislative Redistricting Commission on Oct. 2, 1981 adopted a final legislative reapportionment plan that is expected to give "Democrats control of both houses of the legislature, and greatly enhance Chicago's ebbing influence there ... the new map was drawn in such a way as to carve up Republican districts ... to leave some Republican incumbents outside their districts, or to put them in districts where they would face strong challenges by other incumbents." (New York Times, October 8, 1981)

The validity of the plan was challenged in U.S. District Court (Rybicki v. State Board of Elections). In a decision issued January 12, 1982 the Court generally upheld the plan, with the exception of modifications to a few Chicago districts, to eliminate the concentration of minority voters into an unreasonably small number of districts.

INDIANA - Court action is pending concerning legislative plans which were signed by Governor Orr on February 25. Two lawsuits (Bandemer v. Davis and NAACP State Conference v. Orr) are in the U.S. District Court in Indianapolis. The Court rejected a motion to dismiss the cases, which charge minority dilution and other issues.

LOUISIANA - faces a lawsuit challenging the State House and congressional plan (Barbara Major v. David Treen and James Brown). Plaintiffs contend that the plan violates one person, one vote principles and dilutes the minority vote.

MICHIGAN'S Supreme Court issued a decision on redistricting on March 26, 1982, after reviewing a plan adopted and submitted by the Legislative Reapportionment Commission. The court held the plan unconstitutional, determining that it is unconstitutional for redistricting responsibility to be vested in the Legislative Reapportionment Commission instead of the legislature. Subsequently, in the absence of legislative action by the Court's May 4 deadline the Court appointed a special master to draw a plan in compliance with its guidelines. The master filed a revised plan on May 13, and the Court on May 21 adopted that plan with some revisions. The Democrats are appealing to the U.S. Supreme Court, and in the meantime have asked the Supreme Court to stay the effective date of the plan.

MINNESOTA - The St. Paul Pioneer Press noted that "the suburbs are the big winners and central cities the losers in a new federal court-drawn legislative redistricting plan ..." The court took responsibility for adopting a plan after the legislature failed to meet its March 12 deadline (LaComb, et al. v. Growel, et al.). The U.S. District Court's March 11 decision was appealed to the Supreme Court, which turned down the appeal.

NEW HAMPSHIPE - Governor Hugh Gallen (D) vetoed a Senate reapportionment plan passed by a Republican legislature. The Hartford Valley News (May 15, 1982) reported that Senate President Robert Monier (R) filed a suit in state Supreme Court on May 14, 1982 asking "the justices to take jurisdiction over reapportionment, declare the present district boundaries unconstitutional and accept and adopt a vetoed Senate redistricting plan."

NEW MEXICO - New Mexico has a Democratic legislature and a Democratic governor. A state legislative plan was adopted but was subsequently determined to be unconstitutional by a federal district court. The court objected to the votes-cast formula that was used to estimate precinct populations, and thereby upheld the claims of a number of plaintiffs who charged that the use of the formula resulted in minority underrepresentation.

The legislature is considering preparation of a new plan. In the meantime the June 1 primary date for members of the legislature has been delayed by court action.

NEW YORK - The state legislature, pressed by a federal court threat to appoint a special master, approved state legislative maps on May 11, 1982, with amendments May 17. Assembly Democrats who have a majority decided on the Assembly map. In the Senate, Republicans who are in control drew up the Senate map. The New York Times (May 9, 1982) commented: "Not surprisingly, the plan strengthens each party's hand in its own house." The bills were signed by Governor Hugh Carey (D) on May 20.

NORTH CAROLINA - Legislators struggled to win Justice Department approval for their state legislative districts, adopted in bills enacted in February 1982. The Raleigh News and Observer (April 28, 1982) noted that when legislators met to approve a plan, "the special session was the third to deal solely with the prickly redistricting issue since October."

Meanwhile two lawsuits were consolidated and will be taken up by a federal District Court (Gingles v. Edminsten and Pugh v. Hunt). Plaintiffs are charging Voting Rights Act violations, racial dilution, and other issues.

PENNSYLVANIA - The Reapportionment Commission adopted its final General Assembly reapportionment plan on October 13, 1981. It is expected that the plan will accelerate the shift of power in the legislature from Democratic urban areas to usually Republican suburban and rural area.

Common Cause filed suit in the Pennsylvania Supreme Court challenging the constitutionality of the plan, on the ground that it unnecessarily divided a very large number of counties, municipalities and wards into more than one district and created districts which were not compact, diluting the voting strength of racial and ethnic minorities. The Court on December 29, 1981 upheld the constitutionality of the plan, characterizing equality of population as the overriding constitutional goal.

A second challenge to the validity of the plan was raised in a suit filed in the U.S. District Court -- Hispanic Coalition on Reapportionment v. Legislative Reapportionment Commission. This suit focused on one district in Philadelphia and attacked validity of the plan on grounds it diluted Hispanic minority voting strength. In a decision issued April 6, 1982 the court rejected the challenge and dismissed the case, on the ground that the final plan increased the concentration of Hispanic votes over what it had been prior to reapportionment.

SOUTH DAKOTA - The state legislative reapportionment plan, adopted March 13, 1981 was challenged in U.S. District Court (Sioux Falls) in O'Connor v. Kundert. It was argued that the use of multi-member districts was unconstitutional. On February 12, 1982 the Court issued a decision rejecting these arguments and holding that the plan was constitutional. The case was dismissed.

However, the petition drive by Common Cause, League of Women Voters and certain other groups for an initiative constitutional amendment that would abolish multi-member state Senate districts in three urban areas was successful, and as a result the proposed constitutional amendment will be on the November, 1982 ballot.

TENNESSEE - A Nashville Chancery Court on February 18, 1982 issued a summary judgment holding the state Senate plan invalid because it divided counties in forming districts. On March 31, the state Supreme Court issued a decision holding the summary judgment improper. The legislature subsequently adopted a modified Senate plan. However, a court date was set for September 13 (the primary is scheduled for August 5) to determine the validity of both the House and Senate plans for future elections (Lockert v. Crowell).

TEXAS - Ignoring Justice Department objections to certain districts, a three-judge federal panel adopted the Legislative Redistricting Board's plans with only a few modifications, in order to hold the May 1 primary on

schedule. The court made its ruling in a lawsuit brought principally by Republicans (Terrazas v. Clements). The legislative districts were adopted only for the 1982 election. The legislature will have to redraw the districts in 1983.

VIRGINIA - After 14 special sessions, the General Assembly was finally successful in completing a House of Delegates plan and a Senate plan. An earlier plan approved by the legislature was overturned in federal court on the basis of excessively high population variance (Cosner, et al. v. Dalton, et al.). Earlier plans were also objected to by the Justice Department, but their validity is subject to review in Cosner v. Dalton. The Washington Post (April 2, 1982) stated: "The central issue throughout the debate was the demand ... for the abolition of citywide at-large districts that have protected senior white Democratic incumbents and, according to the critics, diluted black voting strength." Civil rights groups and Republicans have praised the new maps. However a number of localities have intervened in the litigation, with complaints on the issues of compactness plus the manner in which counties have been split up. Hearings are scheduled for mid-June.

APPENDIX I. CONGRESSIONAL REDISTRICTING FACTS

May 1982

	Current House Seats	1982 House Seats	1980 Seat Changes	Redistricting done by:	Completed:	Action
Alabama	7 (4D, 3R)	7	0	Leg.	Yes	completed †
Alaska	1 (1R)	1	0	•••	•••	—
Arizona	4 (2D, 2R)	5	+1	Leg.	Yes	completed †
Arkansas	4 (2D, 2R)	4	0	Leg.	Yes	completed
California	43 (22D,21R)	45	+2	Leg.	Yes	repeal referendum †
Colorado	5 (3D, 2R)	6	+1	Leg.	Yes	completed
Connecticut	6 (4D, 2R)	6	0	Leg.	Yes	completed †
Delaware	1 (1R)	1	0	•••	•••	—
Florida	15 (11D, 4R)	19	+4	Leg.	Yes	litigation pending
Georgia	10 (9D, 1R)	10	0	Leg.	Yes	litigation pending
Hawaii	2 (2D)	2	0	Comm.	Yes	completed
Idaho	2 (2R)	2	0	Leg.	Yes	completed
Illinois	24 (10D,14R)	22	−2	Leg.	Yes	completed
Indiana	11 (6D, 5R)	10	−1	Leg.	Yes	completed
Iowa	6 (3D, 3R)	6	0	Leg.Serv.Bur./Leg.	Yes	completed
Kansas	5 (1D, 4R)	5	0	Leg.	No	Gov. vetoed plan
Kentucky	7 (4D, 3R)	7	0	Leg.	Yes	completed
Louisiana	8 (6D, 2R)	8	0	Leg.	Yes	litigation pending
Maine	2 (2R)	2	0	Leg.	No	1983
Maryland	8 (7D, 1R)	8	0	Gov/Leg.	Yes	completed
Massachusetts	12 (10D, 2R)	11	−1	Leg.	Yes	completed
Michigan	19 (12D, 7R)	18	−1	Leg.	Yes	litigation pending
Minnesota	8 (3D, 5R)	8	0	Leg.	Yes	completed
Mississippi	5 (4D, 1R)	5	0	Leg.	Yes	litigation pending
Missouri	10 (6D, 4R)	9	−1	Leg.	Yes	completed
Montana	2 (1D, 1R)	2	0	Comm.	No	1983
Nebraska	3 (3R)	3	0	Leg.	Yes	completed
Nevada	1 (1D,)	2	+1	Leg.	Yes	completed
New Hampshire	2 (1D, 1R)	2	0	Leg.	Yes	completed
New Jersey	15 (8D, 7R)	14	−1	Leg.	Yes	litigation pending
New Mexico	2 (2R)	3	+1	Leg.	Yes	completed
New York	39 (22D,17R)	34	−5	Leg.	Yes	litigation pending
North Carolina	11 (7D, 4R)	11	0	Leg.	Yes	litigation pending
North Dakota	1 (1D)	1	0	•••	•••	—
Ohio	23 (10D,13R)	21	−2	Leg.	Yes	litigation pending
Oklahoma	6 (5D, 1R)	6	0	Leg.	Yes	repeal referendum
Oregon	4 (3D, 1R)	5	+1	Leg.	Yes	completed
Pennsylvania	25 (13D,12R)	23	−2	Leg.	Yes	litigation pending
Rhode Island	2 (1D, 1R)	2	0	Leg.	Yes	completed
South Carolina	6 (2D, 4R)	6	0	Leg.	Yes	completed
South Dakota	2 (1D, 1R)	1	−1	•••	•••	—
Tennessee	8 (5D, 3R)	9	+1	Leg.	Yes	completed
Texas	24 (19D, 5R)	27	+3	Leg.	Yes	completed for May primary
Utah	2 (2R)	3	+1	Leg.	Yes	completed
Vermont	1 (1R)	1	0	•••	•••	—
Virginia	10 (1D, 9R)	10	0	Leg.	Yes	completed †
Washington	7 (5D, 2R)	8	+1	Leg.	Yes	completed
West Virginia	4 (2D, 2R)	4	0	Leg.	Yes	completed
Wisconsin	9 (5D, 4R)	9	0	Leg.	Yes	completed
Wyoming	1 (1R)	1	0	•••	•••	—

••• Indicates a single Congressional district

† Plan precleared by Justice Dept. under Voting Rights Act

APPENDIX II. STATE LEGISLATIVE REDISTRICTING FACTS

May 1982

State	Political party in control Gov.	Leg.	Redistricting done by	Covered by Voting Rights Act	Redistricting completed	Action
Alabama	D	D	Leg.	statewide	Yes	rejected by Justice Dept.
Alaska	R	Sen. 10 D, 10 R; House 22 D, 16 R; 2 L	Board is advisory to governor	statewide	Yes	completed
Arizona	D	R	Leg.	statewide	Yes	completed
Arkansas	R	D	Board	no	Yes	completed
California	D	D	Leg.	4 counties	Yes	repeal referendum
Colorado	D	R	Board	1 county	Yes	completed
Connecticut	D	D	Leg.-(Board if Leg. fails to act)	3 towns	Yes	litigation pending
Delaware	R	Sen. 12 D, 9 R; House 25 R, 16 D	Leg.	no	Yes	completed
Florida	D	D	Leg.—(Court if Leg. fails to act)	5 counties	Yes	Justice Dept. approval pending
Georgia	D	D	Leg.	statewide	Yes	Justice Dept. approval pending
Hawaii	D	D	Board	1 county	Yes	Justice Dept. approval pending
Idaho	D	R	Leg.	1 county	Yes	litigation pending
Illinois	R	Sen. 29 R, 30 D; House 91 R, 86 D	Leg.—(Board if Leg. fails to act)	no	Yes	completed
Indiana	R	R	Leg.	no	Yes	litigation pending
Iowa	R	R	Leg. Serv. Bureau is advisory to Leg.	no	Yes	completed
Kansas	D	R	Leg.	no	Yes	completed
Kentucky	D	D	Leg.	no	Yes	completed
Louisiana	R	D	Leg.—(Court if Leg. fails to act)	statewide	Yes	litigation pending
Maine	D	Sen. 17 R, 16 D; House 83 D, 68 R	(Board is advisory to Leg. If Board fails to act, Court takes over)	no	No	1983
Maryland	D	D	Governor submits plan to Leg.	no	Yes	litigation pending
Massachusetts	D	D	Leg.	9 towns	No	1985
Michigan	R	D	Boards (Court if Board fails to act)	2 townships	Yes	litigation pending
Minnesota	R	D	Leg.	no	Yes	completed
Mississippi	D	D	Leg.	statewide	Yes	completed
Missouri	R	D	Board—(Court if Board fails to act)	no	Yes	completed

State	Political party in control: Gov.	Political party in control: Leg.	Redistricting done by	Covered by Voting Rights Act	Redistricting completed	Action
Montana	D	R	Board	no	No	1985
Nebraska	R	unicameral	Leg.	no	Yes	completed
Nevada	R	D	Leg.	no	Yes	completed
New Hampshire	D	R	Leg.	9 political subdivisions	No	plan vetoed by Gov.
New Jersey	D	D	Board	no	Yes	completed
New Mexico	D	D	Leg.	no	No	special session in June or July 1982
New York	D	Sen. 35 R, 25 D; House 86 D, 64 R	Leg.	3 New York City boroughs	Yes	litigation pending
North Carolina	D	D	Leg.	40 counties	Yes	litigation pending
North Dakota	R	R	Leg.	no	Yes	completed
Ohio	R	Sen. 18 R, 15 D; House 56 D, 43 R	Board	no	Yes	completed
Oklahoma	D	D	Leg.—(Board if Leg. fails to act)	no	Yes	completed
Oregon	R	D	Leg.—(Sec. of State if Leg. fails to act)	no	Yes	completed
Pennsylvania	R	R	Board	no	Yes	completed
Rhode Island	D	D	Leg.	no	Yes	litigation pending
South Carolina	D	D	Leg.	statewide	House-Yes Senate-No	completed
South Dakota	R	R	Leg.—(Board if Leg. fails to act)	2 counties	Yes	const. amendment on 11/82 ballot
Tennessee	R	D	Leg.	no	Yes (for 8/5 primary)	litigation pending
Texas	R	D	Leg.—(Board if Leg. fails to act)	statewide	Yes (for May 1 primary)	Districts must be redrawn
Utah	D	R	Leg.	no	Yes	completed
Vermont	R	R	Board is advisory to Leg.—(Court if Leg. fails to act)	no	Yes	completed
Virginia	R	D	Leg.	statewide	Yes	completed
Washington	R	R	Leg.	no	Yes	completed
West Virginia	D	D	Leg.	no	Yes	completed
Wisconsin	R	D	Leg.	no	No	Gov. vetoed bill on 5/23/82
Wyoming	D	R	Leg.	1 county	Yes	completed

APPENDIX III: REAPPORTIONMENT: A BETTER WAY

Common Cause first proposed a model reapportionment process in 1977 for adoption at the state level. The model proposal relies heavily on the Colorado, Hawaii, and Montana reapportionment procedures.* The Hawaii and Montana processes were recommendations of constitutional conventions that received voter approval in 1968 and 1972, respectively, (Hawaii and Montana commissions draw congressional as well as state legislative boundaries.) The Colorado process was the result of a citizen initiative approved by the voters in November of 1974 by a vote ratio of three to two.

The Common Cause model proposes a reapportionment process designed to produce districts that are fairly drawn as well as districts of substantial population equality. Unlike district lines produced by political gerrymandering, fair district lines are not drawn to pre-determine election results. The model proposes a system of reapportionment that is equitable in its treatment of incumbent legislators, political parties, and others. This replaces the present system where people with political power are able to manipulate district lines for personal and partisan advantage.

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* A description of reapportionment commission activities in Colorado and Hawaii is found on page 26. Montana will not complete redistricting until 1983.

The Common Cause model has three main elements -- strict anti-gerrymandering standards; an independent, nonpartisan reapportionment commission; and prompt judicial review. All three elements of the model are crucial. They are designed to reinforce each other and to produce fairly drawn district lines. The reapportionment standards are designed to produce fair district lines by limiting the discretion of the commission to gerrymander for political or partisan purposes. The nonpartisan reapportionment commission replaces the legislature, providing much needed independence. Fair district lines are more likely if district lines are drawn by persons not directly affected by them. Judicial review provides finality and acts as the final safeguard of the public's interest in fair and effective representation.

Four states have enacted legislation in the last three years that strengthens the standards that legislators must use in drawing congressional and state legislative districts -- California (1980), Iowa (1980), Oregon (1979), and Washington (1982). In addition, proposals to establish a redistricting commission will appear on November 1982 ballots in California and Missouri.

Common Cause will continue to lobby for reapportionment reform in the states. To obtain a copy of Common Cause's report on state and congressional reapportionment, Toward a System of Fair and Effective Representation, and the Common

Cause model reapportionment amendment to a state constitution, please call or write to the Common Cause Redistricting Clearinghouse, 2030 M Street, N.W. Washington, D.C. 20036 (202) 833-1200.

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REAPPORTIONMENT: A BETTER WAY

a common cause proposal

> "I don't think they play at all fairly, and they all quarrel so dreadfully one can't hear one self speak—and they don't seem to have any rules in particular: at least, if there are, nobody attends to them—and you've no idea how confusing it is . . ."
>
> —Alice
> *Alice's Adventures in Wonderland*

Alice would have felt quite at home watching a typical state legislature attempt to reapportion itself during the 1960's and early 1970's. In many states, reapportionment*—the decennial division of states into legislative districts for voting purposes—has been a series of secret deals based largely on personal and partisan motivations. Few rules have existed to safeguard the public's interest in an open and competitive political system. The guiding principle for most incumbent legislators has been self-protection.

The method by which state legislative and congressional district lines are drawn is fundamental to our system of representative democracy. The Supreme Court decisions of the mid-1960's requiring periodic reapportionment on the basis of "one person, one vote" eliminated the gross population inequalities among legislative districts that existed in the 1950's and 1960's. These decisions took us a large step toward the goal of achieving "fair and effective representation for all citizens" articulated by the Court in the 1964 *Reynolds* case. Unfortunately, we have not com-

*As a technical matter, "reapportionment" is "a distribution of legislative seats" to already established units of government (for example, states, counties). "Redistricting" is "the drawing of lines" to establish legislative districts within already established units of government. Thus, congressional seats are apportioned to the states and then districts drawn within each state. As a matter of practice, however, the terms "reapportionment" and "redistricting" have been used interchangeably. In this report, "reapportionment" is used to refer to the act of drawing legislative district lines as well as apportioning legislative seats among units of government.

pleted the journey toward that worthy goal because the Court has not dealt with the equally debilitating problems of racial and political gerrymandering. The reapportionment revolution remains unfinished.

The Court's decisions leave reapportionment in the hands of the state legislatures, presenting an inherent conflict of interest. With few standards other than substantial population equality to guide them, the state legislatures have been free to draw districts of bizarre configurations designed to serve personal and partisan ends. Professors Keefe and Ogul, authors of *The American Legislative Process*, have examined our nation's experience with reapportionment and concluded that "everything about reapportionment, whether legislative or congressional, suggests the triumph of self-interest."

Political and racial gerrymandering have resulted. They have reduced electoral competition and undermined our system of representative democracy in significant ways. Political gerrymandering dilutes the value of political participation, undermines legislative responsiveness to constituent views, and weakens political parties. Gerrymandering has been used to deny representation to minority groups.

The present process works extremely well for incumbent legislators and other political insiders. It does not serve the public well. An Illinois legislator once explained this insider's game in blunt terms:

> Outsiders shouldn't stick their noses in and tell this committee how to reapportion the state . . . . Any man in this legislature who doesn't fight for his own district is a particular damn fool. I'm not for too many sitting members running against each other if we can work it out.

In the early 1980's virtually all state legislative and congressional district lines will be redrawn based on the 1980 federal census. Common Cause believes that it is well past time for citizens to "stick their noses" in this important political process and insist that it be cleaned up and opened to public participation before the reapportionment of the early 1980's takes place. Common Cause has proposed a model reapportionment process designed to establish the legal framework necessary to achieve the Supreme Court's goal of "fair and effective representation." The Common Cause model is summarized on pages 24-25. It proposes the establishment of rigorous anti-gerrymandering reapportionment standards and the creation of an independent, nonpartisan commission to draw the state legislative and congressional district lines. Unless citizens demand a better way than what we have had, the unseemly spectacles of the 1960's and 1970's will be repeated in state after state.

"If no one else has a question, we'll proceed with the democratic process."

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Background

The quest for fair and effective representation runs deep in Anglo-American political thought. In 1690, John Locke despaired of England's rotten boroughs and argued that it was in the interest of the public "to have a fair and equal representative." Apportionment was a fundamental issue for the Constitutional Convention meeting in Philadelphia in 1787. The Connecticut compromise provided for equal representation of the states in the U.S. Senate and for representation based on population in the House. Article I, Section 2 of the Constitution specifically provides that Representatives be apportioned among the states according to population every ten years.

Despite federal and state constitutional requirements to reapportion periodically, many states failed to do so. As the nation's population shifted from rural areas to the cities and suburbs, the population inequality among state legislative districts as well as congressional districts increased substantially. In 1946, the U.S. Supreme Court failed to halt this trend when it denied relief in the *Colegrove* case challenging an Illinois congressional district plan that had one district with nine times as many people as another. Justice Frankfurter argued: "Courts ought not to enter this political thicket." State courts also declined to become involved. Rural dominance was maintained in some states by simply doing nothing.

Absent a court mandate, nearly one-half of the states did not reapportion their legislatures after the 1950 census according to Professors Keefe and Ogul. By 1962, ten states had at least one house which had not been reapportioned since 1930. Vermont had not reapportioned since 1793; nor had Delaware since 1897. The resulting malapportionment was extraordinary. The Brookings Institution has pointed out that twenty-one of the forty-two states with more than one congressional district in 1962 had constituencies in which the smallest district had less than one-half of the population of the largest district. In 1961, according to Professors Jewell and Patterson, authors of *The Legislative Process in the U.S.*, there were fourteen states in which a majority of members of at least one house could be elected by as few as twenty percent of the electorate from rural areas. In the Vermont House, the 38 citizens of Stratton had the same representation as the 35,531 citizens of Burlington. The five largest cities in Connecticut had one-fourth of the state's population but elected only ten of the 294 house members. The six million citizens of Los Angeles County comprised forty percent of the population of California but had only one of the forty seats in the state Senate.

> But things not always changing equally, and private interest often keeping up customs and privileges when the reasons of them are ceased, it often comes to pass that in governments where part of the legislative consists of representatives chosen by the people, that in tract of time this representation becomes very unequal and disproportionate to the reasons it was first established upon . . . . This strangers stand amazed at, and every one must confess needs a remedy; . . . . And therefore the people, when the legislative is once constituted, having in such a government as we have been speaking of no power to act as long as the government stands, this inconvenience is thought incapable of a remedy . . . . For it being the interest as well as intention of the people, to have a *fair and equal representative*, whoever brings it nearest to that is an undoubted friend to and establisher of the government, and cannot miss the consent and approbation of the community. [emphasis added]
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> —John Locke
> *Second Treatise of Civil Government* (1690)

The Supreme Court in the "Political Thicket"

In 1962, in the famous *Baker v. Carr* case, the U.S. Supreme Court decided to enter the "political thicket" of reapportionment. The Court held that federal courts have jurisdiction over complaints against malapportioned legislatures. The *Baker* case involved the Tennessee General Assembly which had not reapportioned itself since 1901 despite a state constitutional mandate to do so every ten years and a dramatic growth and shift of population. The Court declined to specify a remedy in Baker but did establish guidelines in a series of decisions over the next several years.

Early in 1964, in *Wesberry v. Sanders*, the Court voided Georgia's congressional district plan and held that:

> . . . the command of Art. I, Sec. 2, that Representatives be chosen "by the People of the several States" means that as nearly as is practicable one man's vote in a congressional election is to be worth as much as another's.

Perhaps the most important decision came in *Reynolds v. Sims* in June of 1964. In *Reynolds*, the Court voided Alabama's state legislative district plan and held that:

> The Equal Protection Clause requires that a State make an honest and good faith effort to construct districts, in both houses of its legislature, *as nearly of equal population as is practicable.* [emphasis added]

The response to *Baker, Wesberry,* and *Reynolds* was predictable. Suits were filed in federal or state courts of 48 of the fifty states between 1962 and 1972 alleging violations of the equal protection clause with respect to the apportionment of one or both legislative houses.

Over the years, the Court has refined the "one person, one vote" standard. The Court has made a distinction between state legislative and congressional districts, allowing larger population deviations among districts in state legislative plans. The Court has defined the "as nearly of equal population as is practicable" standard of *Reynolds* under the equal protection clause to allow maximum population deviations among state legislative districts of up to ten percent. The Court has allowed somewhat greater deviations if justified by rational state policy, such as the desire to respect the boundaries of political subdivisions. The Court has defined the "as nearly as is practicable" standard of *Wesberry* under Article I, Section 2 of the Constitution to require as close to mathematical equality as is reasonably possible for congressional districts.

While the Supreme Court has secured substantial population equality among legislative districts, it has been unreceptive to reapportionment challenges based on charges of political or racial gerrymandering. Districts of bizarre configurations admittedly designed to serve personal or partisan ends have been upheld if they meet the population test. The Court has indicated that it will scrutinize carefully charges of racial gerrymandering. But in *Whitcomb v. Chavis* in 1971, the most important racial gerrymandering case to date, the Court held that the use of multi-member rather than single-member state legislative districts in Indiana did not result in invidious discrimination against the black voters of Indianapolis.

SUMMARY OF MAJOR U.S. SUPREME COURT DECISIONS

Colegrove v. Green, 328 U.S. 549 (1946): The Court, by a four to three vote, denied relief in a case challenging an Illinois congressional district plan that had one district with nine times as many people as another. Justice Frankfurter argued that: "Courts ought not to enter this political thicket. The remedy for unfairness in districting is to secure state legislatures that will apportion properly, or to invoke the ample powers of Congress."

Baker v. Carr, 369 U.S. 186 (1962): In a case involving the Tennessee General Assembly, the Court held that federal courts have jurisdiction over complaints against malapportioned legislatures. The legislature had not reapportioned since 1901 despite a state constitutional mandate to do so every ten years and a dramatic growth and shift of population. The Court declined to consider what remedy would be appropriate and remanded the case to the lower court.

Wesberry v. Sanders, 376 U.S. 1 (1964): The Court voided Georgia's congressional district plan. The Court held that Article I, Section 2 of the Constitution required that "as nearly as is practicable one man's vote in a congressional election is to be worth as much as another's."

Reynolds v. Sims, 377 U.S. 533 (1964): In a case involving the Alabama Legislature, the Court rejected the analogy to the U.S. Congress and held that both houses of a state legislature must be apportioned on a population basis. The Court held that: "The Equal Protection Clause requires that a State make an honest and good faith effort to construct districts, in both houses of its legislature, as nearly of equal population as is practicable." The Court said that some deviations from the equal population principle are constitutionally permissible if "based on legitimate considerations incident to the effectuation of a rational state policy," such as a desire to respect the boundaries of political subdivisions.

Swann v. Adams, 385 U.S. 440 (1967): The Court rejected Florida's 1966 state legislative reapportionment plan because it contained senate districts ranging from 15.09 percent above the average district and 10.56 percent below and house districts ranging from 18.28 percent above to 15.27 percent below.

Kirkpatrick v. Preisler, 394 U.S. 526 (1969): The Court rejected Missouri's 1967 congressional Redistricting Act because the most populous district was 3.13 percent greater than the average district and the least populous was 2.84 percent below and the state failed to satisfactorily justify the deviations. The Court held that "the 'as nearly equal as practicable' standard requires that the State make a good-faith effort to achieve precise mathematical equality. Unless population variances among congressional districts are shown to have resulted despite such effort, the State must justify each variance, no matter how small."

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U.S. SUPREME COURT DECISIONS continued from page 5

Whitcomb v. Chavis, 403 U.S. 124 (1971): The Court held that the use of multi-member districts in state legislative reapportionment in Indiana did not result in invidious discrimination against the black voters of Indianapolis. The Court "insisted that the challengers carry the burden of proving that multi-member districts unconstitutionally operate to dilute or cancel the voting strength of racial or political elements." The Court found that the challengers had not demonstrated discrimination.

Mahan v. Howell, 410 U.S. 315 (1973): The Court upheld a 1971 Virginia state legislative reapportionment plan despite the fact that it had a maximum population deviation from the largest to the smallest district of 16.4 percent. The Court held that the legislative plan "may reasonably be said to advance the rational state policy of respecting the boundaries of political subdivisions," but noted that "this percentage may well approach tolerable limits."

Gaffney v. Cummings, 412 U.S. 735 (1973): The Court upheld a 1971 state legislative reapportionment plan for Connecticut with maximum population deviations between house districts of 7.83 percent. The Court held that "minor deviations from mathematical equality among state legislative districts are insufficient to make out a prima facie case of invidious discrimination under the Fourteenth Amendment so as to require justification by the State." In addition, the Court held that the plan was not constitutionally vulnerable just because it attempted to reflect the relative strength of the major political parties.

White v. Weiser, 412 U.S. 783 (1973): The Court rejected a congressional district plan for Texas because its maximum deviations of 2.43 percent above and 1.7 percent below the average "were not 'unavoidable', and the districts were not as mathematically equal as reasonably possible."

Chapman v. Meier, 420 U.S. 1 (1975): The Court overturned a federal court ordered reapportionment of the North Dakota Legislative Assembly. The Court held that "unless there are persuasive justifications, a court-ordered reapportionment plan of a state legislature must avoid use of multi-member districts." The Court noted that it was exercising its supervisory powers with regard to federal courts; it was not holding that multi-member districts are unconstitutional *per se*.

United Jewish Organizations v. Carey, 97 Sup. Ct. 996 (1977): The Court upheld a legislative modification of New York's state legislative reapportionment plan that was designed to bring the plan into compliance with the Voting Rights Act. In order to establish several substantially non-white districts in Kings County, the legislature divided a community of Hasidic Jews. The Court held that the use of racial criteria in an attempt to comply with the Voting Rights Act did not violate either the Fourteenth or Fifteenth amendments.

Existing State Policies

Virtually all substantive law regarding apportionment procedure is found in the constitutions of the states. With the exception of some of the newest provisions, few describe in much detail either the procedure for preparation of reapportionment plans or the standards to be used. Only the constitutional provisions in Colorado, Hawaii, and Montana meet the anti-gerrymandering test advocated by Common Cause. Table I below provides an overview of existing state provisions for state legislative apportionment. A typical state constitutional provision requires the legislature to reapportion on the basis of population after each federal decennial census. One state statute and twenty-one state constitutions explicitly require that districts be compact; two state statutes and twenty-seven constitutions explicitly provide that districts be formed of contiguous territory. Many state constitutions require the apportioning authority to respect political subdivision boundaries. But even where standards exist, they are generally stated in terms too vague to be enforced in court.

In thirty-seven states, the legislature is given the initial responsibility for preparing the apportionment plan. Nine of these states provide for an apportionment authority to prepare a plan if the legislature does not do so—in five states a board is established as the backup, in three the supreme court is responsible, and in Oregon the secretary of state prepares a plan. Nine other states give responsibility to a board or commission; in two of these states the supreme court is to prepare a plan if the

TABLE I:

EXISTING STATE PROVISIONS FOR
STATE LEGISLATIVE APPORTIONMENT

State	Apportioning Authority	Compactness	Contiguity	St. Sup. Court Original Jur.	State	Apportioning Authority	Compactness	Contiguity	St. Sup. Court Original Jur.
Alabama	L		X		Montana	B	X	X	
Alaska	B/G	X	X		Nebraska	L	X	X	
Arizona	L				Nevada	L			
Arkansas	B			X	New Hampshire	L			
California	L		X		New Jersey	B	X	X	
Colorado	B	X	X	X	New Mexico	L	X	X	
Connecticut	L(B)		X	X	New York	L	X	X	
Delaware	L		X		North Carolina	L		X	
Florida	L(C)			X	North Dakota	L			
Georgia	L				Ohio	B	X	X	X
Hawaii	B	X	X	X	Oklahoma	L(B)	X	X	X
Idaho	L				Oregon	L(St.)			X
Illinois	L(B)	X	X	X	Pennsylvania	B	X	X	X
Indiana	L				Rhode Island	L	X		
Iowa	L(C)	X	X	X	South Carolina	L			
Kansas	L			X	South Dakota	L(B)			
Kentucky	L				Tennessee	L			
Louisiana	L(C)				Texas	L(B)		X	
Maine	B/L(C)	X	X	X	Utah	L			
Maryland	G/L	X	X	X	Vermont	B/L(C)	X	X	X
Massachusetts	L		X	X	Virginia	L	X	X	
Michigan	B(C)	X	X	X	Washington	L			
Minnesota	L		X		West Virginia	L	X	X	
Mississippi	L				Wisconsin	L	X	X	
Missouri	Bds.(C)	X	X		Wyoming	L			

KEY: B—Board or Commission, C—Court, G—Governor, L—Legislature, St.—Secretary of State, B/G—Board is advisory to Governor, L(C)—if Legislature fails to act, the Court is the backup authority.

board does not. In two additional states—Maine and Vermont—boards are established to advise the legislature; the supreme courts backup the legislature. In Alaska, the governor is responsible for preparing a plan with the assistance of an advisory board. In Maryland, the governor presents a plan to the legislature; if the legislature does not enact a substitute, the governor's plan goes into effect. Table II on page 9 provides an overview of the makeup and responsibilities of the eighteen boards and commissions that are assigned state legislative apportionment responsibilities. Many are dominated by legislators or other public officials and lack the necessary independence. Seventeen state constitutions establish prompt court review by providing for original jurisdiction in the state's highest court.

The apportionment authorities designated by the state constitutions—especially the state legislatures—have often failed to produce acceptable plans. According to a 1973 survey by the Massachusetts Legislative Research Council, courts promulgated districts for one or both houses in at least twenty-one states between 1962 and 1972. In other states, the courts rejected reapportionment plans and ordered reapportionment authorities to prepare acceptable plans. According to Tables III and IV on pages 10-11, prepared by the Council of State Governments, sixteen existing state house apportionment plans and seventeen senate plans were court ordered.

STATE CONSTITUTIONAL AND STATUTORY REAPPORTIONMENT PROVISIONS

Alabama: Const. art. 9, secs. 197-201.
Alaska: Const. art. VI, secs. 1-11.
Arizona: Const. art. 4, pt. 2, sec. 1; and Ariz. Rev. Stat. secs. 16-1401 to 16-1403.
Arkansas: Const. amendment no. 45.
California: Const. art. 4, secs. 6 and 27.
Colorado: Const. art. V, secs. 46-48.
Connecticut: Const. art. 3, secs. 3-6.
Delaware: Code tit. 29, secs. 801-808.
Florida: Const. art. III, sec. 16.
Georgia: Const. art. 3, secs. 2-3.
Hawaii: Const. art. III, sec. 4; and Haw. Rev. Stat. secs. 25-1 to 25-8.
Idaho: Const. art. 3, secs. 4-5.
Illinois: Const. art. 4, sec. 3.
Indiana: Const. art. 4, secs. 5-6.
Iowa: Const. art. 3, secs. 34-39.
Kansas: Const. art. 10, sec. 1.
Kentucky: Const. sec. 33.
Louisiana: Const. art. III, sec. 6.
Maine: Const. art. IV, pt. 1, secs. 2-3; pt. 2, sec. 2; and pt. 3, sec. 1-A.
Maryland: Const. art. III, secs. 2-5.
Massachusetts: Const. art. CI, secs. 1-3.
Michigan: Const. art. IV, secs. 2-6; and Mich. Stat. Ann. secs. 2-28 (1)-(9).
Minnesota: Const. art. 4, secs. 2-3.
Mississippi: Const. art. 13, secs. 254-255.
Missouri: Const. art. III, secs. 2, 7, 10, and 45.
Montana: Const. art. V, sec. 14; and Mont. Rev. Codes Ann. secs. 43-108 to 43-118.
Nebraska: Const. art. III, sec. 5.
Nevada: Const. art. 4, sec. 5.
New Hampshire: Const. pt. 2, arts. 9, 9a, and 26.
New Jersey: Const. art. IV, secs. II-III.
New Mexico: Const. art. IV, sec. 3; and N.M. Stat. Ann. secs. 2-7-122, 2-9-124.
New York: Const. art. 3, secs. 4-5.
North Carolina: Const. art. II, secs. 3 and 5.
North Dakota: Const. art. II, sec. 35.
Ohio: Const. art. XI, secs. 1-15.
Oklahoma: Const. art. 5, secs. 9A, 10A, and 11A-E.
Oregon: Const. art. IV, sec. 6.
Pennsylvania: Const. art. 2, secs. 16-17.
Rhode Island: Const. amendments XIII and XIX.
South Carolina: Const. art. 3, secs. 3-6.
South Dakota: Const. art. III, sec. 5.
Tennessee: Const. art. II, secs. 4-6.
Texas: Const. art. III, secs. 25-28.
Utah: Const. art. IX, secs. 1-4.
Vermont: Const. ch. II, secs. 13, 18, and 74; and Vt. Stat. Ann. tit. 17, secs. 1901-1911.
Virginia: Const. art. II, sec. 6.
Washington: Const. art. 2, sec. 3.
West Virginia: Const. art. VI, secs. 4-10.
Wisconsin: Const. art. IV, secs. 3-5.
Wyoming: Const art. 3, sec. 3.

TABLE II:

STATE REAPPORTIONMENT COMMISSIONS

State	No. Comm.	How Commissioners Chosen	Authority
Alaska	5	by the Governor	advisory to the Governor
Arkansas	3	board is composed of the Governor, Secretary of State, and Attorney General.	promulgate a plan
Colorado	11	four by the legislative department, three by executive, and four by judicial (no more than four may be legislators)	promulgate a plan
Connecticut	9	by the Governor from names designated by legislative leaders; the eight select a ninth	backup if legislature fails to adopt plan
Hawaii	9	legislative leaders select eight who select a ninth	promulgate a plan
Illinois	8	four legislative leaders each select one legislator and one non-legislator	backup if legislature fails to adopt a plan
Maine	13	ten legislators are chosen by legislative leaders and the legislators select three members of the public	advisory to the legislature
Michigan	8	two major political parties each select four	promulgate a plan
Missouri House	20	by Governor, one from each list of two submitted by congressional district committees of two major parties	promulgate a plan
Missouri Senate	10	by Governor, five from each list of ten submitted by two major political parties	promulgate a plan
Montana	5	four legislative leaders each select one and four commissioners select fifth	promulgate a plan
New Jersey	10 (11)	five from each of two major parties; Chief Justice appoints eleventh if deadlock	promulgate a plan
Ohio	5	board is composed of Governor, Auditor, Secretary of State, and two selected by legislative leaders	promulgate a plan
Oklahoma	3	board is composed of Attorney General, Superintendent of Public Instruction, and Treasurer	backup if legislature fails to adopt a plan
Pennsylvania	5	board composed of four legislative leaders or deputies and fifth selected by the four	promulgate a plan
South Dakota	5	board composed of Governor, Superintendent of Public Instruction, presiding judge of Supreme Court, Attorney General, and Secretary of State	backup if legislature fails to adopt a plan
Texas	5	board composed of Lt. Governor, House Speaker, Attorney General, Comptroller, and Commissioner of General Land Office	backup if legislature fails to adopt a plan
Vermont	5	Governor appoints one from each major party; each major party appoints one; Chief Justice of Supreme Court appoints one	advisory to legislature

TABLE III:

APPORTIONMENT OF LEGISLATURES: SENATE

State or other jurisdiction	Initial reapportioning agency	Present apportionment by	Year of most recent apportionment	Number of seats	Number of districts	Number of multi-member districts	Largest number of seats in district	Percent deviation in actual v. average population per seat: Greatest +	Greatest −	Average population each seat (a)
Alabama	L	FC	1972	35	35	0	1	0.67	0.72	98,406
Alaska	G,B	SC	1974	20	16	3	3	14.0	8.4	15,118
Arizona	L	L	1972(b)	30	30	0	1	0.4	0.4	59,083
Arkansas	B	B	1971	35	35	0	1	2.0	1.49	54,923
California	L	SC	1973	40	40	0	1	1.92	1.02	499,322
Colorado	L	L	1972	35	35	0	1	2.48	0.67	63,129
Connecticut	L(c)	B	1971	36	36	0	1	3.9	3.9	84,228
Delaware	L	L	1971	21	21	0	1	1.4	0.9	26,100
Florida	L(c)	L	1972	40	19	14	3	0.62	0.53	169,773
Georgia	L	L	1972	56	56	0	1	2.3	2.0	81,955
Hawaii	B	B	1973	25	8	7	4	16.2	13.8	13,513(d)
Idaho	L	L	1974	35	35	0	1	5.15	5.03	20,371
Illinois	L(c)	L	1973	59	59	0	1	0.8	0.6	188,372
Indiana	L	L	1972	50	50	0	1	1.7	1.6	101,872
Iowa	L(c)	SC	1972	50	50	0	1	0.0	0.0	56,507
Kansas	L	FC	1972	40	40	0	1	2.56	2.02	56,231
Kentucky	L	L	1972	38	38	0	1	3.07	3.02	81,791
Louisiana	L	FC, L	1972	39	39	0	1	5.6	8.8	91,415
Maine	L(c)	SC	1972	33	33	0	1	1.52	1.54	30,111
Maryland	G	SC	1974	47	47	0	1	5.3	4.7	84,455
Massachusetts	L	L	1973	40	40	0	1	3.53	3.67	138,473(e)
Michigan	B	SC	1972	38	38	0	1	0.0	0.0	233,753
Minnesota	L	FC	1972	67	67	0	1	1.88	1.83	56,820
Mississippi	L	FC	1975	52	39	12	3	1.12	0.92	42,000
Missouri	B	B	1971	34	34	0	1	4.9	4.9	137,571
Montana	B	B	1974	50	50	0	1	6.33	6.75	13,999
Nebraska	L	L	1971	49	49	0	1	1.4	1.1	30,290
Nevada	L	L	1973	20	10	3	7	7.7	9.6	21,137
New Hampshire	L	L	1972	24	24	0	1	3.35	4.0	30,151(f)
New Jersey	B	B, SC	1973	40	40	0	1	2.85	1.49	179,278
New Mexico	L	L, SC	1972	42	42	0	1	4.85	4.48	24,190
New York	L	L	1971	60	60	0	1	0.9	0.9	303,021
North Carolina	L	L	1971	50	27	18	4	6.10	6.89	101,641
North Dakota	L	FC	1975	50	49	1	2	3.16	3.1	12,355
Ohio	B	B	1971	33	33	0	1	1.05	0.95	322,788
Oklahoma	L(c)	L	1971	48	48	0	1	0.5	0.5	53,317
Oregon	L(c)	S, SC	1971	30	30	0	1	1.2	0.7	69,713
Pennsylvania	B	B	1971	50	50	0	1	2.29	0.03	235,949
Rhode Island	L	L	1974	50	50	0	1	15.0	0.0	17,800
South Carolina	L	L	1972	46	16	13	5	3.18	6.75	56,316
South Dakota	L(c)	L	1971	35	28	3	5	2.4	3.3	19,015
Tennessee	L	L	1973	33	33	0	1	7.1	7.4	118,914
Texas	L(c)	B	1971	31	31	0	1	2.3	2.2	361,185
Utah	L	L	1972	29	29	0	1	4.64	6.38	36,527
Vermont	L(c)	L	1973	30	13	11	6	8.17	8.48	14,824
Virginia	L	FC	1971	40	38	1	3	5.2	4.5	116,212
Washington	L	FC	1972	49	49	0	1	0.91	0.7	68,428(f)
West Virginia	L	L	1973	34	17	17	2	11.1	11.1	57,302
Wisconsin	L	L	1972	33	33	0	1	0.71	0.55	131,877
Wyoming	L	L	1971	30	16	9	5	27.9	21.6	11,080
Virgin Islands	L	L	1972	15	3	2	7	N.A.	N.A.	4,461

Source: The Book of the States, 1976–77, p. 42, with updated information.

Abbreviations: B—Board or Commission; FC—Federal Court; SC—State Court; G—Governor; L—Legislature; S—Secretary of State; N.A.—Not available.

(a) Population figures in most instances are based on the 1970 federal census. West Virginia: population figures valid at time of last legislative apportionment.

(b) Effective 1976 election.

(c) Constitution or statutes provide for another agent or agency to reapportion if the Legislature is unable to do so.

(d) Average number of registered voters per seat.

(e) Based on 1971 special State Decennial Census of state citizens.

(f) Based on civilian or nonstudent population.

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Note: As a result of a law enacted since this Table was prepared, the Massachusetts Senate has percentage population deviations of +2.86% and -3.36%. The average population for each seat is 144,737.

TABLE IV:

APPORTIONMENT OF LEGISLATURES: HOUSE

State or other jurisdiction	Initial reapportioning agency	Present apportionment by	Year of most recent apportionment	Number of seats	Number of districts	Number of multi-member districts	Largest number of seats in district	Percent deviation in actual v. average population per seat: Greatest +	Greatest −	Average population each seat (a)
Alabama	L	FC	1972	105	105	0	1	1.08	1.15	32,802
Alaska	G, B	SC	1974	40	22	10	6	14.0	15.0	7,559
Arizona	L	L	1972(b)	60	30	30	2	0.4	0.4	29,541
Arkansas	B	B	1971	100	84	10	3	6.3	3.1	19,233
California	L	SC	1973	80	80	0	1	1.94	1.90	249,661
Colorado	L	L	1972	65	65	0	1	0.97	1.09	33,993
Connecticut	L(c)	B	1971	151	151	0	1	1.0	1.0	20,081
Delaware	L	L	1971	41	41	0	1	2.6	2.3	13,368
Florida	L(c)	L	1972	120	45	24	6	0.2	0.1	56,591
Georgia	L	L	1974	180	154	17	4	4.87	4.79	25,502
Hawaii	B	B	1973	51	27	22	3	8.2	21.0	6,624(d)
Idaho	L	L	1971	70	35	35	2	5.45	5.03	10,186
Illinois	L(c)	L	1973	177	59	59	3	0.8	0.6	62,791
Indiana	L	L	1972	100	73	20	3	1.0	1.0	51,946
Iowa	L(c)	SC	1972	100	100	0	1	0.0	0.0	28,253
Kansas	L	L	1973	125	125	0	1	6.5	4.8	18,223
Kentucky	L	L	1972	100	100	0	1	3.1	3.9	32,193
Louisiana	L	FC, L	1972	105	105	0	1	4.6	4.6	34,697
Maine	L(c)	SC	1974	151	119	11	10	5.0(e)	5.0(e)	6,581
Maryland	G	SC	1974	141	47	47	3	5.3	4.7	27,818
Massachusetts	L	L	1973	240	240	0	1	9.94	9.06(f)	23,232(g)
Michigan	B	SC	1972	110	110	0	1	0.0	0.0	80,751
Minnesota	L	FC	1972	134	134	0	1	1.99	1.97	28,404
Mississippi	L	FC	1975	122	84	27	4	1.06	0.93	18,171
Missouri	B	SC	1971	163	163	0	1	1.2	1.3	28,696
Montana	B	B	1974	100	100	0	1	7.83	7.65	6,944
Nebraska	Unicameral Legislature			...	...	...	...	...	...	...
Nevada	L	L	1973	40	40	0	1	10.9	12.1	12,218
New Hampshire	L	L	1971	400	159	109	11	25.3	19.3	1,813(h)
New Jersey	B	B, SC	1973	80	40	40	2	2.85	1.39	89,639
New Mexico	L	L, SC	1972	70	70	0	1	4.92	4.95	14,514
New York	L	L	1971	150	150	0	1	1.8	1.6	121,608
North Carolina	L	L	1971	120	45	35	8	8.2	10.2	42,350
North Dakota	L	FC	1975	100	49	49	4	3.16	3.1	6,178
Ohio	B	B	1971	99	99	0	1	1.05	0.95	107,596
Oklahoma	L(c)	L	1971	101	101	0	1	1.0	1.2	25,338
Oregon	L(c)	S, SC	1971	60	60	0	1	1.33	0.88	31,856
Pennsylvania	B	B	1971	203	203	0	1	2.98	0.04	58,115
Rhode Island	L	L	1974	100	100	0	1	17.0	0.0	8,900
South Carolina	L	L	1974	124	124	0	1	4.98	4.97	20,819
South Dakota	L(c)	L	1971	70	28	28	10	2.4	3.3	9,518
Tennessee	L	L	1973	99	99	0	1	2.0	1.6	39,638
Texas	L(c)	L	1975	150	150	0	1	5.8	4.7	74,045
Utah	L	L	1972	75	75	0	1	6.72	5.95	14,124
Vermont	L(c)	L	1974	150	72	39	15	10.58	9.36	1,820(d)
Virginia	L	L	1972	100	52	28	7	9.6	6.8	46,485
Washington	L	FC	1972	98	49	49	2	0.91	0.7	31,214(h)
West Virginia	L	L	1973	100	36	25	13	8.17	8.01	17,432
Wisconsin	L	L	1972	99	99	0	1	0.96	0.93	44,626
Wyoming	L	L	1971	62	23	12	11	41.16	45.47	5,362
Virgin Islands	Unicameral Legislature			...	...	...	...	...	...	...

Source: The Book of the States, 1976-77, p. 43, with updated information.

Abbreviations: B—Board or Commission; FC—Federal Court; SC—State Court; G—Governor; L—Legislature; S—Secretary of State.

(a) Population figures in most instances are based on the 1970 federal census.

(b) Effective 1976 election.

(c) Constitution or statutes provide for another agent or agency to reapportion if the Legislature is unable to do so.

(d) Average number of registered voters per seat.

(e) Approximate. No exact figures were available.

(f) This figure excludes two geographical island districts whose deviations are −7.15 and −81.77.

(g) Based on 1971 special State Decennial Census of state citizens.

(h) Based on civilian or nonstudent population.

This table is reprinted from page 5 of *American State Legislatures: Their Structures and Procedures* (Revised 1977) with the permission of the Council of State Governments.

Note: As a result of a recent constitutional amendment and a reapportionment law enacted since this Table was prepared, the Massachusetts House has 160 single-member districts with an average population for each seat of 36,164. The percentage population deviations range from +9.5% to -10.24%.

TABLE V:

CONGRESSIONAL DISTRICTS

State	Initial Redistricting by	Present Redistricting by	Year of Most Recent Districting	Number of Districts	Maximum Percent Deviations from Average Population	Average Population Per District
Alabama	L	L	1972	7	+.32% -.46%	492,024
Alaska	(One Member elected at-large)					
Arizona	L	L	1971	4	+.1% -.12%	443,121
Arkansas	L	L	1971	4	+.07% -.19%	480,824
California	L	SC	1973	43	+.55% -.39%	464,442
Colorado	L	L	1972	5	+.17% -.47%	411,452
Connecticut	L	FC	1972	6	+.02% -.02%	505,370
Delaware	(One Member elected at-large)					
Florida	L	L	1972	15	+.09% -.19%	452,630
Georgia	L	L	1972	10	+.41% -.69%	458,956
Hawaii	L	L	1969	2	+5.9% -5.9%	384,957
Idaho	L	L	1971	2	+.10% -.10%	356,504
Illinois	L	FC	1971	24	+.63% -.69%	463,082
Indiana	L	L	1971	11	+.11% -.12%	472,152
Iowa	L	L	1971	6	+.23% -.42%	470,840
Kansas	L	L	1971	5	+.94% -.62%	449,814
Kentucky*	L	L	1972	7	+.11% -.09%	460,102
Louisiana**	L	L	1972	8	+.39% -.14%	455,398
Maine	L	L	1961	2	+.23% -.23%	496,832
Maryland	L	L	1971	8	+1.01% -1.55%	490,300
Massachusetts	L	L	1971	12	+.62% -.98%	474,098
Michigan	L	FC	1972	19	+.11% -.44%	467,110
Minnesota***	L	L	1971	8	+.77% -.63%	475,634
Mississippi	L	L	1972	5	+1.94% -2.16%	443,39[illegible]
Missouri	L	FC	1972	10	+.41% -.22%	4[illegible],740
Montana	L	L	1971	2	+.07% -.07%	347,206
Nebraska	L	L	1971	3	+.10% -.06%	494,597
Nevada	(One Member elected at-large)					
New Hampshire	L	L	1972	2	+.48% -.48%	368,841
New Jersey	L	FC	1972	15	+.44% -.64%	477,878
New Mexico	L	L	1968	2	+.62% -.62%	508,000
New York	L	L	1974	39	+1.60% -1.22%	467,725
North Carolina	L	L	1971	11	+2.12% -1.67%	462,005
North Dakota	(One Member elected at-large)					
Ohio	L	L	1972	23	+.31% -.19%	463,131
Oklahoma	L	L	1972	6	+.21% -.22%	426,542
Oregon	L	L	1971	4	+.11% -.11%	522,846
Pennsylvania	L	L	1972	25	+1.39% -.84%	471,756
Rhode Island	L	L	1972	2	+.12% -.12%	474,862
South Carolina	L	L	1971	6	+3.36% -4.81%	431,753
South Dakota	L	L	1971	2	+.01% -.01%	333,129
Tennessee	L	L	1972	8	+4.58% -3.71%	490,521
Texas	L	L	1975	24	+.09% -.06%	466,330
Utah	L	L	1971	2	+.01% -.01%	529,637
Vermont	(One Member elected at-large)					
Virginia	L	L	1972	10	+.24% -.44%	464,849
Washington	L	FC	1972	7	+6.77 -1.78%	487,024
West Virginia	L	L	1971	4	+.35% -.43%	436,059
Wisconsin	L	L	1971	9	+.03% -.04%	490,881
Wyoming	(One Member elected at-large)					

KEY: L – Legislature, FC – Federal Court, SC – State Court.

*Information provided by the Kentucky Legislative Research Commission.

**The Louisiana Department of Justice reports maximum deviations different from those reported by CQ (+.19% and -.13%)

***The Minnesota Secretary of State reports maximum deviations different from those reported by CQ (+.90% and -.57%)

This table was prepared by Common Cause from information in *Congressional Districts in the 1970's* (2nd Ed., 1974) (published by *Congressional Quarterly*).

Political Gerrymandering

The U.S. Supreme Court has taken us a substantial way toward its aim of "fair and effective representation for all citizens." The Court's "one person, one vote" standard has done away with the gross malapportionment of the pre-*Baker* years. But the substantial population equality required by the Court is not a total answer to the representation question. The Court has not guaranteed fair district lines. According to William J.D. Boyd of the National Municipal League:

> The reapportionment revolution has certainly come a long way, and very effectively eliminated the evil of malapportionment. As with most revolutions, it remains incomplete so long as the political gerrymander remains to effectively dilute the basic principles of a representative democracy.

The problem of political gerrymandering has replaced population inequality as the major obstacle to "fair and effective representation." Gerrymandering has been defined by Professor Robert Dixon, one of the nation's foremost experts on reapportionment, as "discriminatory districting which operates to inflate unduly the political strength of one group and deflate that of another." It is usually, but not exclusively, manifested in the manipulation of the shape of legislative districts. Political gerrymandering is a political tool that has a long history in American politics. The gerrymander was named after Elbridge Gerry, Governor of Massachusetts in 1812 when the legislature created a peculiar salamander-shaped district to benefit Gerry's Democratic Party (see "The Original Gerrymander" on page 16). It lives on today. In 1971, University of California Professor Gordon E. Baker surveyed the reapportionment plans drawn for California and concluded:

> While population variances among districts were negligible, several resulting configurations appear to be prime candidates for the Elbridge Gerry Memorial Award for Creative Cartography. Indeed, comparatively speaking, the early Massachusetts governor was a rank amateur and his famed salamander-like district a model of compactness.

Political gerrymandering is generally an attempt by incumbent legislators and majority parties in legislatures to draw district lines that perpetuate their positions of power within the status quo. It often results from the conflict of interest of having district lines drawn by state legislators. Few issues are of as intense interest to legislators as reapportionment. The drawing of district lines can make or break the political careers of the incumbent legislators who are charged with drawing the lines in most states. All too often, incumbents give in to the pressure to manipulate district lines for personal or partisan benefit. As the Majority Leader of the Maryland Senate has quipped: "There are two things that excite the Senate, reapportionment and horse racing."

Political gerrymandering is usually done by the majority party in the legislature working with statistics of past voting behavior, party registration, and demographic information. The intent is to create districts designed to produce the greatest number of legislative victories for the majority party by wasting minority party votes. As a New York politico discussing an upcoming reapportionment once said: "Now it's just a question of slicing the salami, and the salami happens to be in our hands."

One gerrymandering technique is to concentrate minority party strength in as few districts as possible, conceding these districts to the minority by wide margins in order to prevent the minority party from competing in other districts. For example, the majority party would concede one district to the minority in order to win three others. Another technique is to diffuse minority party strength in order to make it difficult for the minority party to win the number of seats representative of its popular support. In Illinois in 1973, for example, the General Assembly crossed the city line of Chicago nine times in drawing state legislative lines. The purpose and effect of this gerrymandering were to waste suburban Republican votes and to increase the number of city Democrats in the state legislature. In a 1972 study published by the American Enterprise Institute, Terry B. O'Rourke compared the ratio of votes won to seats won in the 1966-70 Congressional elections by parties with and

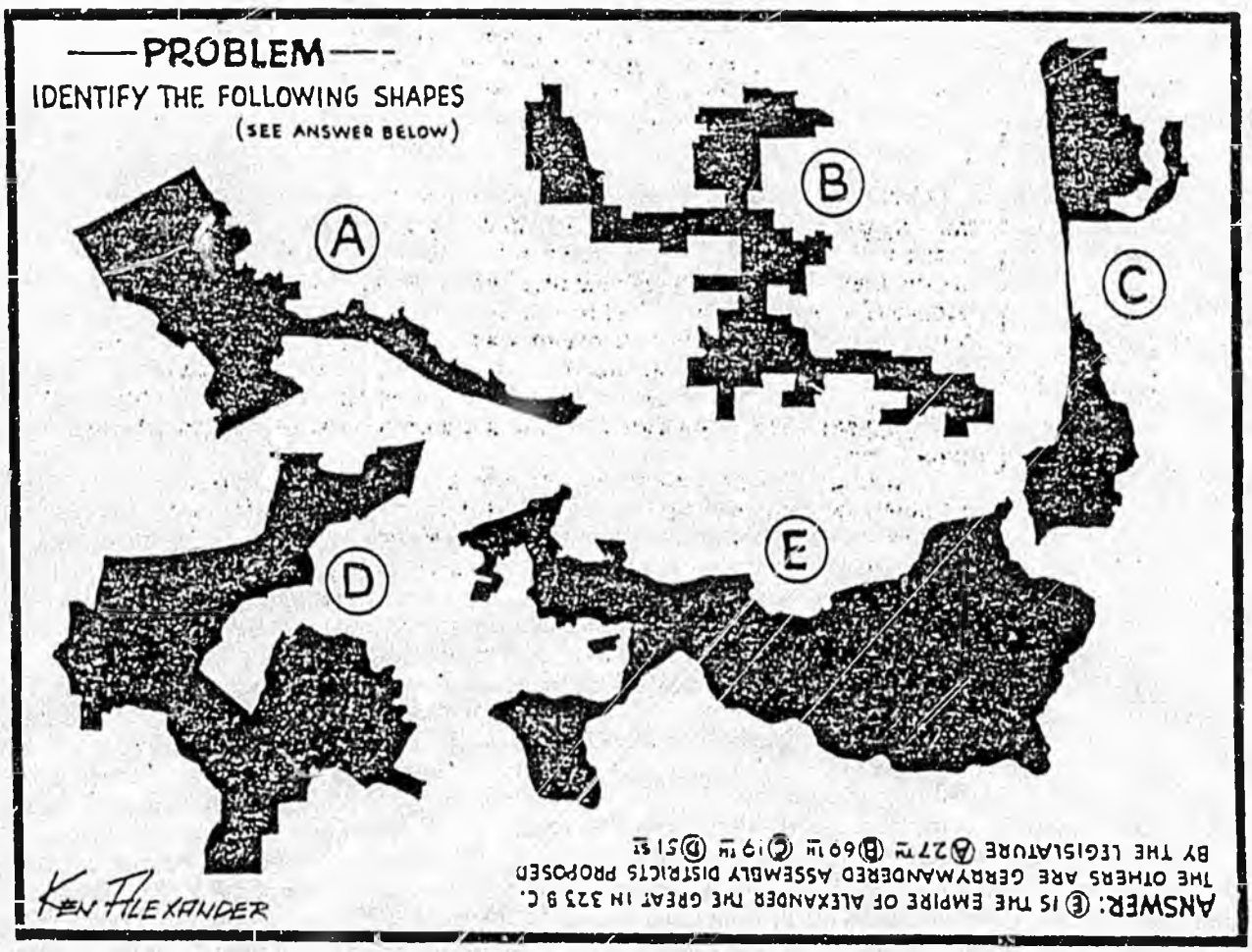
without the power to draw district lines. O'Rourke found that "parties with reapportionment power used it to enormous advantage."

The majority party in the legislature does not always undertake affirmative action to undermine the representation of the minority party. Sometimes the majority party will cut a deal with the minority to protect incumbents of both parties. Bipartisan gerrymandering seeks to increase the strength of the incumbent or the majority party in each district. Yale Professor Edward R. Tufte has found that:

> . . . a major element in the job security of incumbents is their ability to exert significant control over the drawing of district boundaries; indeed, some recent redistricting laws have been described as the Incumbent Survival Acts of 1972. It is hardly surprising that legislators, like businessmen, collaborate with their nominal adversaries to eliminate dangerous competition.

Thus, even where apportionment plans are drawn by bipartisan legislatures, gerrymandering can be used to preserve the domination of incumbents and undermine competition.

Political gerrymandering is often a weapon in intra-party disputes. Legislative leaders have used their authority over reapportionment to win support for their legislative proposals and to punish their political opponents. In the 1971 session of the Texas legislature, Texas House Speaker Gus Mutscher's absolute control of the House was threatened by a group of maverick representatives who came to be known as the Dirty Thirty. Mutscher used the redistricting plan as his vehicle for revenge. According to one observer:



Reprinted from the June 17, 1973 *San Francisco Chronicle & Examiner* with the permission of Ken Alexander.

> On May 28, 1971, three days before the end of the sixty-second session, Mutscher and his henchman Delwin Jones of Lubbock unveiled their House redistricting plan and placed it on a little easel near the front of the House chamber. One by one, the members gathered round. First came the gasps of horror, then the laughter, and finally the shaking of heads and little smiles. More than half of the Dirty Thirty had been placed in districts with each other and most of the others wound up in districts composed of voters clearly antagonistic to their political philosophies . . . [Mutscher went to great pains to put two young liberals in the same district.] The result resembles a fat chicken with Denton's house at the end of the beak and Moore's at the tip of the tail.
>
> (from Katz, *Shadow on the Alamo*)

When Chicago Mayor Richard Daley proposed a congressional districting plan designed to increase his already firm control over the Illinois delegation and remove a maverick Democrat from Congress, the *Chicago Daily News* saw the proposal as an assertion that "raw power can roll over the public interest by buying off the necessary votes in the Legislature with cynical political trades."

On the state level, political gerrymandering is often achieved by the establishment of multi-member rather than single-member legislative districts. The inevitable result of establishing multi-member districts—from which more than one legislator is elected—is to submerge the voting strength of ethnic or political party minorities. The U.S. Supreme Court has criticized multi-member districts but has not found them to be unconstitutional. In 1971, the Court rejected an argument that the use of multi-member districts in Indianapolis to limit black representation was unconstitutional.

The Effects of Political Gerrymandering

Political gerrymandering—whether by the majority party or by both parties, whether the result of intra- or inter-party disputes—attempts to pre-determine electoral results. Competition is minimized. This undermines the system of competitive elections on which our representative democracy is based.

A Common Cause survey of state and congressional election results shows a shocking lack of competition in American electoral politics. We examined the proportion of incumbents in Congress and fourteen state legislatures who ran for renomination or re-election from 1968-1976 and won. The figures in Tables VI and VII on pages 17 and 18 show that incumbents who ran for re-election were re-elected at rates frequently in excess of ninety percent. Of the 69 state legislative elections reported in Table VII, the incumbent re-election rate dropped below eighty percent in only six. Four of these six came in the four elections held in Hawaii and Montana since the adoption of reapportionment plans through processes that meet the anti-gerrymandering test advocated by Common Cause.

As public opinion polls have demonstrated, this high rate of incumbent re-election can hardly be traced to public satisfaction with the performance of government. Rather, a lack of meaningful competition is the major factor. Clearly, the existing system of reapportionment—where incumbent legislators establish the electoral ground rules and stack them in their favor—is one of the reasons for this lack of competition. The present system of financing elections and the many perquisites of public office are others.

The lack of electoral competition that results from political gerrymandering undermines our system of representative democracy in several significant ways.

First, political gerrymandering dilutes the value of political participation. Where election results are largely pre-determined through political gerrymandering, the chance that a voter can influence an election through volunteer campaign activity or voting is diminished. Without competition, political issues need not be debated. Voters receive little meaningful information and have few real choices regarding candidates' positions on major issues.

Second, political gerrymandering makes legislators less responsive to the political interests of their entire constituency. Safe districts remove the incentive to grant political concessions to constituent interests within the district or to create electoral coalitions and ensure representation of diverse points of view.

Third, political gerrymandering weakens political parties by allowing them to field weak candidates. With safe districts, political parties have little incentive to find strong candidates. Their talents are not essential to victory. Instead, the majority party in each district may use the safe seat as a political reward for a party loyalist.

Racial minority groups have been special victims of gerrymandering. An eighteen month study of the operation of the Voting Rights Act by the United States Civil Rights Commission in 1969 concluded that gerrymandering was a prime weapon for discriminating against black voters. There is no doubt that political gerrymandering in general and the use of multi-member rather than single-member districts in particular has had and can continue to have the effect of denying representation to

The Original Gerrymander . . .

The practice of "gerrymandering"—the excessive manipulation of the shape of a legislative district to benefit a certain incumbent or party—is probably as old as the Republic, but the name originated in 1812.

In that year, the Massachusetts Legislature carved out of Essex County a district which historian John Fiske said had a "dragonlike contour." When the painter Gilbert Stuart saw the misshapen district, he pencilled in a head, wings and claws and exclaimed: "That will do for a salamander!"—to which editor Benjamin Russell replied: "Better say a Gerrymander"—after Elbridge Gerry, then Governor of Massachusetts.

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

. . . and the Daley Plan

The white portion of the map below was the 10th congressional district proposed by Chicago Mayor Richard J. Daley in 1975 in order to unseat the district's maverick incumbent, U.S. Representative Abner Mikva. Mikva commented: "That's not a map, that's a spaghetti." Notice that the Daley plan is quite similar to the original Gerrymander (at left).

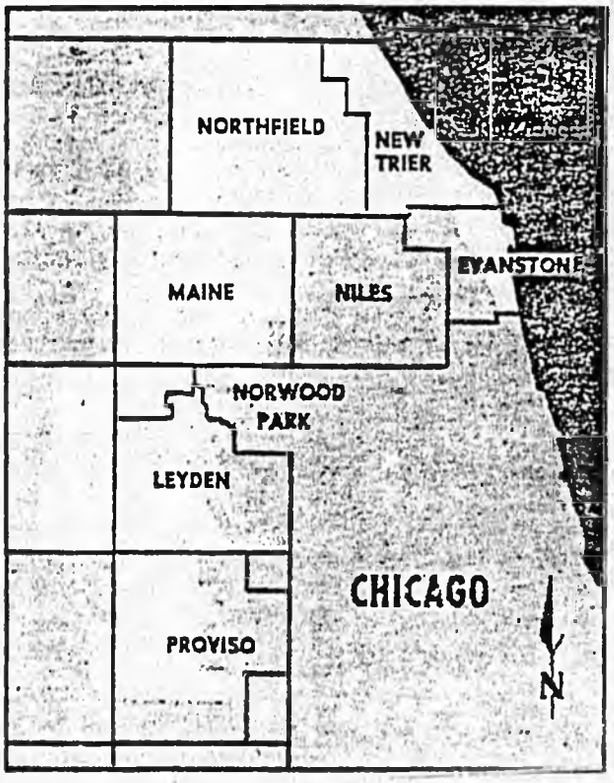


TABLE VI:

RATE OF INCUMBENTS WHO RAN FOR RE-ELECTION AND WON IN 1968-76 FOR U.S. HOUSE OF REPRESENTATIVES

State	1968	1970	1972	1974	1976
Alabama	100%	100%	100%	100%	100%
Alaska	100	—	100	100	100
Arizona	100	100	100	100	100
Arkansas	100	100	100	100	100
California	100	97	95	92	98
Colorado	100	75	50	80	100
Connecticut	82	100	83	100	100
Delaware	100	—	100	100	—
Florida	100	100	100	100	100
Georgia	100	100	89	80	100
Hawaii	100	100	100	100	—
Idaho	100	100	100	50	100
Illinois	100	100	95	90	96
Indiana	90	90	91	55	80
Iowa	100	100	71	50	83
Kansas	100	80	100	100	80
Kentucky	100	86	100	100	100
Louisiana	88	100	100	100	86
Maine	100	100	100	50	100
Maryland	85	66	100	100	100
Massachusetts	100	90	90	90	100
Michigan	100	100	95	94	93
Minnesota	100	86	100	100	100
Mississippi	100	100	100	100	100
Missouri	100	100	100	100	100
Montana	100	50	100	50	100
Nebraska	100	50	100	100	100
Nevada	100	100	0	0	100
New Hampshire	100	100	100	100	100
New Jersey	100	100	100	71	93
New Mexico	0	50	100	100	100
New York	94	87	94	88	100
North Carolina	100	100	100	82	100
North Dakota	100	100	100	100	100
Ohio	100	90	100	95	95
Oklahoma	100	100	100	80	100
Oregon	100	100	100	100	100
Pennsylvania	100	100	100	91	89
Rhode Island	100	100	100	100	100
South Carolina	100	83	83	75	100
South Dakota	100	—	100	50	100
Tennessee	100	100	88	75	100
Texas	100	100	86	97	96
Utah	100	100	50	100	50
Vermont	100	100	100	—	100
Virginia	100	100	100	80	100
Washington	100	86	100	100	100
West Virginia	100	100	100	100	75
Wisconsin	100	90	89	67	100
Wyoming	0	—	100	100	100
TOTALS	97%	95%	95%	89%	96%

The information in this table represents the percentage of incumbent Members of the U.S. House of Representatives who ran for renomination or re-election and who won re-election. The table was prepared by Common Cause from information in *Congressional Quarterly*.

TABLE VII:

RATE OF INCUMBENTS WHO RAN FOR RE-ELECTION AND WON IN LEGISLATIVE ELECTIONS IN FOURTEEN STATES FOR 1968-76

State	1968	1970	1972	1974	1976
Arizona	90%	83%	92%	86%	84%
California	96	94	95	90	94
Delaware	94	93	95	94	100
Florida	92	82	85	87	93
Hawaii*	94	91	91	77	78
Idaho	89	92	86	93	93
Illinois	—	97	93	89	94
Michigan	93	94	83	88	94
Missouri	89	88	77	86	89
Montana**	85	86	85	79	78
Pennsylvania	92	93	93	88	91
South Dakota	85	81	84	93	79
Wisconsin	92	92	93	89	95
Wyoming	83	91	83	92	88

*In 1973, Hawaii was reapportioned by a Legislative Reapportionment Commission pursuant to a new constitutional provision that established strict reapportionment standards.

**In 1974, Montana was reapportioned by a commission established pursuant to the 1972 Constitution.

The information in this table represents the percentage of incumbent legislators (House and Senate) who ran for renomination or re-election and who won re-election in fourteen states where election information and volunteer researchers were available. Assistant Professor Jerry W. Calvert of Montana State University provided the data for Idaho, Montana, South Dakota, and Wyoming. The Wisconsin Legislative Reference Bureau supplied the information for that state. The data for the other states were compiled by Common Cause volunteers from state election records.

minority groups. While blacks comprised 11.2 percent of the population in the 1970 census, only 287 of the approximately 7,500 state legislators—less than four percent—are black (see Table VIII). Only seventeen of 535 Members of Congress—just over three percent—are black.

The Goals of Reapportionment Reform

In the 1960's, the goal of reapportionment reform was to establish legislative districts of substantially equal population. The goal now is to finish the reapportionment revolution by ridding the system of political gerrymandering in order to establish electoral fairness and increase electoral competition.

By minimizing electoral competition, unfair districting undermines the political process and weakens the political parties. Our political process needs competition in order to function as envisioned. Competition forces the political process to be responsive to new ideas and new people. Without competition, the parties lack the incentive to recruit or put forward their best candidates. Electoral competition is an essential factor in giving citizens a chance to have their ideas given serious consideration in legislative forums.

The purpose of political gerrymandering is to shut people out of the political process. Reapportionment reform is designed to benefit the public by broadening political participation and increasing electoral competition. Reapportionment reform is designed to strengthen the political process by providing an incentive for political parties to bring new ideas and new people into the process. By reforming the reapportionment process and improving state legislatures, states may increase public respect for state government and strengthen the role of state government in our federal system.

The Common Cause Model Proposal

The Common Cause model proposes a reapportionment process designed to produce districts that are fairly drawn as well as districts of substantial population equality. Unlike district lines produced by political gerrymandering, fair district lines are not drawn to pre-determine election results. The model proposes a system of reapportionment that is equitable in its treatment of incumbent legislators, political parties, and others. This replaces the present system where people with political power are able to manipulate district lines for personal and partisan advantage.

The Common Cause model has three main elements—strict anti-gerrymandering standards; an independent, nonpartisan reapportionment commission; and prompt judicial review. All three elements of the model are crucial. They are designed to reinforce each other and to produce fairly drawn district lines. The reapportionment standards are designed to produce fair district lines by limiting the discretion of the commission to gerrymander for political or partisan purposes. The nonpartisan reapportionment commission replaces the legislature, providing much needed inde-

TABLE VIII:

BLACK STATE LEGISLATORS (1977)

State	Number of Black Legislators	Percent of Total Legislators	Blacks as percent of State Population	State	Number of Black Legislators	Percent of Total Legislators	Blacks as percent of State Population
Alabama	15	10.7	26.4	Montana	1	0.7	0.3
Alaska	0	0	3.0	Nebraska	1	2.0	2.7
Arizona	2	2	3.0	Nevada	3	5	5.7
Arkansas	4	2.9	18.6	New Hampshire	1	0.2	0.3
California	8	6.6	7.0	New Jersey	6	5	10.7
Colorado	3	3	3.0	New Mexico	1	0.9	1.9
Connecticut	5	2.6	6.0	New York	14	6.7	11.9
Delaware	3	4.8	14.3	North Carolina	6	3.5	22.4
Florida	3	1.9	15.5	North Dakota	0	0	0.4
Georgia	23	9.7	25.9	Ohio	11	8.3	9.1
Hawaii	0	0	1.0	Oklahoma	4	2.7	7.0
Idaho	0	0	0.3	Oregon	1	1.1	1.3
Illinois	20	8.4	12.8	Pennsylvania	13	5.1	8.6
Indiana	6	4	6.9	Rhode Island	2	1.3	2.7
Iowa	2	1.3	1.2	South Carolina	13	7.6	30.5
Kansas	6	3.6	4.8	South Dakota	0	0	0.2
Kentucky	3	2.1	7.5	Tennessee	11	8.3	16.1
Louisiana	10	6.9	29.9	Texas	13	7.2	12.7
Maine	1	0.5	0.3	Utah	0	0	0.6
Maryland	19	10.1	17.9	Vermont	0	0	0.2
Massachusetts	8	2.8	3.1	Virginia	2	1.4	18.6
Michigan	17	11.5	11.2	Washington	2	1.4	2.1
Minnesota	2	1.0	0.9	West Virginia	1	0.7	4.2
Mississippi	4	2.3	36.8	Wisconsin	3	2.3	2.9
Missouri	14	7.1	10.3	Wyoming	0	0	0.8
				TOTALS	287	3.8	11.2

The number of black state legislators is from statistics compiled by the Joint Center for Political Studies in Washington, D.C. The percentage of blacks in each state population is taken from the 1970 federal census.

pendence. Fair district lines are more likely if district lines are drawn by persons not directly affected by them. Judicial review provides finality and acts as the final safeguard of the public's interest in fair and effective representation. A discussion of the three major elements of the model follows.

I. REAPPORTIONMENT STANDARDS

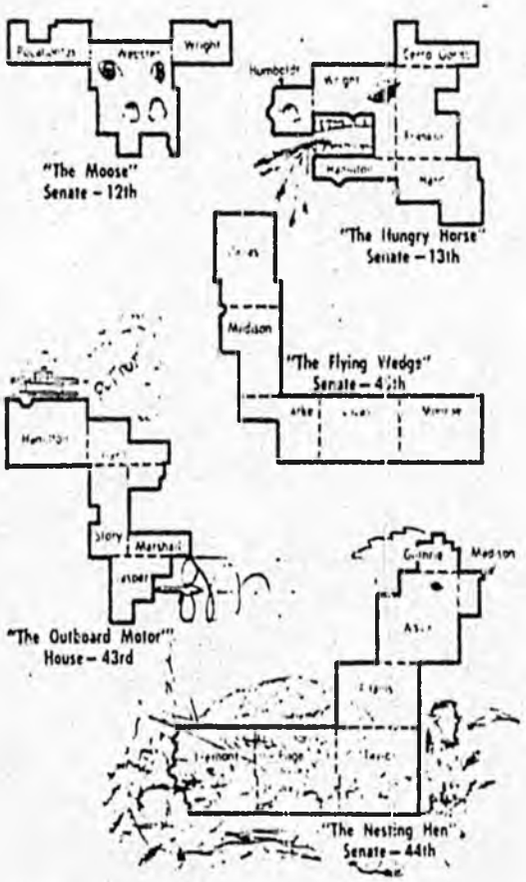
The most important element of reapportionment reform is the establishment of strict anti-gerrymandering standards. While an independent commission is more likely to produce fair district lines than a state legislature, strict reapportionment standards can virtually eliminate the potential to manipulate district lines for political or partisan advantage.

It is the absence of objective, judicially enforceable standards that has allowed the political gerrymandering that undermines our system of representative government. According to University of California reapportionment scholar Gordon E. Baker:

> If more specific guidelines to minimize gerrymandering are not forthcoming, then a great democratic principle—one man, one vote—will have degenerated into a simplistic arithmetical facade for discriminatory cartography on an extensive scale.

The model seeks to provide more specific definitions of reapportionment standards than are found in most state constitutions. This is done by providing population and compactness standards against which to judge reapportionment plans. A strong anti-gerrymandering provision is the centerpiece of the model proposal.

In *Reynolds*, the Supreme Court established the general rule that districts in each house have population "as nearly equal as is practicable." While the Court has discussed this requirement on numerous occasions, no precise definition has evolved. The model proposal attempts to establish specific population parameters



Wild and Wonderful Iowa Gerrymanders

DRAWING BY REGISTER STAFF ARTIST DAVID SILK

Reprinted from the January 25, 1972 *Des Moines Register and Tribune* with the permission of David Silk.

more rigorous than those allowed by the Court in some cases, while maintaining flexibility necessary to allow the commission to apply other reapportionment standards as well.

In addition to establishing specific population standards, the Common Cause model's reapportionment standards are designed to produce fair districts by minimizing the opportunity for political gerrymandering. Single-member districts—favored by the National Municipal League, Legis 50, and other reform minded organizations—are required. The model requires the commission to respect local political subdivision boundaries (for example, towns and counties) where consistent with the population standards. By respecting these boundaries, the model minimizes voter confusion, enables constituencies to organize for political action in an effective manner, and limits the ability to gerrymander. Compactness and contiguity are required and are defined in order to establish a basis for enforcement. A strong anti-gerrymandering provision adapted from the Hawaii Constitution is included. It provides that: "No district shall be drawn for the purpose of favoring any political party, incumbent legislator, or other person or group." To help enforce this provision, the commission is not allowed to take into account the addresses of incumbent legislators. The commission may not use the political affiliations of registered voters, previous election results, or demographic information other than population headcounts for the purpose of favoring any political party, incumbent legislator, or other person or group. This is precisely the information that has been used by partisans in the past to gerrymander. The model provides that no district may be drawn for the purpose of diluting the voting strength of any language or racial minority group.

II. REAPPORTIONMENT COMMISSION

The National Municipal League has described the reapportionment process in most states as an "illogical system in which legislators are the judges and juries in a matter of highest importance to themselves." The conflict of interest of having state legislators draw state legislative district lines is obvious. As the Illinois legislator quoted above pointed out: "Any man who doesn't fight for his own district is a particular damn fool." A state legislator can also have a conflict of interest in preparing a congressional district plan. In addition to the fact that some legislators might want to run for Congress, a candidate for re-election to the state legislature can benefit from an unbeatable congressional candidate at the top of the party ticket.

Independence and accountability are key aspects of reform. It is essential that the responsibility for drawing legislative districts be taken from those most directly affected. The model proposes establishment of an independent, nonpartisan commission to prepare reapportionment plans. The model is drawn largely from the successful commission established in the Montana Constitution of 1972. As in the Montana Constitution, the model is not designed to deny the legislature any interest in reapportionment but rather to buffer the process from the most direct and personal conflicts of interest. Four of the five members of the commission are appointed by the legislative leaders of the major parties. The fifth is chosen by the other four. Reapportionment scholars Gordon E. Baker and Robert G. Dixon recommend similar bipartisan commissions with tie breakers. As in the Michigan, Montana, and Vermont Constitutions, the model prohibits public officials from serving on the commission. State commissions made up entirely of public officials as in Arkansas or dominated by legislative leaders or their deputies as in Pennsylvania do not meet the standard of independence sought by advocates of reapportionment reform. As in Hawaii, Michigan, and Missouri, the model prohibits commissioners from running for legislative office for a period after service on the commission in order to avoid self-dealing. The model contains numerous accountability provisions designed to ensure that the apportionment process is done by the commission in the open with a full public record and opportunity for public participation.

Few states used commissions before the reapportionment revolution of the 1960's, but they have become increasingly popular in recent years. As noted above, seventeen states now provide for boards or commissions to play a role in the reapportionment process—either as the apportioning authority, as a backup to the legislature, or in an advisory role. There is no federal obstacle to shifting the function of drawing congressional districts from the legislature to a reapportionment commission.

Establishment of a reapportionment commission is designed primarily to remove the conflict of interest inherent in having legislators draw their own districts and to

eliminate the abuses that have resulted from this system. It also should save valuable legislative time and reduce reliance on the courts. The California Legislature, for example, dealt with apportionment in 1971, 1972, and again in 1973 at an estimated cost of over $1 million. In 1971, the Legislature had 26 full-time staff members working on apportionment. Ultimately, court-appointed special masters prepared the plan. In Montana in 1974, a commission prepared a plan at a cost of only $20,000. Extended and special sessions are frequently required when state legislatures try to reapportion. With most state legislatures still understaffed and restricted by state constitutional limitations on session time, the task of legislative reapportionment takes away from time that could be spent more profitably on substantive legislative matters.

The present method of reapportionment also ties up considerable court time. As noted above, sixteen existing state house apportionment plans and seventeen senate plans were court ordered. In virtually every state, apportionment plans have been challenged in court. Under the model, litigation should be less frequent because of the strong presumption of fairness that a plan developed by a nonpartisan commission would have. After evaluating the reapportionment experience of the 1970's, the Council of State Governments concluded that commissions "appear to have a better track record than Legislatures."

MONTANA'S REAPPORTIONMENT COMMISSION

Our bipartisan reapportionment commission has become something of a model for other states. It did its work promptly and efficiently, for a total cost of less than $20,000. That is less than what it costs us to run this place for one day. And we have heard few voices raised to say the commission's districts were poorly drawn or unfair.

The real world alternative to our commission is not one of legislators surrendering the interests of their constituents to those with greater claim, every ten years.

The alternative to our commission is return either to judge-made reapportionment, or to the 1971 pattern of costly special sessions to handle this awkward problem.

To take this task back upon ourselves would not only be costly in time and money. It probably just wouldn't work. It would fail for the same reason it has failed elsewhere. Each of us considers himself elected to press the advantage of our own constituents, whatever that may mean for someone else's constituents. Why, in the crunch, should we as individual legislators be expected to do anything else? This is why legislative reapportionment of legislatures breaks down into push-and-shove and seldom manages the job to constitutional standards of fair representation.

Let's keep our reapportionment commission to do this awkward task promptly and inexpensively; let's save our costly and numbered days here for the kinds of things we manage to do passably well.

—Montana House Majority Leader
Peter M. Meloy, successfully arguing against
a proposal to repeal Montana's excellent
reapportionment commission, March of 1977

III. JUDICIAL REVIEW

No matter how well the reapportionment process works, legal challenges are inevitable in a matter as politically significant as reapportionment. Prompt judicial review is an essential element of a reformed reapportionment process. It is extremely important that all challenges to reapportionment plans be resolved and plans finalized well in advance of state legislative and congressional elections.

Finality in reapportionment is a matter of such importance and sensitivity that it warrants the prompt attention of the highest court in each state. The model grants these courts original jurisdiction over reapportionment matters. Challenges must be filed soon after a plan is prepared and the courts are required to issue decisions within a time certain.

Time To Act

While reapportionment will not take place until 1981, it is now time for the states to reform their reapportionment procedures so that the legal framework for the development of fair reapportionment plans is in place by 1981. In virtually every state, this will require voter approval of the model constitutional amendment—either proposed by the legislature or petitioned to the ballot by citizen initiative—by 1980.

Legislative resistance to the Common Cause model will be strong because it strikes at the heart of the incumbency protection system. But public support can be expected. Proponents of reform should have little trouble convincing the public of the merit of a proposal designed to strip the legislature of its ability to gerrymander for self-serving purposes. The Special Masters appointed by the California Supreme Court in 1973 to prepare a reapportionment plan found "widespread public cynicism" about the traditional method of having the state legislature redistrict itself.

The model proposal relies heavily on the Colorado, Hawaii, and Montana reapportionment procedures. The Hawaii and Montana processes were recommendations of constitutional conventions that received voter approval in 1968 and 1972, respectively. The Colorado process was the result of a citizen initiative approved by the voters in November of 1974 by a vote ratio of three to two.

By working with problem solving legislators or using the citizen initiative process where necessary and available, citizens can establish reapportionment procedures designed to ensure fair and effective representation for all citizens in the 1980's. This can complete the reapportionment revolution of the 1960's. No longer will incumbent legislators and majority parties be able to perpetuate their power by pre-determining election results through reapportionment. Establishment of fair district lines through an equitable reapportionment process will help to restore competition—the lifeblood of a democratic society—to our electoral process.

SUMMARY OF COMMON CAUSE MODEL STATE REAPPORTIONMENT PROPOSAL

The Common Cause model state reapportionment proposal is in two parts—a model constitutional amendment and model act. Virtually all substantive law regarding state apportionment procedure is found in the constitutions of the states. In almost every state, a significant change in reapportionment procedures will require a constitutional amendment. The Common Cause model state constitutional amendment establishes the essential elements of reapportionment reform—strict anti-gerrymandering reapportionment standards, an independent commission to draw the lines, and prompt judicial review. The amendment is as brief as possible in keeping with the belief that a constitution should be flexible and should not be unduly burdened with detail. The model act implements the constitutional amendment, giving definition to some of the reapportionment standards and establishing the duties, powers, and method of appointment of the commission. The model act should be adopted contemporaneously with the constitutional amendment and made contingent upon voter approval of the amendment. Obviously, each state will need to adapt the model to take into account the particular circumstances of the state.

CONSTITUTIONAL AMENDMENT

The model constitutional amendment provides for reapportionment of state legislative and congressional districts in 1981 and every tenth year after. Single-member districts are required.

The model constitutional amendment provides for the establishment of a five member reapportionment commission in 1980 and every tenth year after and at any other time of court ordered reapportionment. Four members of the commission are appointed by the legislative leaders—one each by the President of the Senate, the Speaker of the House, the Minority Leader of the Senate, and the Minority Leader of the House. The four members select a fifth member who serves as chair. None of the five members may be a public official. The model requires the legislature to provide by law for the qualifications, duties, and powers of commissioners, procedures for the selection of commissioners and filling of vacancies, and adequate funding for the commission.

The model provides that districts in each house shall have "population as nearly equal as is practicable" based on the federal census. Specific population parameters are established to give definition to the requirement of substantial population equality. For state legislative districts, the model provides that the average percentage deviation of all the districts of a house from the average population of all districts in that house shall not exceed one percent. No district shall have a population which varies from the average population of all districts unless necessary to comply with one of the other reapportionment standards. In no case shall a district have a deviation from the average of more than five percent. Thus, the maximum allowable deviation from the highest to the lowest populated district is ten percent. In the event of a court challenge, the commission has the burden of justifying any deviation.

For congressional districts, the model provides that the same standards shall be used as for state legislative districts except that no district shall have a population deviation of more than one percent from the average population of all districts.

The model constitutional amendment provides that district lines be drawn to coincide with the boundaries of political subdivisions (for example, towns and counties) to the extent consistent with the requirement of substantial population equality.

The model constitutional amendment requires districts to be "compact in form and composed of convenient contiguous territory." The amendment provides that the aggregate length of all district boundaries shall be as short as practicable consistent with the constitutional requirements of substantial population equality and maintenance of political subdivision boundaries. The model establishes a judicially enforceable compactness requirement by providing that in no case shall the aggregate length of the boundaries of all districts exceed by more than five percent the shortest possible aggregate length of all the districts under any other plan consistent with the population and political subdivision standards. The same compactness standard applies to district lines within local political subdivisions that have two or more complete districts.

The proposed amendment provides that: "No district shall be drawn for the purpose of favoring any political party, incumbent legislator, or other person or group." The model prohibits the commission from taking into account the addresses of incumbent legislators. The commission may not use the political affiliations of registered voters, previous election results, or demographic information other than

population headcounts for the purpose of favoring any political party, incumbent legislator, or other person or group. The model further provides that no district shall be drawn for the purpose of diluting the voting strength of any racial or language minority group.

In addition, the model authorizes the legislature to define by law these standards and to establish other standards not in conflict with the Constitution of the United States or of the state and designed to guarantee "fair and effective representation for all citizens."

The constitutional amendment provides that the state supreme court has original jurisdiction over apportionment matters. The model authorizes any registered voter to file a petition to challenge a reapportionment plan or to compel the commission or any person to perform duties required by the model. Challenges to an apportionment plan must be filed within forty-five days of adoption of a plan. The court must give apportionment matters precedence over all other matters and must render a decision within sixty days after a petition is filed. The court may declare a plan invalid in whole or in part and must order the commission to prepare a new plan.

The model constitutional amendment provides that reapportionment plans remain in effect for ten years unless invalidated or modified pursuant to court order. A plan shall not be subject to amendment, approval, or repeal by initiative, referendum, or act of the legislature.

MODEL ACT

The model act provides for the timing of the selection of commissioners. By May 1, 1980 (and every tenth year after), notice must be given of the establishment of the commission. Not earlier than June 1 but not later than July 1, the four legislative leaders must select four commissioners. By August 1, the four commissioners must select a fifth commissioner to serve as chair. Vacancies are filled by the initial selecting authority.

The model act provides that commissioners must be registered voters of the state who may not: hold or have held public office within two years prior to selection; be a relative or an employee of a state legislator or U.S. Representative; or be or have been a registered lobbyist within two years prior to selection. Members and employees of the commission may not: hold or campaign for public or political party office; participate in or contribute to a state or federal campaign; hold a seat in the state legislature or U.S. House of Representatives for four years after the effective date of the plan; or lobby the state legislature or U.S. Congress for compensation for one year after the effective date of the plan.

The model act provides for a staff and budget for the commission and authorizes the commission to hire consultants, reimburse witnesses for their expenses, and borrow staff and other resources from other state agencies. The act prescribes the duties of the commission: promulgate rules and regulations; preserve information and make it available to the public; give notice of meetings; open meetings of three or more commissioners to the public; log contacts with persons outside the commission; and prepare a detailed report explaining each preliminary and final reapportionment plan. The act authorizes the commission to subpoena persons and materials and to administer oaths.

The model act provides for the timing of the development of the reapportionment plan. By May 1, 1981 (and every tenth year after), the commission must propose one or two preliminary plans for public comment. The chair may also propose a plan. By July 1, the commission must complete public hearings around the state on the preliminary plans. By August 1, the commission must adopt a final plan by vote of at least three members. The act provides for an extension of these time deadlines if the necessary census tabulations are not available by February 1. The commission is required to prepare a financial statement and compile and preserve an official record of its activities. The commission expires as soon as all legal challenges to its plan have been resolved, but the supreme court may reconstitute it to comply with a court order.

The model act repeats the standards established in the model constitutional amendment. The act defines the constitutional requirement that districts be of contiguous territory. It also establishes procedures for dividing political subdivisions where required. The model act provides for alignment of state legislative and congressional district boundaries where practicable.

The model act repeats the model constitutional amendment's provision for judicial review and authorizes the state supreme court to order the state to pay petitioners reasonable attorney fees and court costs where the court finds that a petition was filed with reasonable cause.

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Common Cause has prepared a report on state and congressional reapportionment that includes an annotated version of the model proposal and a detailed state-by-state survey of apportionment practices and recent activities. A copy of the full report—*Toward a System of 'Fair and Effective Representation': A Common Cause Report on State and Congressional Reapportionment*—is available at cost ($2) by writing:

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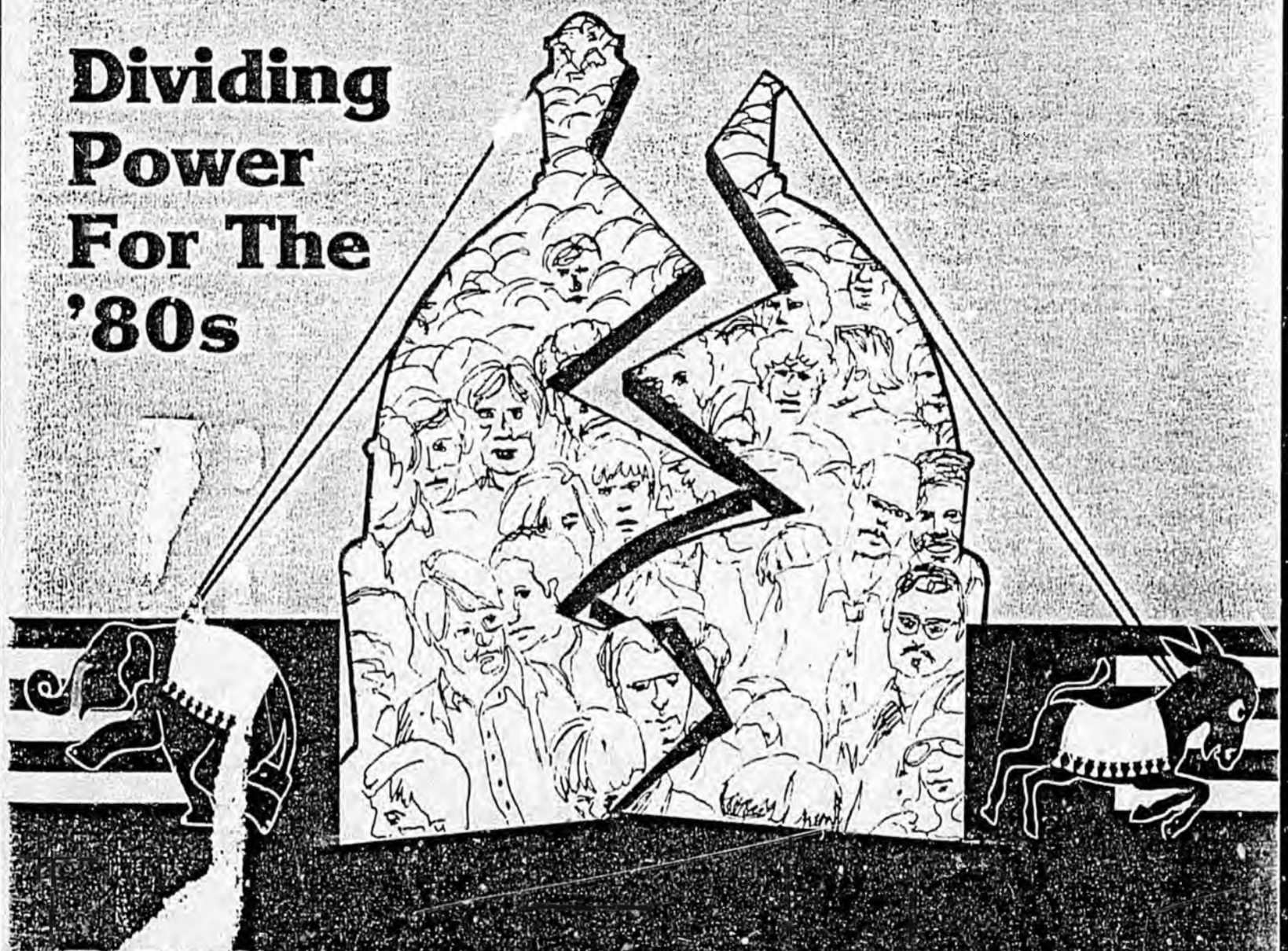
State Government News

The Council of State Governments

October 1981

REAPPORTIONMENT:

Dividing Power For The '80s



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