

# THE APPORTIONMENT PROBLEM FACED BY THE STATES

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As a result of the 1950 census, and as the Constitution undoubtedly intended, the matter of congressional apportionment and how it will affect the Eighty-third and succeeding Congresses is brought forcefully to our attention. Many writers have left the impression that there is much to be desired with respect to the formation within the states of districts which provide representation on a fair and equitable basis. It is the purpose of this paper to analyze what is being done and what will be done on congressional apportionment in the various states in order to comply with the legal requirements and the traditional standards that have been set up to provide such fair and equal representation.

Although the territorial unit as a basis of representation is old in American history, it was not until 1842 that it became the legally prescribed manner of electing members of the House of Representatives. The legal requirement that districts be composed of contiguous territory first appeared in 1842,<sup>1</sup> but the requirement that districts also be compact did not become law until the Apportionment Act of 1901.<sup>2</sup> These requirements have been omitted from apportionment acts since 1929<sup>3</sup> and no such requirements exist in federal law at the present time.

In a message to the first session of the Eighty-second Congress on this subject, President Truman called for the reinstatement of these legal requirements that districts be made up of compact territory, but up to the present time this has not been done.<sup>4</sup> A Committee on Congressional Reapportionment of the American Political Science Association also called for the reinstatement of these provisions and in addition stated the desirability of expressing "the standard of approximate equality among the districts with greater definiteness than hitherto."<sup>5</sup> It is evident then that these standards are very much alive as factors to be considered in achieving fair representation in Congress.

Since what is done in any one state may affect the nation as a whole in contributing to the existing balance of power in the House of Representatives, it has been thought desirable to examine the situation in each of the 48 states where the necessary information has been available. This paper could not be a detailed analysis of the factors which went into the districting arrangement which exists in each of

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<sup>1</sup> 5 STAT. 491 (1842).

<sup>2</sup> 31 STAT. 733 (1901).

<sup>3</sup> 46 STAT. 21, 26 (1929).

<sup>4</sup> DECENNIAL CENSUSES AND APPORTIONMENT OF REPRESENTATIVES IN CONGRESS (MESSAGE FROM THE PRESIDENT OF THE UNITED STATES), H. R. DOC. 36, 82d Cong., 1st Sess. (Jan. 9, 1951); 97 CONG. REC. 114 (1951).

<sup>5</sup> *The Reapportionment of Congress* (Report of the Committee on Congressional Reapportionment of the American Political Science Association), 45 AM. POL. SCI. REV. 153, 154 (1951).

these states. The writer has sought, in general, to point out the features of the various state apportionments which relate to the above-mentioned commonly accepted standards of compact contiguous districts of approximately equal numbers. The information from some states has not been available and either these states have been omitted from the paper or the comments which are made lack completeness. Another factor contributing to a lack of completeness is that census figures for divisions of cities and counties have not been available. The preliminary counts of the 1950 census have been used throughout the paper. Legislative reference bureaus, state libraries, or offices of secretaries of state have been very helpful in supplying information.

## I

### STATE LEGAL REQUIREMENTS CONCERNING APPORTIONMENT

#### A. Constitutional Requirements

One of the striking facts which may be observed in a study of congressional districts, is the general lack of requirements or standards imposed by either the federal or state governments to govern their formation. In the restrictions, there is wide variation in the extent to which the traditional standards of equal population and of being composed of contiguous and compact territory are followed by the states.

Among the states which do have constitutional provisions that do more than give authority to the state legislature to designate the congressional districts are: California, Iowa, Missouri, Montana, North Dakota, South Carolina, and West Virginia. A common provision in state constitutions of the past prohibited the division of counties in the formation of legislative districts. Although such a requirement is no longer common, probably since the growth of large cities has made it impractical, there appears to be, nevertheless, a reluctance in some states to divide counties. This seems to be true particularly in those situations where a portion of a county would be attached to a district containing several other counties, rather than where a county could be evenly divided into two or more congressional districts.

The constitution of California sets up the requirements of forming districts of compact and contiguous assembly districts and also establishes rules for the division of counties when that becomes necessary. The provisions<sup>9</sup> are as follows:

1. A congressional district, composed of two or more counties, cannot be separated by a county belonging to another congressional district.
2. No county can be divided in forming a congressional district except when it has more population than is required for one or more representatives.
3. A county whose population is greater than that required for one congressional district, must be formed into one or more districts according to population. In forming such a district, it is requisite that (a) no assembly district be divided; (b) each congressional

<sup>9</sup> CALIF. CONST. Art. IV, §27. MARGARET GREENFIELD, LEGISLATIVE REAPPORTIONMENT 13 (BUREAU OF PUBLIC ADMINISTRATION, UNIVERSITY OF CALIFORNIA, 1951).

district be composed of compact, contiguous assembly districts; (c) any population left after forming one or more congressional districts within the county, be attached by compact adjoining assembly districts to a contiguous county or counties to form a congressional district.

A glance at the California apportionment of 1941 reveals that the most populous district was the third, with a population of 409,404, and the least populous was the twenty-first, with a population of 194,199. In an exactly equitable division, the population of each district would have been 300,321. Thus it can be inferred that the provision which states that "a county whose population is greater than that required for one congressional district, must be formed into one or more districts according to population," does not make an equitable apportionment mandatory. In this case, what constitutes population "greater than that required for one congressional district," is not regarded as established.

The constitution of Iowa sets forth what amounts to the contiguity standard and also prohibits the division of a county. Section 37 of Article III reads:<sup>7</sup>

When a congressional, senatorial, or representative district shall be composed of two or more counties, it shall not be entirely separated by any county belonging to another district; and no county shall be divided in forming a congressional, senatorial or representative district.

The first provision reaffirms part of the federal requirement in existence at various times from 1842 to 1929 that districts be made up of "contiguous and compact territory." The second is an example of the restriction on dividing counties which, however, makes little difference in the case of Iowa, since there is no county whose population exceeds the average for the state's congressional districts.

In some cases it is difficult to determine the extent to which statutory provisions or court decisions on apportionment apply merely to apportionment for the state legislature or also to the apportionment for members of Congress. Except where the application is specifically stated, it has been assumed in writing this paper that legal pronouncements on apportionment apply to the apportionment of both members of the state legislature and members of Congress.

Constitutional provisions which are only routine, such as those which provide that the state shall be divided into districts and that each district shall have one representative, or those which merely grant authority to apportion are, in general, not included in this report. The constitutional provision of Minnesota is mentioned because of the judicial interpretation of it. The Minnesota courts<sup>8</sup> have construed Section 23, Article IV of the constitution that "the legislature shall have the power to apportion" as "imposing a duty of reapportionment and that the duty so imposed continues until performed."<sup>9</sup> How this affects the actual process of reappor-

<sup>7</sup> IOWA CONST. Art. III, §37.

<sup>8</sup> *State v. Weatherill*, 125 Minn. 336, 147 N. W. 105 (1914); *Smith v. Holm*, 220 Minn. 486, 19 N.W.2d 914 (1945).

<sup>9</sup> REPORT OF THE MINNESOTA LEGISLATIVE RESEARCH COMMITTEE ON LEGISLATIVE REAPPORTIONMENT (PUBLICATION No. 36) I (1950).

tionment is not clear since one source indicates that "under the separation of powers doctrine which forms the basis of our representative government, the legislative branch is immune from mandamus action and the courts appear to have no direct means of forcing the legislature to effect reapportionment."<sup>10</sup>

The Missouri constitution of 1945 includes the requirement of districts being "composed of contiguous territory as compact and as nearly equal in population as may be."<sup>11</sup> It also provides:<sup>12</sup>

When the number of representatives to which the state is entitled in the House of the Congress of the United States under the census of 1950 and each census thereafter is certified to the governor, the general assembly shall by law divide the state into districts corresponding with the number of representatives to which it is entitled. . . .

It seems questionable whether this imposes the duty of reapportionment after each census or only when the number of representatives to which Missouri is entitled does not correspond with the number of districts then in existence. The implication, in the writer's opinion, is that redistricting is intended after each census in order to adjust the districts to population changes.

The constitution of Montana requires an enumeration of the inhabitants of the state in addition to that of each federal census. The enumeration is to be taken every tenth year from 1895 and would therefore fall between each regular census. After each enumeration, it is required that the state legislature "shall revise and adjust the apportionment for representatives on the basis of such enumeration according to ratios to be fixed by law."<sup>13</sup> This provision is of little practical importance since the last congressional apportionment was in 1917 and each district varied from the state average by approximately 30,000 in 1940 and 43,000 in 1950. This is perhaps not excessive, but it does indicate that the two enumerations have little effect on congressional apportionment.

The constitution of North Dakota provides for the selection of members of the House of Representatives of the United States by election at large until other methods are set by law.<sup>14</sup> The effect of such a provision merely gives support to those to whom reapportionment seems unnecessary and in a state such as North Dakota, which is one-party dominated, it serves to perpetuate an unsatisfactory apportionment.

South Carolina's constitution contains a stipulation which eliminates rather than imposes any restrictions on the legislature by means of the provision that the general assembly may divide the state into congressional districts "as it may deem wise and proper."<sup>15</sup>

Congressional districts are required by the constitution of West Virginia to "be formed of contiguous counties, and be compact."<sup>16</sup> By this provision and one that

<sup>10</sup> *Ibid.*

<sup>12</sup> *Ibid.*

<sup>14</sup> N. D. CONST. Art. 18.

<sup>16</sup> W. VA. CONST. Art. I, §4.

<sup>11</sup> MISSOURI CONST. Art. III, §45 (1945).

<sup>13</sup> MONT. CONST. Art. VI, §2.

<sup>15</sup> S. C. CONST. Art. VIII, §13.

"each district shall contain as nearly as may be, an equal number of population," West Virginia follows the pattern of the congressional requirements established when the district method of electing members of the House of Representatives was adopted in 1842.

### B. Statutory Provisions on Apportionment

No statutory provisions were found which impose any restrictions on the state legislature in the formation of congressional districts. The usual statutory provision merely designates the districts and enumerates the counties, municipal divisions, or other divisions which are included in each district. There is some uniformity in the practice of forming congressional districts by county. Where the county must be divided, however, there is less uniformity. The most common basis of division in such situations is on the basis of ward and precinct.

## II

### INFLUENCE OF THE COURTS ON CONGRESSIONAL APPORTIONMENT

No recent court cases have come up which have any great importance for congressional apportionment. The last case which is of national importance is *Colegrove v. Green*, in which the United States Supreme Court declined to intervene in the Illinois apportionment in order to bring about a more equitable districting. In its opinion, the Court stated:<sup>17</sup>

The remedy for unfairness in districting is to secure State legislatures that will apportion properly, or to invoke the ample powers of congress.

This decision, coupled with the absence since 1929 of any effective requirement in federal law and with the very limited constitutional requirements of the states themselves, means that the state legislatures of a majority of states are practically without restriction in the formation of congressional districts.

President Truman, in his message on apportionment to the Eighty-second Congress, called for the re-establishment of the requirement that districts "be composed of contiguous and compact territory and contain as nearly as practicable, the same number of individuals."<sup>18</sup> The question then comes up whether districting could be successfully challenged if such a law existed. This would appear to be the situation which arose in *Hume v. Mahan*,<sup>19</sup> in which a federal district court held the state districting act invalid.<sup>20</sup> The Committee on the Reapportionment of Congress of the American Political Science Association calls for sanctions such as Congress ordering the state to do the districting job over again, or of redistricting

<sup>17</sup> *Colegrove v. Green*, 328 U. S. 549, 556 (1946).

<sup>18</sup> DECENNIAL CENSUSES AND APPORTIONMENT OF REPRESENTATIVES IN CONGRESS, *op. cit. supra* note

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<sup>19</sup> 1 Fed. Supp. 142 (E. D. Ky. 1932).

<sup>20</sup> This decision was reversed by the Supreme Court in a *per curiam* opinion, 287 U. S. 575 (1932), on the authority of *Wood v. Broom*, 287 U. S. 1 (1932), which held that the Apportionment Act of 1911, relied on by the district court, was no longer in effect.

the state itself.<sup>21</sup> In commenting on the power of Congress in this respect, Schmeckebier quotes Harold M. Bowman as follows:<sup>22</sup>

But what is the extent of the power of Congress? How much farther might it go than it has gone in control of redistricting? May Congress itself redistrict the State, and, if it attempts to do so, must it, for example, create districts that are equal in population as far as is practicable?

.....

Finally, we again refer to *Smiley v. Holm* [285 U. S. 355 (1932)], the latest expression of the Supreme Court on this subject:

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In exercising this power the Congress may supplement these state regulations or may substitute its own. It may impose additional penalties for the violation of the state laws or provide independent sanctions. It "has a general supervisory power over the whole subject."

Since the Supreme Court in *Wood v. Broom*<sup>23</sup> held that the Apportionment Act of 1911 had expired when followed by the Census Act of 1929, the last restrictions placed by Congress on the formation of districts also expired. Every indication is then that, until Congress enacts new regulations, *Wood v. Broom* is controlling, but that if new legislation were to be enacted, Congress would be regarded by the courts as having the power to regulate the creation of congressional districts.

### III

#### STATUS OF CONGRESSIONAL APPORTIONMENT IN THE STATES

##### A. Effect of 1950 Census

In accordance with federal statute, President Truman submitted a message to the first session of the Eighty-second Congress indicating the apportionment of representatives to the states on the basis of the population figures of the 1950 census. The message showed that 9 states would have their number of representatives in Congress reduced and that 7 states would gain in number of representatives. The present law sets up the procedures to be followed in each of five possible situations arising out of a change in apportionment. For those states where the number of representatives increased, the law merely requires that, in the absence of a redistricting, "such additional Representative or Representatives shall be elected from the State at large and the other Representatives from the districts then prescribed by the law of such State."<sup>24</sup> If, however, there is a decrease and no redistricting occurs and the number of districts is greater than the reduced number of representatives, they are all required to be elected from the state at large.<sup>25</sup> The states which were, there-

<sup>21</sup> *The Reapportionment of Congress*, 45 AM. POL. SCI. REV. 153 (1951).

<sup>22</sup> LAURENCE F. SCHMECKEBIER, CONGRESSIONAL APPORTIONMENT 148-149 (The Brookings Institution, 1941), quoting Bowman, *Congressional Redistricting and the Constitution*, 31 MICH. L. REV. 170, 176, 177 (1932).

<sup>23</sup> 287 U. S. 1 (1932).

<sup>24</sup> 55 STAT. 761 (1941), 2 U. S. C. A. §2a (c) (1950).

<sup>25</sup> *Ibid.*

fore, faced with the necessity of redistricting or of electing their representatives at large were: Arkansas, Illinois, Kentucky, Mississippi, Missouri, New York, Oklahoma, Pennsylvania, and Tennessee. The states which gained were not faced with quite as urgent a reason for redistricting although needing it in terms of population increases. These states were: California, Florida, Maryland, Michigan, Texas, Virginia, and Washington. Other states were shown by the census to need redistricting, but were not under external pressure to redistrict. Arkansas, Illinois, Oklahoma, New York, and Tennessee have already redistricted, and there is some indication that Kentucky, Missouri, and Pennsylvania will do so either at the legislative session now going on or at one convening early in 1952. Informants from Mississippi say that the state has not been notified of a change in apportionment although newspaper articles clearly indicate awareness of the required redistricting or of electing all congressmen at large. Of the states which have increased apportionment, Maryland and Michigan have redistricted, and indications are that Texas and Washington will elect their additional member at large.

#### B. Recommendations for Legislation

The President's message, in addition to notifying the states of changes in representation, called for legislation reaffirming the single-member district plan of representation and the standards of contiguity, compactness, and equality of numbers. The message also called for a restriction on the percentage of deviation which could exist in any state. The maximum deviation to be permitted under these recommendations would range from 50,000 above the average for the state to 50,000 below.<sup>26</sup> This is very similar to a proposal of a committee of the American Political Science Association which would limit the deviation to 15 per cent, allowing districts "to vary over a range of about 100,000."<sup>27</sup>

Other recommendations were also made by this Committee to bring about a more uniform observance of approved standards in the formation of districts. It proposed that where the state refused to do an acceptable job of redistricting, the "only suitable alternative is for Congress to do it."<sup>28</sup> Sanctions were therefore proposed for those situations in which the districting was unsatisfactory. The plan suggested was:<sup>29</sup>

First, the States should be required to do their own redistricting soon after Congress passes the Apportionment Act: this will give Congress ample time to consider whether this action by the States complies with the statutory standards of approximate equality. Second, the President should transmit the results of State redistricting to Congress and to all the States with information showing how any particular State has violated the statutory standards of approximate equality. Since the President's statement will appear in the press, unequal redistricting will be subjected to the powerful sanction of publicity. Third, Congress may then take such action as it deems proper. Congress may order the State to do the job over again. Or Congress may redistrict the State itself.

<sup>26</sup> DECENNIAL CENSUSES AND APPORTIONMENT OF REPRESENTATIVES IN CONGRESS, *op. cit. supra* note 4.

<sup>27</sup> *The Reapportionment of Congress*, 45 AM. POL. SCI. REV. 153, 155 (1951).

<sup>28</sup> *Ibid.*

<sup>29</sup> *Id.* at 153, 156.

It should be noted that most of these sanctions apply to wide differences in district populations and not to violations of contiguity and compactness of districts which would be included in the practice of "gerrymandering."

In view of present and proposed regulations governing apportionment, it might give a more adequate picture of the situation to look at each state to see what has been done or is being done to meet suggested standards as the need has been revealed by the 1950 census.

#### IV

##### THE APPORTIONMENT SITUATION IN THE STATES

Alabama last redistricted in 1931 when the number of representatives to which the state was entitled was reduced from ten to nine. It was thus forced to do so or to have all of its representatives elected at large. The shifts in population revealed in two censuses have not been sufficient to bring about a feeling on the part of the legislature that the state needs redistricting. In this respect the state provides a good example of the apparently general attitude that redistricting is not required unless there has been a change in apportionment, or, the range from the smallest district to the largest is relatively large. There are 3 districts, the sixth, seventh, and ninth, which vary more than 15 per cent from the state average. The greatest deviation from the average is in Jefferson county, which includes Birmingham and which is 162.9 per cent above the average. An informant from the state comments:

Alabama is predominantly Democratic, but there are a few counties in the State which usually vote Republican. As a matter of custom, the State is divided into Congressional districts in such a manner that these counties will not fall within the same district.

A glance at the map of congressional districts for the state shows that it probably qualifies as an example of gerrymandering.

Arizona has 2 districts which vary 11.6 per cent above and below the state average. While the percentage of variation is within proposed limits, a more equitable apportionment could easily be made with the addition of a county to district number one.

Arkansas was one of the states where representation was reduced and it was therefore under pressure to redistrict. Prior to 1950, the last redistricting was carried out in 1901, notwithstanding a considerable degree of disparity in district populations shown by the 1940 census. Although the present apportionment is more equitable than the previous one, 2 contiguous districts vary more than the 15 per cent recommended variation from the state average. The Arkansas redistricting is interesting for another reason in that the statement is made that in considering alternate methods of districting, "historical relationship of the counties as well as economic interests of the people have been considered in arriving at these plans."<sup>30</sup> This seems to indicate a philosophy of representation which would have the territorial

<sup>30</sup> PLANS FOR SIX CONGRESSIONAL DISTRICTS FOR ARKANSAS (REPORT OF THE ARKANSAS LEGISLATIVE COUNCIL RESEARCH DEPARTMENT, HERRN NORTHCUTT, DIRECTOR) 10 (December, 1950).

unit include specific elements rather than cut across traditional associations and area interests.

California will increase its representation by 7 seats in the House of Representatives of the next Congress. The state has redistricted in accordance with this increase. Four districts of the new apportionment will vary more than 15 per cent from the state average. These are the ninth, fourteenth, twenty-seventh, and twenty-ninth districts. The variations of these districts are respectively 33 per cent below, 20 per cent above, 20 per cent below, and 34 per cent below. This is not an excessive disparity in district populations, but is perhaps larger than necessary. The map of California's congressional districts gives the impression that compactness was not a primary consideration in their formation. It is probable that geographical factors have played an important part in the creation of California's congressional districts. The question is raised whether any one standard for district formation should take precedence over others. While it seems that a case might be made for geographical area representation within a state, it also appears that it would take an extensive research project to determine whether geographical or political factors might be responsible for a particular district arrangement. California's last previous redistricting was in 1941.

Colorado will probably have no reapportionment as a result of the findings of the 1950 census in spite of the fact that 3 of its 4 districts vary more than 15 per cent from the state average. The last previous redistricting occurred in 1921. The questionnaire which was sent to the state by the writer was returned with the statement that "no change in number of congressmen has been made by Congress for Colorado, so no reapportionment likely." There is here a suggestion of what was found to be a rather general attitude that in the absence of specific requirements by Congress, the states will probably do little toward bringing about an equitable apportionment.

Connecticut continues to be entitled to 6 representatives as it has since the date of its last congressional reapportionment in 1931. One representative has, since that time, been elected from the state at large. This is, of course, in contradiction to the philosophy of the district system. Of the state's 5 districts, 3 vary more than 15 per cent from the state average and of these, 2 are more than 50 per cent greater than the state average. An appropriate statement as to the reapportionment situation in Connecticut was made by Robert D. Byrne in the *Hartford Courant* of November 20, 1950. He stated:<sup>31</sup>

Various proposals have been made in the past for dividing Connecticut into six districts, but inasmuch as any redistricting would change political balances, all schemes have met partisan objections.

The fact that the 2 most populous districts include Hartford and Bridgeport, suggests that this is an example of urban under-representation.

Delaware does not have an apportionment problem since it is entitled to only

<sup>31</sup> *Hartford Courant*, Nov. 20, 1950.

1 representative. The entire state is 8.6 per cent less than the national average for a district; however, since each state is entitled to 1 representative, Delaware should probably not be compared to those states which can easily arrange an equitable apportionment by simply adding or subtracting counties to adjust the uneven districts.

Florida gains 2 representatives in the 1951 apportionment. According to the questionnaire returned from this state, a new apportionment was passed this year; however, no details were made available as to its nature. A large increase in population has taken place and presumably the added seats will remedy a situation in which there were wide variations from the state average. The writer's question as to whether Florida's districting was accomplished so as to consider any local customs or traditional arrangements, was answered affirmatively, so it would not be unexpected if the traditional standards for district equal numbers, compactness, and contiguity were not adhered to closely.

In Georgia, some interest has been shown in redistricting even though the state is not required to do so by either federal or state law. A bill was introduced in the state legislature by Mr. Luther Alverson of Atlanta to redistrict. Under the present apportionment, 4 of the state's 10 districts vary more than 15 per cent from the state average. One of these, the fifth, which includes Atlanta, is about 78 per cent larger than the state average. Even under Mr. Alverson's bill, this district would be 35 per cent larger than the state average. Here again, the reluctance to divide a county into less than two complete districts is probably largely responsible. Mr. Alverson's bill was not reported out from the Legislative and Reapportionment Committee when the legislature recessed in 1950. As a result, probably nothing further will be done until the adjourned session meets in January 1952.

In Idaho, there will be no change in the state's number of congressional representatives. One district is 17.1 per cent above and the other 17.1 per cent below the state average. There is no apparent reason why the districts could not be equalized, particularly since it would be very easy to accomplish.

As a result of population changes revealed in the 1950 census, Illinois has redistricted. It was required to do this if it did not wish to elect that state's entire congressional delegation at large. In the new apportionment, 3 districts vary more than 15 per cent from the state average and 2 others closely approach 15 per cent. Aside from the fourteenth, fourth, and twentieth districts, which vary 33 per cent, 26 per cent, and 19 per cent from the state average, Illinois appears to have numerically equal districts. The most unusual feature of the new apportionment is the twenty-first district, which in spite of the fact that it is 99 per cent of the state average, appears to be an excellent example of "gerrymandering" since there is virtually no compactness in the district and it meets only the minimum standards of contiguity. The questionnaire sent by the writer to possible sources of information in the states attempted to determine some of the factors which influence redistricting. For Illinois, it was returned with the comment that in redistricting there, "usually

an attempt is made to try to satisfy as many of the incumbent congressmen as possible."

In Indiana, there is no change in representation as a result of the 1950 census and it will probably not have a reapportionment in the near future. The last congressional apportionment occurred in 1941. Five of the districts in the state vary more than 15 per cent from the state average. The largest district is a one county district. Indiana provides another example of the situation where an inequitable apportionment could easily be remedied by adding and subtracting counties from contiguous districts. The inequality is, however, nothing new since the census of 1940 indicates that an inequitable apportionment must have been deliberate.

Iowa last redistricted in 1941. Three of Iowa's 8 districts depart more than 15 per cent from the state average. The second district is 26 per cent above the average and the fourth and seventh districts are respectively 23 per cent and 19 per cent below the average. Like Indiana, Iowa probably will not reapportion, although it would be relatively easy to do so. Another similarity is that in both states the disparity between the largest and smallest districts has increased since the last apportionment.

Kansas last redistricted in 1941 when the number of districts in the state was reduced from 7 to 6. Three of the state's 6 districts vary more than 15 per cent from the average. The fourth district is 40 per cent larger, and the third and sixth are respectively 28 per cent and 24 per cent below the state average. There is no apparent reason why a more equitable apportionment would be difficult. The disparity has increased since the last apportionment since the most populous districts gained population and the least populous districts declined in population. There is some possibility that the districts containing the urban areas were extended in order to include rural areas and thereby counterbalance any tendencies to concentrate urban influence. To assert that this is more than a possibility would require further study.

Kentucky is one of the states in which the legislative session is held in the even numbered years. As a result of this fact and because Kentucky loses a representative as a result of the 1950 census, there will probably be a redistricting in 1952. Jefferson county, which includes Louisville, makes up the third district with a population of 482,285. If continued as one district, this will be 30 per cent above the state average for 8 districts. If this is done, it will be indicative of some of the considerations which go into redistricting. The writer's questionnaire, returned from Kentucky, states that "Republican strength in the mountains traditionally has been concentrated in the Ninth District." Although this district is only 9 per cent above the state average for 8 districts, what is done with this district in a new apportionment may also reveal something of the factors which concern the legislature in redistricting.

Louisiana neither gains nor loses as a result of the apportionment based on the

1950 census. It has had 8 representatives in Congress since 1912. Although 3 of these 8 vary more than 15 per cent, the variation in 3 others is very close to 5 per cent. The writer's questionnaire returned from the state indicates that a new apportionment is probable. The state legislature convenes in May of the even numbered years and there is some doubt that redistricting can occur before the 1952 congressional elections. This state will probably provide an interesting example of the likelihood of redistricting in the absence of any specific congressional requirement.

Maine has had 3 representatives since the apportionment based on the fifteenth census and will continue to have this number in the Eighty-third Congress. The districts are apparently equitably apportioned, since none varies more than 7.4 per cent from the state average, and are reasonably compact and contiguous.

Maryland is one of the states where representation is to be increased in the Eighty-third Congress and it has therefore redistricted. The last prior redistricting occurred in 1902. The city of Baltimore is now divided into 3 districts with a small part of it in a fourth. Since population figures for city divisions have been difficult to obtain, it is estimated that the departure from the average of these three districts, as a whole, is not greater than the 5 per cent. If no redistricting had occurred, and new members were elected at large, there would have been a high variation. In reply to a questionnaire, the statement was made that "there would probably have been no change in the Congressional boundaries if Maryland had not been awarded an additional district." Even with the redistricting, the first district is 37 per cent below the state average and the sixth is 25 per cent above. There is an example in Maryland of a geographical factor entering into the formation of district boundaries. The eastern shore counties, which are separated from the rest of the state by Chesapeake Bay, form a small district. Since this results in over-representation for a particular area, it raises the question of what particular bearing geographical considerations should play in a territorial system of representation.

Massachusetts neither gains nor loses representation as a result of the seventeenth census. The last redistricting occurred in 1941 and is especially interesting for the difference of opinion between the Republicans and Democrats as to its fairness. In an analysis of numerical equity, only 2 districts show departure from the average of more than 15 per cent, and both are approximately 16 per cent. The districting was, however, attacked strongly by the Democrats when it went into effect; they called it "the most atrocious gerrymander in the history of Massachusetts."<sup>32</sup> This is the districting plan now in effect. An evaluation of the Democratic charges would require a closer analysis than is intended in this report. Two bills were introduced in the 1951 session of the General Court relative to apportionment. Of these, one proposes, "establishment of a joint special committee to recommend a new division of the Commonwealth into congressional districts." This bill was not reported out of a committee as of September 14, 1951. The other bill,

<sup>32</sup> REPORT OF THE JOINT SPECIAL COMMITTEE ON CONGRESSIONAL DISTRICTS OF THE COMMONWEALTH OF MASSACHUSETTS (SEN. NO. 740) 25 (July 10, 1941).

"to provide for the apportionment of congressional districts of the Commonwealth by special commissioners appointed by the Governor," was rejected. There will probably be no new apportionment for the Eighty-third Congress.

Michigan reapportioned congressional districts in 1951 due to an increase of one in the state's allotment of representatives in Congress. Only one important change was made in districting. This was the withdrawal of Oakland County, which includes the cities of Pontiac and Royal Oak, from the seventeenth district and setting it up as a separate district. Half of Michigan's districts vary more than 15 per cent from the state average. Ranked from greatest departure from the average, these are: the twelfth, an upper peninsular district; the sixteenth, a Detroit district (possible inaccuracy); the eleventh, another upper peninsula district; the sixth, which includes the cities of Flint and Lansing; the fourteenth, a Detroit district; the tenth, a rural district; the ninth, a rural district except for Muskegon; the seventh, which is also rural except for Port Huron; and the fourth, also primarily a rural district. The variations are respectively 49 per cent, 42 per cent, 36 per cent, 34 per cent, 33 per cent, 28 per cent, 22 per cent, 18 per cent, and 17 per cent. These figures indicate that Michigan was little concerned with the equity of its apportionment and accomplished little more than the avoidance of electing one representative at large. It appears that Michigan exemplifies the condition in which urban areas are under-represented and rural districts are over-represented.

Minnesota last redistricted in 1933 when the number of representatives was decreased from 10 to 9. The present apportionment is shown by the 1950 census to result in leaving only 2 districts having a variation in population of more than 15 per cent from the state average. The third district is 30 per cent above and the ninth is 17 per cent below the average. There will probably be no change for the Eighty-third Congress.

Mississippi loses a representative as the result of the apportionment based on the 1950 census. Nothing has been done as yet, since the legislature meets in even numbered years and will convene in January of 1952. The last apportionment was in 1932 and was unequal according to the 1930 census. A member of the Mississippi legislature, J. Alton Phillips, stated in the *Clarion Ledger* of September 12, 1951, that "in 1932 we voted to consolidate the old Eighth district with the Seventh. We had quite a scrap and I look for another sharp fight coming up." Although it is perhaps unfair to the state, the percentage variation is figured on the new average since if any districts remain unchanged, this percentage variation will apply. The state is perhaps unique in that all of its districts, on the average before reapportionment, vary more than 15 per cent from the state average. All districts, except the third and sixth, will vary more than 15 per cent from the new state average unless revised in the redistricting. It is very doubtful if the state will wish to elect all its congressmen from the state at large, so there will probably be a reapportionment. Yet two of the writer's correspondents from Mississippi indicate that they "have not

been notified by the Congress of the United States of the necessity to reapportion the Representatives in Congress," and this would indicate that electing all their representatives at large is not impossible.

Missouri is one of the 4 states to lose more than 1 representative to Congress under the new apportionment. As the Missouri constitution of 1945 calls for a new apportionment after the 1950 census and since it is also required by federal law to avoid election of all congressmen at large, there undoubtedly will be a new apportionment. The last apportionment was in 1933, and on the basis of the 1930 census 5 districts varied more than 15 per cent from the average. Five also varied more than 15 per cent after the 1940 census, and 4 under the present apportionment. With the new average after losing 2 representatives, all of the present districts, except 2, will vary more than the 15 per cent from the average unless changed, and probably this will happen in most districts. Since there are so many districts which need revision, what Missouri does will give an indication of whether or not a state will redistrict fairly in the absence of federal requirements.

Montana, with 2 districts, has a relatively simple apportionment problem. The variation of one district is inevitably the same as the other. Both, at present, vary about 15 per cent. The state appears to be divided by the Rocky Mountains, which brings a geographical factor into the matter of apportionment. The last redistricting was in 1917 and another will probably not occur this year.

Nebraska's 4 districts are within the suggested 15 per cent limitation on reasonable variation above and below the state average. The last redistricting occurred in 1941 when the state was reduced from 5 to the present 4 districts. There will probably be no new apportionment.

Nevada has no apportionment problem since its population is considerably smaller than the nation's average for a congressional district. Its representation is based on the fact that each state is entitled to at least 1 representative.

New Hampshire, with only 2 districts, has very little of an apportionment problem. The last apportionment was in 1881 and there has been no great inequality in the population of the districts, at least since 1930. There was no redistricting law passed by the 1951 legislature and it is doubtful if there will be any reapportionment soon.

Of New Jersey's 14 districts, half vary more than 15 per cent from the state average. This condition has arisen in the period from 1940 to 1950. The last apportionment was in 1931; however, inequities in more than 2 or 3 districts did not appear until after the 1950 census. It is doubtful that a new apportionment will occur soon. The state legislature meets annually and could redistrict before the 1952 congressional elections, but this is considered unlikely, since the state neither gains nor loses representatives and to redistrict under such conditions is unusual.

New York loses 2 representatives because of the population changes revealed by the 1950 census. In a special session of the New York legislature in November 1951,

which lasted about twelve hours, a reapportionment bill was passed which has since caused a considerable amount of comment, especially on the manner in which the Brooklyn districts were realigned. The vote in both houses of the legislature was strictly along party lines and since the Republicans are in the majority in the legislature it favors them and is criticized by the Democrats as unfair.

The best information available at this time indicates that Brooklyn and Manhattan, both of which usually elect a large number of the state's Democratic congressmen, each lose one representative. Another change resulting from the redistricting eliminates one district near the Pennsylvania border and adds one new district on Long Island. Both of these districts could be expected to be Republican and consequently this change would not affect the number of assured Republican representatives.

The reapportionment was accomplished by means of passing a bill proposed by the Joint Legislative Committee on Reapportionment and an amendment to it known as the "Crews proposal" in which the Brooklyn districts were realigned still further. The procedure was adopted so that if the Crews amendment is voided by the courts the committee proposals will remain in force.

Democrats are expected to challenge the reapportionment on several grounds. Their argument, according to the *New York Times*, will be that the new district lines are "unreasonable, arbitrary and capricious" and that "discrepancies between the populations of the Brooklyn districts are such as to deprive voters in some districts of equal representation and equal protection of the laws."<sup>33</sup> Another argument in challenging the apportionment "is expected to be based on the claim that the special session acted with illegal haste in enacting the plan."<sup>34</sup>

The reapportionment is expected to give the Republicans (who now have 22 seats) a minimum of 22 congressmen, with an advantage in 5 other districts because of the way in which the district lines were drawn. The fifth of these is the twelfth district which was set up by the Crews amendment with the intention of creating a district in Brooklyn which would be likely to elect a Republican congressman. The resulting district has been called a gerrymander, winding through the borough and "taking in higher income and Republican areas and avoiding public housing projects,"<sup>35</sup> and is compared to the original Massachusetts district which gave rise to this term for a district of unusual configuration. In a comment on the Crews amendment, which also alters the lines of other Brooklyn districts, an editorial in the *New York Times* stated:<sup>36</sup>

Both in what it did and the way it did it the Republican-dominated Legislature of the State of New York descended to a low political level Thursday morning when it passed the second of two bills revising the state's Congressional districts. The law is a blatant

<sup>33</sup> *N. Y. Times*, Dec. 7, 1951, p. 19, col. 1.

<sup>35</sup> *Id.* Dec. 9, 1951, §4, p. 2, cols. 6-7.

<sup>34</sup> *Ibid.*

<sup>36</sup> *Id.* Dec. 8, 1951, p. 10, col. 3.

gerrymander, designed for one purpose and one purpose only: to squeeze an additional Republican representative out of the City of New York in outrageous disregard of the proper standards for Congressional districting.

The original redistricting bill—necessitated by the loss of two seats in New York's Congressional representation—was by no means perfect. The Republican organization would have benefited from the new boundary lines, which had obviously been drawn with an eye to partisan advantage. But, as we said at the time, partisanship was at least kept within reason.

With respect to the rest of the state, a *New York Times* article states that "district populations would range from 297,131 in the Forty-third District in the extreme southwest corner of the state to 393,130 in the Twenty-seventh, which is just east of it."<sup>37</sup> This does not agree with the writer's information which indicates that the range is greater than this, but since maps and population figures for the new districts are not available, both are probably merely estimates and either could be in error. The average population of upstate districts is reported to be 330,000 and of New York City districts 358,000. These figures seem to support the frequently made statement that, in general, urban areas are under-represented and rural areas over-represented.

The New York reapportionment affords an excellent example of political partisanship in the creation of representative districts. It indicates also the ease with which standards for the formation of such districts are ignored. In the writer's opinion the New York apportionment will probably not be invalidated by the courts and will stand in its present form either until the Democrats control the state legislature or until the next decennial census.

New Mexico, in the next decade, will continue to have its present 2 members of the House of Representatives. It has had 2 members since the apportionment act based on the census of 1930 and since that time has elected its representatives at large. This is, of course, contrary to the theory of the district system and is quite possibly continued to maintain a one-party congressional delegation. There would be very little problem in creating 2 districts which would meet the population and other customary standards for the formation of legislative districts. The advantage of the district system over election at-large becomes apparent if the system in use here and in North Dakota can be imagined in operation in one of the larger states.

North Carolina will have no change in representation in the Eighty-third Congress. It was reapportioned in 1941 and had its number of representatives increased from 11 to 12. The present apportionment is numerically reasonable since only 4 of the state's districts vary more than 15 per cent from the state average. A look at the map of the state reveals several districts which are far from being compact. It appears that the state has been gerrymandered since it would be relatively easy to form districts which are as equitable numerically and a great deal more compact. From 1901-1929 compactness had been a common standard set up for the formation

<sup>37</sup> *Id.* Dec. 6, 1951, p. 26, col. 1.

of congressional districts, but is not now required by federal law. North Carolina is therefore under no pressure imposed from outside the state to alter this practice in district formation. The 1951 general assembly did not take any action toward reapportionment and it is considered unlikely that any will be taken before the next census.

North Dakota elects its 2 representatives to the House of Representatives of the United States from the state at large. This practice, inconsistent with the theory of a district system of representation, probably gives the dominant political party some advantage in the national legislature. The system is established by the state constitution which provides for the election of representatives from the state at large until other means are provided by law. Since no other means are provided by statute, the present system remains in effect. This means no apportionment problem is faced by the state and the only effect of the census is to determine the number of representatives for the whole state. No change is likely in the present system.

Ohio is one of the states which redistricted in 1951 in spite of the fact that it was under no direct compulsion to do so as a result of changed representation in Congress. Undoubtedly, the decision to redistrict was influenced by the fact that, prior to reapportionment, Ohio had the largest single district of any state in the United States. This was the situation in Ohio's old twenty-second district, including parts of Cleveland, Cuyahoga County, and Geauga and Lake counties. This is the first reapportionment since 1913 and represents a radical change in the formation of Ohio's congressional districts. Although the recognition of inequities revealed by the 1950 census must have been an important reason for the new reapportionment, it by no means eliminated all of those inequities. Thus one new district is 58 per cent, another 46 per cent, another 30 per cent, and another 25 per cent above the state average. Of the remaining 4 with large variations, one is 26 per cent, two are 27 per cent, and another is 18 per cent below the state average. Thus it is apparent that the creation of districts equal in population was not the sole reason for the new apportionment.

Oklahoma's representation in the national House of Representatives will be reduced by 2 members in the Eighty-third Congress. It has, therefore, redistricted the state in accordance with this change. In doing so, it has reduced the former 8 districts to 6 in such a way that 4 of the 6 vary more than 15 per cent from the state average. In the new redistricting, the first district meets only the barest minimum of the standard of contiguity. In both the old apportionment, which occurred in 1941, and the new, the first and fifth districts, which include the cities of Tulsa and Oklahoma City, are considerably above the average for the state. There is no apparent reason why difficulty should have been encountered in conforming to the ordinary standards of equality, contiguity, and compactness, and the implication, therefore, is that other considerations must have been paramount in the redistricting plan.

Oregon neither gains nor loses representation as a result of the 1950 census. The districts, as they are now formed, vary considerably from the state average, with one, the second, which is east of the Cascade Mountains, 35 per cent below the state average. The first district is 14 per cent above and the third, which includes the city of Portland, is 24 per cent above the state average. A resolution was introduced in the 1951 legislative session, to study and recommend a new plan for districting the state, but was defeated. Although political factors probably enter into the wording of this resolution, it does give some idea of the situation that exists there. In referring to the 1950 population situation within the districts, it states:<sup>38</sup>

Whereas these population totals make it abundantly clear that the present Congressional apportionment, within the state of Oregon, violates the spirit of the United States Constitution, that districts set up for the national House of Representatives shall be substantially equal in population; and

Whereas some Oregon Congressional districts contain nearly twice the population of other districts within this state, relegating each voter inside the larger district to a subordinate position, where he has only half the voice in Congress of each resident of the smaller districts; and

Whereas this situation must be corrected to preserve democratic government in the state of Oregon; and

Whereas this is a problem which goes to the heart of economic, social and political problems in all the four Oregon's Congressional districts; . . .

Be it Resolved . . .

That a joint interim committee on Congressional reapportionment be created. . . .

That this interim committee shall be particularly instructed to report to the 1953 Legislative Assembly, a definite and specific plan for bringing Oregon's Congressional representation into harmony and balance with the present population of the state. . . .

The writer's questionnaire was returned with the statement that, "In discussing S. J. R. 6 in the legislature, it was remarked that it is difficult to redistrict because of the barrier of the Cascade Mountains and that Eastern Oregon and Western Oregon differed both economically and geographically." Such a statement reflects a different philosophy of the formation of representative districts than a purely territorial district system. The idea of districts representing economic interests and geographic interests, other than incidentally or as well as, population within a territorial unit, would introduce new factors into a system of a district representation.

Pennsylvania loses 3 representatives in the House of Representatives of the Eighty-third Congress. It will, therefore, be necessary for the state either to redistrict or elect all representatives at large. As of October 9, 1951, such redistricting had not taken place. The state legislature was, however, still in session and it was expected that an apportionment act would be passed before adjournment. The progress toward reapportionment is indicated in *The Harrisburg Letter of Purdon's Pennsylvania Legislative Service* which in May 1951 stated:<sup>39</sup>

<sup>38</sup> STATE OF OREGON, FORTY-SIXTH LEGISLATIVE ASSEMBLY, REGULAR SESSION (SENATE JOINT RESOLUTION No. 6), First Reading, Jan. 17, 1951 (defeated).

<sup>39</sup> *The Harrisburg Letter*, PURDON'S PENNSYLVANIA LEGISLATIVE SERVICE (May, 1951).

Congressional reapportionment, an absolute "must" to avoid the politically unthinkable situation of all of the state's thirty congressmen running "at large" has not yet received any visible attention.

And in August 1951:<sup>40</sup>

All of the "must" legislation, with the exception of congressional reapportionment, has either passed both houses or is well on the way.

All indications are, then, that redistricting will occur soon—perhaps by the time this article is printed. There are 16 of the 33 present districts which must be changed if they are to be within the recommended population limits.

Rhode Island's representation in the House of Representatives will not change on account of the 1950 census. The state has only 2 districts and these are both well within the recommended 15 per cent limit of variation.

South Carolina will retain its present 6 representatives in the Eighty-third Congress. Only 2 districts now vary more than 15 per cent from the state average; however, 2 others run 12 per cent above or below the average. South Carolina's last redistricting occurred in 1932. Although redistricting has been discussed, it will probably not take place at this time.

South Dakota will continue to have 2 representatives as it has had since its apportionment was reduced from 3 to 2 as a result of the fifteenth census. There is a great disparity in the population of these 2 districts as revealed by the seventeenth census, with the first district having about three times the population of the second. The first is about 51 per cent above and the second about 51 per cent below the average for the state. The writer's questionnaire was returned with the comment that "conditions west of the river and the various Indian reservations, there, make a fairly logical reason for the creation of the districts as they are." Opinions will probably vary as to the appropriateness of these reasons affecting representative districts, particularly in view of the wide difference in populations; however, this idea indicates, as in some other states, a theory at variance with that of making representative districts of equal population in compact and contiguous districts. The 1951 legislature considered redistricting, but did not do so. It seems that in view of the disparity, reapportionment would not be unlikely before the 1960 census; however, this is purely a guess and there is no reason that it must occur.

Tennessee loses 1 representative in Congress as a result of the 1950 census. When the probability of this became apparent the Tennessee State Planning Commission provided a quick map-and-population offering of three possible solutions. Some of the factors entering into the organization of the possible solutions were stated and it is believed they are of sufficient interest to be quoted as they undoubtedly are considerations which very probably enter into actual redistricting operations and are contributions to the theory of congressional reapportionment. The study states:<sup>41</sup>

<sup>40</sup> *Id.* at 1 (August, 1951).

<sup>41</sup> REDISTRICTING FOR CONGRESS, TENNESSEE STATE PLANNING COMMISSION, PUBLICATION No. 222 (December, 1950).

Americans have strong traditions which play an important role in the loyalties, behavior and general outlook of the individual.

In a major civil matter such as the congressional redistricting of the state, some of those traditions come to the fore. One of the traditions older than the nation itself, is the desire of individual Americans for reasonable representation in government. A second tradition relates to the sense of belonging-loyalties to groups and items of common interest with friends and fellow citizens of like circumstance, environment or region.

To reasonably satisfy both of these traditions, the redistricting of Tennessee most likely to be reasonably acceptable to the largest number of people probably will be something short of arithmetical perfection—the arbitrary division of the state into districts purely and precisely on the basis of population.

It was also stated that the following procedural items were observed:<sup>42</sup>

1. Split no county between two districts.
2. Avoid separation of residence of incumbent Representative from district which elected him, insofar as possible.
3. Respect the traditional cohesive quality of the First and Second district.
4. Divide the remainder of the state as equitably as possible according to population, and within limitations of the foregoing enumerated items.

These can be regarded as valid considerations for a redistricting or as an apology or rationalization of an inequitable apportionment, probably according to one's political affiliation in the state where they have figured. In one of the alternate solutions, it is presented as a disadvantage that by such a districting three incumbent congressmen were placed in one district. It is conceivable that injustice could be done to a district in eliminating a congressman who has achieved an influential position through seniority.

Whatever the reasons, the redistricting that did occur is not notable for the equality of the district populations. Five of the 9 districts vary more than 15 per cent from the state average, and in 4 of these, the variation exceeds 27 per cent. The redistricting as it occurred took away the 1 representative from the same general area that had received an additional representative in the 1941 apportionment. In answer to the writer's questions as to whether redistricting was accomplished so as to consider any local customs or traditional arrangements, the following answer was received:

Yes—traditionally, a county is not split, so Shelby County (Memphis) remains one district while having an excess of population. Similarly, Republican East Tennessee is divided into two Republican and one Democratic district—these districts having larger than average populations.

The remaining districts are considered safely Democratic. In view of the above observations, it probably can be said that the political make-up of the district was one of the important factors entering into the present districting plan.

<sup>42</sup> *Ibid.*

Texas will have an additional representative in the Eighty-third Congress. Although serious efforts were made to pass a new apportionment law at the regular session of the fifty-second legislature of Texas in 1951, the bill failed to become a law and, as a result, the new member will run at large. There is some possibility of a special legislative session early in 1952, but this is considered unlikely. The Texas apportionment is worthy of note, since 17 of the 21 districts vary more than 15 per cent from the state average, and the inequality will be further increased with the addition of a representative-at-large. Since Ohio's twenty-second district has been revised, Texas now has the 2 districts with the largest and second largest populations of any of the 435. These districts are 129 per cent and 75 per cent, respectively, above the state average. Texas is therefore one of the states with the greatest disparity in district populations and consequently one of the states most in need of a new apportionment.

Utah will retain its present 2 representatives in the Eighty-third Congress. It has had 2 representatives since the thirteenth census and last redistricted the state in 1931. Since there are only 2 districts both vary the same amount from the state average. The first district is 16.6 per cent below the state average and the second is 16.6 per cent above. There was little variation at the time of the last redistricting and even up to 1940; however, the second district has increased 36 per cent in population since that time as compared to the first's 12 per cent. This has created a situation which cannot be completely remedied except by the division of a county. It is not known how strong a consideration this may be in Utah.

Vermont has no apportionment problem since it will continue to have but 1 representative in the national House of Representatives. This has been the situation since the apportionment was reduced from 2 to 1 as a result of the census of 1930. The new preliminary population figure for the state is 375,833 which is somewhat in excess of that of the average district population of most states, but not large enough to be outside the limits of recommended size.

Virginia will increase its representation in Congress with the addition of 1 member in the national House of Representatives. In the apportionment, based on the 1950 census, it will have 10 representatives. The state constitution requires that a reapportionment be made every 10 years after 1932 and undoubtedly, therefore, it will redistrict as a result of its increased representation. The general assembly in 1950 appointed a commission to study redistricting. As the districts now stand, 2 are 50 per cent or more above the state average. These reflect gains of approximately 47 per cent and 59 per cent in population since 1940.

Washington, as a result of the 1950 census, will increase its representation from 6 to 7. The last previous apportionment was made in 1931 when the state representation was increased from 5 to 6. An attempt was made to redistrict the state into 7 districts and was passed by the Washington legislature, but vetoed by the governor. At an extraordinary session of the legislature, held after the

adjournment of the regular session of 1951, another proposed reapportionment was considered, but was not enacted. This would have met the major objections of the governor, with the exception of one district which would have remained as proposed in the vetoed version. In the governor's veto message, it was stated that in the proposed redistricting, one district would have been 18.6 per cent above and another 19.1 per cent below the average. In vetoing this redistricting measure the governor stated:<sup>48</sup>

In my opinion, the reapportionment made in this act is arbitrary, inequitable, confusing and unsound. It is further my opinion that any sound apportionment of the state into such districts, in order to be fair, should not vary more than fifteen per cent from the mean average and, if possible, should be less.

In answer to a question of the writer which was intended to discover any unique situations which would affect congressional apportionment, the statement was made that the Cascade Mountains are a factor in Washington's districting problems and that no consideration would be given to having a congressional district straddle the mountains. It is difficult for the writer to see why this factor should now be so important, although it is understandable how it might easily have been in the past. It appears that for the Eighty-third Congress, Washington will continue to have the same district arrangement as at present, although it may easily change in the future since the legislative council of the state legislature has created a subcommittee which plans to study the apportionment problem. With one congressman elected at large and with one district 54 per cent and another 35 per cent above the state average, it is apparent that a redistricting is needed.

West Virginia neither gains nor loses representation as a result of the census of 1950. There will probably be no immediate redistricting although some need for it is indicated. The sixth district is 33 per cent above the state average and the first is about 16 per cent below. Although the disparity in district populations is not great, the variations appear to be easily correctible. The map of the districts also indicates that the standard of compactness has not been given much weight in establishing the districts.

Wisconsin also does not change its congressional representation as a result of the 1950 census. The most obvious cases of districts which are outside the limits of the recommended 15 per cent variation, are the Milwaukee districts, which are 29 per cent and 23 per cent above the average, and the tenth district in the northern part of the state which is 27 per cent below. These figures reveal that redistricting would be desirable; however, a new congressional apportionment act is not probable this year. The last previous apportionment occurred in 1931.

Wyoming is another of the states where the population is such that the state is entitled to only 1 representative and consequently there is no apportionment problem.

<sup>48</sup> Letter of Governor Arthur B. Langlie to the Members of the House of Representatives, Olympia, Washington, March 19, 1951.

## V

## THE NATURE OF REPRESENTATION IN THE HOUSE OF REPRESENTATIVES

It is apparent from a survey of this kind that congressional representation is not on the same basis in all sections of the nation. It is not even on the same basis in all parts of any one state. There is sufficient variation in adjoining districts which could easily be equalized to suggest that the manipulation of political balances is the most important single consideration which goes into the formation of congressional districts. The more common standards of equal numbers, contiguity, and compactness are given some attention, but they are secondary to factors arising out of party competition and the perpetuation of legislative majorities.

This analysis has not been enough to determine what effect the lack of uniformity in districting has on legislation, but the location of many under-represented districts and also of over-represented districts intimates that there is an important effect on the nature of the legislation that is passed. Districting also has an effect on the make-up of the House of Representatives in enabling certain representatives to continue themselves in office. In any case it would require further investigation to determine whether one party or any particular segment of society benefits from the present diversity of districting policies.

While our representative system is supposedly based on principles of single-member territorial units formed as equitably as possible, there are enough local considerations which enter into districting so that the system reflects many factors which are at variance with this theory. The states are under little restraint in districting as they see fit so that there is plenty of opportunity for a variety of ideas to find expression.

There is probably little awareness on the part of the general public of a problem of representation and consequently the difficulties of correction should not be underestimated. However, if each citizen of the United States is to have a voice in government affairs equal to every other, it seems doubtful if it can be accomplished unless Congress sets standards for district formation.

TABLE I

State	Year Last Redistricted	No. of Districts*	No of Districts With Over 15% Variation	Max. % Departure Above Av.	No. Elected At Large	Max. % Departure Below Av.
Alabama.....	1931	9	3	62.9	..	26.3
Arizona.....	1947	2	0	11.6	..	11.6
Arkansas.....	1951	6	2	28.4	..	29.1
California†.....	1951	30	4	20.7	..	33.7
Colorado.....	1921	4	3	25.3	..	47.6
Connecticut.....	1931	5	3	61.3	1	17.7
Florida.....	1951	8	..	....	..	....
Georgia.....	1931	10	4	77.9	..	28.3
Idaho†.....	1911	2	2	17.1	..	17.1
Illinois†.....	1951	25	3	33.1	..	19.2
Indiana.....	1941	11	5	54.0	..	27.5
Iowa.....	1941	8	3	26.5	..	23.0
Kansas.....	1941	6	3	40.2	..	28.1
Kentucky**.....	1952	8	..	....	..	....
Louisiana.....	1912	8	3	24.5	..	25.4
Maryland†.....	1951	7	2	25.1	..	36.7
Maine†.....	1931	3	0	7.4	..	4.5
Massachusetts.....	1941	14	2	16.3	..	15.6
Michigan.....	1951	18	9	41.6	..	49.4
Minnesota.....	1933	9	2	30.3	..	17.5
Mississippi**.....	1952	6	..	....	..	....
Missouri**.....	1952	11	..	....	..	....
Montana.....	1917	2	2	15.0	..	15.0
Nebraska.....	1941	4	0	11.5	..	9.8
New Hampshire.....	1881	2	0	3.9	..	3.9
New Jersey.....	1931	14	7	33.8	..	22.7
New York.....	1951	43	..	....	..	....
North Carolina.....	1941	12	4	19.2	..	26.5
North Dakota.....	..	..	..	....	2	....
Ohio†.....	1951	23	8	58.2	..	26.9
Oklahoma.....	1951	6	4	18.5	..	28.0
Oregon.....	1941	4	2	24.0	..	34.9
Pennsylvania**.....	1951	30	..	....	..	....
Rhode Island†.....	1931	2	0	6.1	..	6.1
South Carolina.....	1932	6	2	18.2	..	24.2
South Dakota.....	1931	2	2	51.3	..	51.3
Tennessee.....	1951	9	5	31.7	..	32.1
Texas.....	1933	22	17	129.8	1	35.3
Utah.....	1931	2	2	16.6	..	16.6
Virginia**.....	1952	10	..	....	..	....
Washington.....	1931	6	2	54.1	1	3.4
West Virginia.....	1934	6	2	33.1	..	16.1
Wisconsin.....	1931	10	3	29.4	..	27.3

\*Does not include number "at large."

†Estimated columns 3, 4, and 6.

\*\*Probable date of redistricting.

‡Estimated year of redistricting.

States omitted: Delaware, Nevada, New Mexico, Vermont, and Wyoming.

All percentages based on the preliminary counts of the 1950 census.