

STATES ATTEMPTING TO COMPLY WITH REAPPORTIONMENT REQUIREMENTS

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There is probably no point which has more repeated emphasis in works on state legislatures than that of faulty representation. The failure of a majority of state legislatures to comply either in fact or in spirit with constitutional mandates requiring reapportionment is widely known. This section attempts to identify the minority of the states which reapportioned in recent times and to note, briefly, the factors and arrangements which have facilitated such action.

I. REAPPORTIONMENTS, 1931-1951

About half of the states were fully or partially reapportioned between 1931 and 1941.¹ Arizona, Arkansas, California, Colorado, Georgia, Maine, Maryland, Massachusetts, Montana, Nebraska, Nevada, New Hampshire, New Jersey, North Dakota, Ohio, Oregon, South Dakota, Utah, Virginia, West Virginia, Washington, and Wisconsin made complete reapportionments. Iowa, Oklahoma, and South Carolina made reapportionments in their houses and Vermont in her senate. Idaho, New Mexico, and Louisiana made some apportionment through constitutional changes.²

Apportionments on the basis of the 1940 census were made in both houses of California, Florida (1945 census), Kentucky, Maine, Massachusetts, Nevada, New York, North Carolina, South Dakota, and Virginia. One house was reapportioned in Arizona, Kansas, Michigan, Missouri, Montana, New Hampshire, New Jersey, and South Carolina; New Mexico reapportioned by constitutional amendment. New Mexico has an extraordinary history having been rather frequently reapportioned by constitutional amendment but never by the legislature. In 1949 a constitutional amendment³ was adopted whereby both houses of the legislature were reapportioned and at the same time the legislature is deprived of its former, but never used power, to reapportion. Apportionment can now be accomplished only through a constitutional amendment.

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¹ See Shull, *Reapportionment: A Chronic Problem*, 30 *NAT. MUNIC. REV.* 73, 77 (1941). On reapportionments from 1941 to 1948, see MARGARET GREENFIELD, *LEGISLATIVE REAPPORTIONMENT 39-41* (BUREAU OF PUBLIC ADMINISTRATION, UNIVERSITY OF CALIFORNIA, 1951).

² In Connecticut, Delaware, and Mississippi apportionment is essentially a matter of constitutional apportionment as is the case also of the South Carolina senate and the Vermont house.

³ N. M. CONST. AMEND. X. Under this amendment the urban areas gained 6 seats in the house but remained under-represented in terms of population. However, the senate was made less equitable in terms of giving representation to populous areas. See summary, *New Mexico Reapportions: Other Constitutional Changes*, 39 *NAT. MUNIC. REV.* 94-95 (1950).

California and Texas are the only two states completing substantial apportionments on the basis of the 1950 census. South Dakota and Ohio completed an apportionment in 1951 but the changes were not very material. Missouri likewise made some changes in 1951 but few were necessary because of the comprehensive changes made in 1945.

The lower houses of Arizona, Montana, and Nevada have been changed on the basis of the 1950 census. Seven counties in Utah are being redistricted as a result of shifts in population but no reallocation of seats among counties will be made. Interesting developments occurred in Wisconsin in 1951 after a failure to reapportion for two decades. The legislature prepared a reapportionment plan based upon the present constitutional requirements. An interim committee on reapportionment meanwhile suggested an amendment to the constitution which would change the basis of representation in either senate or house districts to an area basis. As finally passed the reapportionment Act contained a provision requiring an advisory referendum at the November 1952 election. Voters will choose between continuation of the existing population basis in the state senate or an area basis. If the present method is approved by the electorate the recently enacted reapportionment measure will take effect January 1, 1954. If area representation is favored by the voters, then the new reapportionment act will not be adopted. Instead, the legislature will proceed to take steps, constitutional or otherwise, to reapportion the state in accordance with the electorate's wishes. The plans of the legislature, however, were upset by a suit challenging the constitutionality of the act, especially the power of the legislature to delay reapportionment or to lay down conditions under which it would become effective.⁴

Several legislative committees are studying the reapportionment problems raised by the latest census and a few states other than the 9 just noted⁵ may adopt changes in their state legislative districts within the next year or two. To illustrate, the way is being paved for Colorado to take action by 1953. A proposed constitutional amendment and accompanying memoranda were sent to all legislators in the autumn of 1951. If approved by the legislature⁶ and by the voters in the November 1952 election, the 1953 legislature will be given a mandate to reassign the 65 house seats roughly on the basis of population. The usual contiguous territory requirement and the proviso against attaching one part of a county to another are included. Senate apportionment will be placed in the constitution, thus removing it from the province of the legislature. At this writing the prospects for success in Colorado are hardly predictable; prospects for action in the majority of states in 1952 and 1953 look little brighter than they did after the 1940 census.

Despite the fact that all but a half dozen states call for reapportionment every

⁴ As this is prepared, no decision has been rendered.

⁵ Arizona, California, Missouri, Montana, Nevada, Ohio, South Dakota, Utah, and Wisconsin as of November, 1951.

⁶ The measure has bi-partisan sponsors. Some details on the amendment will be found in the Denver Post, Oct. 30, 1951.

10 years or less, only 11 states, according to our record,⁷ can be said to have partially or fully complied with this time requirement since 1930. These states are Arizona, California, Maine, Massachusetts, Nevada, New Hampshire, New Mexico,⁸ New Jersey, South Carolina, South Dakota, and Virginia. The wide geographic distribution suggests that apportionment is not a sectional matter though perhaps the Midwest has the dubious distinction of having the largest number of failures to fulfill the requirement of periodic changes.

Failure to apportion, moreover, is not to be exclusively attributed to rural-urban conflict. Although Illinois, Minnesota, and Pennsylvania have not reapportioned in over 30 years, California, New York, and Massachusetts have done so within the past 10 years. Using the final figures of the 1950 United States census the first 10 states (ranked in order) having respectively the largest urban and rural populations are shown below. The asterisk denotes those states which have reapportioned one or both houses during the past 10 years. Actually, very few conclusions may be drawn from the reapportionment

<i>Per cent Urban</i>	<i>Per cent Rural</i>
New Jersey86.6*	North Dakota73.4
New York85.5*	Mississippi72.1
Massachusetts84.4*	Arkansas67.0
Rhode Island84.3	South Dakota66.8*
California80.7*	North Carolina66.3*
Connecticut77.6	West Virginia65.4
Illinois77.6	Vermont63.6
Michigan70.7*	South Carolina63.3*
Pennsylvania70.5	Kentucky63.2*
Ohio70.2*	Idaho57.1

records of the most urban and most rural states. It would appear that the most rural states have been slower to act despite the fact that rural areas, even on the basis of population, could claim dominance in the state legislature. At the same time the very existence of a large majority of rural inhabitants, it could be argued, obviates the need for reapportionment, barring sharp shifts of population between rural counties. Actually, the table shows a fair amount of apportionment activity in the large urban states. Urban states are seeing some changes even though the changes are not bringing about the amount of increased representation desired by the cities.

Kentucky would be added to those states regularly carrying out redistricting at ten-year intervals were it not for nullification of reapportionment measures by the

⁷ Complete records on the date and extent of apportionments in the states are not compiled in any one place. Several publications on the subject show both discrepancies and deficiencies. Data in this chapter were compiled from various articles but cross-checked by means of correspondence with numerous political scientists and public officials in over half of the states. The author acknowledges the great assistance and helpful data and interpretations provided by replies to his inquiries. It is possible, however, that my enumerations of apportionments from 1930 to 1951 may have overlooked one or two states.

⁸ As noted earlier, reapportionments were carried out by means of constitutional amendments.

courts. Beginning in 1900 the legislature after each United States census, except 1920, enacted a law drawing the boundaries of the 100 single-member districts as required by the Kentucky constitution.⁹ Only two of these became effective (in 1918 and 1942); the others based on the 1900 and 1930 censuses were set aside by the court of appeals because they established districts grossly unequal in population.¹⁰ These cases have established in Kentucky at least that any citizen may challenge a redistricting act as failing to comply with the requirements of the constitution, and the court will take cognizance of such failure. The *Stiglitz*¹¹ case is important for the court's assertion that "the right to be equally represented in the legislative bodies of the state is not only a political but a constitutional right." In this instance also the reapportionment law made changes in only one district and the court's decision leaves the impression that the legislature cannot change some districts and leave the remainder untouched. Concisely, the presumption appears to be that the legislature must establish, throughout the state, districts containing equal population.

II. REAPPORTIONMENT: CONSTITUTIONAL CRITERIA

Although there are many other constitutional provisions of importance,¹² we have started with the factor of time. The draftors of state constitutions felt it important, with few exceptions, to require legislatures to take action within every 5 to 10 years. Such a requirement was to cause public opinion in general and areas entitled to more representation in particular to re-examine the distribution of memberships in the state's major policy-determining body. Probably discrimination has resulted more often from the failure to redistrict the state at all or from complete inaction than from other constitutional provisions. Chicago, to mention but one city, would have a fair share of representatives if the legislature obeyed the time mandate calling for decennial redistricting. Placing a time requirement in the constitution seems sound policy but it must be bolstered by other realistic provisions. The record is replete with instances where redistricting is completed on time but such factors as contiguous territory and more particularly equal population are ignored or at least result in inequities. In a few states changes in membership are not really needed each tenth year. After studying the unequal aspects of representation in 1947, Doyell concluded that "an approximate equilibrium between population changes and representation has been kept in the state legislatures of Arizona, Colorado, Massachusetts,

⁹ KY. CONST. §33. In 1952 the general assembly will attempt to redistrict.

¹⁰ *Ragland v. Anderson*, 125 Ky. 141, 100 S.W. 865 (1907); *Stiglitz v. Schardien*, 239 Ky. 799, 40 S.W.2d 315 (1931). The 1918 and 1942 measures were not challenged in the courts. The *Ragland* decision criticized the reapportionment bill as highly discriminatory against Republican counties.

¹¹ 239 Ky. 799, 802, 40 S.W.2d 315, 317.

¹² For a full discussion of various constitutional requirements, see Lashley G. Harvey, *Reapportionment of State Legislatures—Legal Requirements*, in this issue, *supra*. See also Harvey, *Some Problems of Representation in State Legislatures*, 2 WESTERN POL. Q. 265 (1949); 8 THE BOOK OF THE STATES, 1950-1951 121-124; and REAPPORTIONMENT (ALABAMA LEGISLATIVE REFERENCE SERVICE, 1950).

Nebraska, New Hampshire, Utah, Washington and Wyoming."¹³ Only 3 of these 8 states have reapportioned within the past 10 years.

The California legislature has faithfully fulfilled the time requirement but has it obeyed its constitution by making assembly districts "as nearly equal in population as may be" when the largest district (1951 apportionment) contains 200,000 and the smallest has 62,000 inhabitants? The respective deviations from the ideal are +51.5 and -52.8. The deviation, however, is explained in part by contradictory requirements providing that a county may not be divided unless it contains enough population to form two or more districts and that no part of a county may be joined with any other to form a district.

The Michigan constitutional provisions¹⁴ illustrate another type of incompatibility and contradiction. In the house, the membership is fixed at 100, and there is also an equal population rule. But there is the further provision which gives every county with a "moiety" of ratio of population one representative. A moiety is supposed to equal a precise half of a ratio. However, in the reapportionments of 1925 and 1943 the moiety dipped to .48 of a ratio. With 83 counties in the state there are not enough seats to go around on anything like an equitable basis. The 1943 redistribution attempted to aid the urban centers, but Wayne county, containing Detroit, with its 38.3 per cent of the state population received but 27 per cent of the house seats.¹⁵ "With the number fixed at present at one hundred . . .," says Shull, "it would not make much difference what the state's distribution of population was at any given period; there would still be a difficult problem of apportionment. . . . To abide by moiety you must violate strictly equitable apportionment."¹⁶

The point may be made here and could be repeated on almost every subsequent page, that because of the contradictory character of the provisions it is not easy to judge whether a state has met its constitutional requirements. Area and population are woven together as bases for representation and for apportionment, thus making the job of reapportionment most difficult and giving opponents of almost any bill or plan suitable ammunition for attacking it. The job of apportionment is one of compromise, of working out enduring and enduring (at least for a decade) arrangements though perhaps less perfect than might be hoped. If the state constitution were to lay down a simple population formula without prohibitions on carving up parts of counties, or if it used a straight geographical basis the task would be less formidable.¹⁷

Stated another way, we have started with the factor of periodic changes because it is the easiest requirement to judge. One can ascertain if a state legislature or

¹³ Dovell, *Apportionment in State Legislatures: Its Practice in Florida*, 7 ECONOMIC LEAFLETS No. 37 (BUREAU OF ECONOMICS AND BUSINESS RESEARCH, COLLEGE OF BUSINESS ADMINISTRATION, UNIVERSITY OF FLORIDA, 1948).

¹⁴ MICH. CONST. Art. V, §§2-4.

¹⁵ Shull, *Michigan Secures House Reapportionment*, 32 NAT. MUNIC. REV. 256-257 (1943).

¹⁶ Shull, *Reapportionment: A Chronic Problem*, 30 NAT. MUNIC. REV. 73, 75-76 (1941).

¹⁷ Comprehensive consideration of the equities or values of area versus population formulas, of proportional representation or a model formula, is beyond the scope of this chapter. Many of these, moreover, are discussed elsewhere in this symposium.

apportioning agency has or has not acted on time. The degree to which it has lived up to the remaining obligations, principles, and formulas is, most of the time, a debatable point and it is also debatable as to whether the principles set up to guide apportioners in many states could be honored in view of their confusing, conflicting nature. Emphasis upon compelling action may seem to run the risk of compounding a felony. But even if it fails to bring great improvement, periodic apportionment appears to accomplish something because some concessions are usually made to under-represented areas.

For several generations many states took care of the "problem" (and on time, too) by increasing the size of their assemblies in order to take care of growing districts entitled to more representation. The constitution in Georgia adopted in 1945 raised the senate from 52 to 54 seats. New Mexico voters adopted a constitutional amendment in 1949 raising the size of its house from 49 to 55 and its senate from 24 to 31 seats. This was passed as a reapportionment measure. Two other western states, Montana and Nevada, are still solving matters this way. In 1951 Montana raised her house from 90 to 94 members and Nevada from 43 to 47. In neither state is the senate an issue for each county receives one seat. This method of taking care of increases in population has little to recommend it. Eventually, (unless these states are to emulate New Hampshire and Connecticut) a limitation will have to be placed on the size of the legislature. Between 1840 and 1913 Minnesota increased its legislature from 63 to 198 and thus avoided the troubles of redistricting. When, however, the size of the legislature was fixed the legislature simply ignored the requirement of periodic changes.¹⁸ It is to be hoped that under-represented areas will not be faced with the alternative of either a larger legislature or no changes in representation. Increasing the size of the assembly, however expedient, is one of the least desirable methods of "solving" apportionment for it results in sacrificing some legislative efficiency. New Hampshire is the only state reversing this trend in recent years but it can afford to in view of having the largest lower house in the United States.¹⁹

Attention may now be turned to some of the significant experiences in those states which have achieved some measure of reapportionment since 1940.²⁰

III. EXPERIENCES IN REAPPORTIONMENT

A. Arizona: Biennial Reapportionment

Students of apportionment have watched Arizona's lower house apportionment system with interest because it authorizes, where needed, redistricting every 2 years. It also entirely removes the legislature from the process and places control in the hands of the county supervisors. The constitution provides²¹ that each county is

¹⁸ Dorweiler, *Minnesota Farmers Rule Cities*, 35 NAT. MUNIC. REV. 115 (1946).

¹⁹ Its size was reduced from 443 to 399.

²⁰ Kentucky, Michigan, and New Mexico have been considered earlier and will not be covered again in detail in the following section.

²¹ ARIZ. CONST. Art. IV, §2. Senate districts are prescribed in the constitution, eliminating need for redistricting of the upper house.

entitled to one representative for each 2500 votes, or major fraction thereof, cast in the county for governor. Each county is automatically entitled to one representative and at least as many representatives as it would have been entitled to by applying the formula to the 1930 gubernatorial election. Therefore a floor is placed under each county's representation before calculations begin. In operation, the board of supervisors canvasses the voting figures after each gubernatorial election to determine if there is need for redistricting. If the board finds redistricting is necessary, it notifies the secretary of state, giving all pertinent information such as votes cast, basis for redistricting, intent to redistrict, and so on. This is mere formality as no authorization from the secretary to proceed is necessary. The board then draws the single member districts within the county. Any newly created legislative district remains vacant until the next gubernatorial election.

At first look, this plan has much to recommend it. Short of a system of proportional representation it is about as automatic and accurate as can be devised. Boards of supervisors have generally tended to redistrict on time for districting takes place only in one direction—increasing the number of districts. The Arizona supreme court has ruled that “. . . the number of representatives from a county may be increased but not decreased.”²² The statutes provide that reapportionment shall be done at the convenience of the supervisors,²³ but it is obvious that a board has every inducement to complete its job before the next gubernatorial election. Some will criticize the system for failing to reduce representation when merited because of an exodus of population or a failure to vote. Yet boards would probably be much slower to act were they expected to reduce their representation. This suggests that troubles would undoubtedly arise with the use of this plan in areas where there are sharp fluctuations in the vote and should there be an escalator clause where representation would run downward as well as upward. The plan as it stands shows the possibility of building up representation in years of a boom vote, resulting in an over-representation in succeeding years of a small vote.

In evaluating the system some are bound to question the concept of basing representation upon votes *cast* as contrasted with Massachusetts and Texas which use qualified voters or registration lists. While this plan should lend encouragement to get-out-the-vote campaigns would it not leave a great many registered and all non-registered voters without representation, at least in theory? In the war year 1942, for example, only 13,297 of the 27,902 registered voters in Pima county cast a ballot for governor. In 1950 in the same county, 36,950 of the 52,775 registered voters exercised their franchise, a difference equivalent to better than several legislative districts. As the vote has increased, so has the size of the lower house. Within the past few years it has grown in size from 58 to 72 members,²⁴ a large lawmaking

²² Board of Supervisors of Maricopa County v. Pratt, 47 Ariz. 536, 57 P.2d 1220 (1936).

²³ ARIZ. CODE ANN. ART. I, §724 (1939).

²⁴ The boards have not yet announced membership figures for 1952 but the vote cast for governor in 1950 appears to necessitate an increase of only one or two seats in the house. In 1950 an all time record of 195,225 votes were cast for governor.

body for a state of only three-fourths of a million inhabitants. By raising the votes cast above 2500, it is possible to hold down the size of the legislature.

Turning to the procedural side again, it has been difficult for the boards to keep all of the districts fairly equal in voting power and contiguous in area. The cities of the state are spread out a great deal and there are many areas of no population at all. In Pima county, where most of the redistricting has been done,²⁵ the board of supervisors has done fairly well in keeping each district close to the norm especially since the board is not obligated to make each district contain the 2500 ratio. Actually the board only need average the whole county out to 2500 votes per representative. District 1 had 1792 votes cast, district 9 had 3142; two other districts had respectively 2580 and 2427.²⁶ Further, there is no requirement that a new district must be created in the area of increased population.²⁷ In practice, a new district is created out of the old ones. For example, a county having 3 representatives and entitled to a fourth one would create 4 new districts. Some use has been made of public hearings by the supervisors, but there is little or nothing the public can do if it objects to the new districts. To date little objection on the part of urban or rural groups or political parties has been registered over the districting. The boards are elected on a partisan ticket and the public could hold them accountable for their reapportionment if it wished.

In conclusion Arizona appears to have developed a system quite well suited to the needs of increasing representation with the growth of increased participation in state elections. Since the inception of its plan only 2 or 3 counties, for all practical purposes, have been involved in redistricting. No comprehensive studies of these counties have been made, making experience upon which to make evaluations meager. If Arizona continues its rapid growth it will in time furnish a fertile area for the study of a significant approach to the problem of redistricting. The plan itself has features which might well prove successful elsewhere.

B. MISSOURI: INNOVATIONS

Missouri's new apportionment plan has elicited much interest because of its potential for comparatively speedy reapportionment every 10 years. The constitution provides in detail for the standards of reapportionment, the apportioning authority, and the steps and machinery in the process.²⁸ Provisions are included for both the house and the senate and the legislature itself is given no responsibility in the process. A bipartisan commission appointed by the governor draws the sena-

²⁵ In 1932 Pima county had 8 districts which were reduced to 7 in 1934 because the formula was raised from 1500 to 2500 votes cast for governor. The number of representatives remained at 7 until 1946 despite the fact that in 1940 (though not in 1942) the vote appears to have entitled Pima to one or two additional representatives. Effective in 1946 the number was raised to 9 and after the 1948 elections to 14. The fluctuating vote during the war and postwar years revealed alternative over- and under-representation.

²⁶ Official Canvass of Votes, Pima County Recorders Office, November, 1940.

²⁷ Typewritten memorandum on "Methods of Apportionment in the Arizona State Legislature," furnished to writer by H. E. Rudi of the University of Arizona.

²⁸ Mo. CONST. Art. III, §§2, 3, 5-10.

torial districts and the house seats are taken care of by action of the secretary of state and the county courts.

For the house, a ratio of representation is determined by dividing the "whole number of the inhabitants of the state" by 200. Each county having one ratio, or less, shall elect one representative; each county having two and a half times the ratio is given 2 representatives; four-ratio and six-ratio counties are respectively entitled to 3 and 4 representatives, and so on. Above six ratios, one representative is allowed for each two and one-half additional ratios.²⁹

In operation, the secretary of state after each decennial census certifies to the county courts of each county the number of representatives to which the county is entitled. For the secretary, this is a matter of applying mathematics and involves no formulation of policy. There is a presumption, as yet untested, that a writ of mandamus can be used to compel a secretary to act. The county court is charged with drawing the district lines and may do so on a partisan basis if so inclined. Few county courts, however, are involved. Of the 114 counties, 109 have but 1 representative. From a practical standpoint, therefore, only 5 counties and the city of St. Louis are likely to be involved.

In senate reapportionment considerably more weight is given to population than is the case with the house. The number of senate districts is fixed at 34, apportioned among the counties of the state. In this instance the population of the state is divided by 34 in order to establish a "quotient" for the senatorial district, and the population of a district may not vary more than 25 per cent from the quotient. An attempt is further made to discourage excessive gerrymandering by the limitation of newly drawn districts to contiguous and compact territory. This provision has not in itself prevented gerrymandering in other states and its importance is probably doubtful in Missouri.

The reapportionment of the districts together with the numbering of the districts is done by the 10-member bipartisan Senatorial Apportionment Commission.³⁰ The Commission is appointed by the governor from lists submitted by the party committees approximately two months after the official report of the United States decennial census. The governor can appoint a party's members if the State Central Committee fails to submit recommendations. The Commission has six months in which to file with the secretary of state, a full statement of the numbers of the districts and the counties included in the district. If the Commission fails to respond within the time limit, it is discharged and all senators at the following election are to be chosen at large. Should this occur, a new commission would be appointed after the election to "try again."

²⁹ This formula, of course, has the effect of neutralizing the growth of St. Louis in terms of representation in the house. Brannon notes that "St. Louis City, with a 1940 census population of 816,048, is entitled to 18 representatives under the formula. In contrast, there are 18 rural counties with a combined population of only 157,769 which also are entitled to 18 representatives." *Missouri's Apportionment Key*, 35 NAT. MUNIC. REV. 177, 178 (1946).

³⁰ In the city of St. Louis both the senate and house districts are drawn by the bipartisan Board of Election Commissioners.

These provisions first went into effect in 1945 so experience upon which evaluation may be made is highly limited. The first Commission filed its order in October, 1945, some six months after the adoption of the new constitution. In the main the new senate districts were convenient, of contiguous territory, and fairly equal in population considering that no county could be divided.³¹ The Commission stayed well within the permitted 25 per cent deviation from the quotient. Neither political party gained undue advantage in the redistricting and the St. Louis and Kansas City metropolitan areas increased their senatorial representation considerably. The Missouri plan has done more for these two centers in the senate than the house. The 1951 Commission was compelled to give an additional senator to St. Louis county at the expense of the rural districts. On the whole, the features of the Missouri plan are encouraging. The threat of electing the senate at large as well as other compulsions undoubtedly account for the major reasons for action in Missouri.

C. Ohio: Apportionment by Executive Officials

The Ohio system sets up formulas for both houses and designates the governor, auditor, and secretary of state, or any two of them, as the officials responsible for apportioning representation. The house of representatives is a relatively simple mathematical problem inasmuch as the 88 counties are each entitled to one representative, and a ratio is set up for determining additional representation.³² The ratio for a senator is obtained by dividing the state's population by 35 and senatorial districting is a matter of combining counties to approximate this ratio. If one county's population equals or exceeds the ratio, it constitutes a senatorial district and the number of senators is determined by the number of times its population is divisible by the ratio. The senate represents population much more equitably than the house. In both house and senate, the election is county-wide eliminating the necessity for drawing numerous district lines within the larger counties.

Reapportionment in Ohio, then, becomes reasonably automatic after each census and fairly easy given the framework and formula within which the apportionment officials are to work. Senatorial redistricting based on the 1941 census did not go into effect due in part to partisan considerations. The Democratic auditor and secretary of state tried to put the apportionment into effect without consulting the Republican governor and the latter was able to have the apportionment set aside in the courts. It seems fair to assume that the apportionment could have gone into operation had the governor been consulted even though he might have withheld his approval. Although not typical, the incident shows that certain procedures must be observed. Although the present secretary of state is a Republican and the other

³¹ See Brannon, *supra* note 29, and in the same volume, Bradshaw, *Redistricting Completed for Missouri Senate*, *id.* at 27-28. The fact that the Commission is bipartisan helps to minimize gerrymandering because one party serves as a check on the other.

³² See OHIO CONST. Art. XI, §§1-11 for provisions on reapportionment. The total population of the state is divided by 100, and each county having one-half a ratio gets one representative, $1\frac{1}{4}$ ratios entitle a county to two, and from there on an entire ratio for an additional representative. Any fraction remaining, multiplied by 5, entitles a county to additional representation in one or more sessions during the decade if the result equals one or more full ratios.

two officials Democrats, it is expected that the apportionment based on the 1950 census will go into effect without challenge in November, 1952.

D. Texas: Impelled to Action

The legislature of Texas, according to the state's constitution,³³ is supposed to redistrict the state every 10 years by creating (a) representative districts as nearly equal in population as possible, and (b) senatorial districts as nearly equal in the number of qualified voters as possible. After 1921 the legislature ignored this obligation until 1951. Action in the latter year was brought about because of the threat implied in a constitutional amendment adopted by the people in 1948. Ironically enough, the proposal was submitted by the legislature. The amendment provides that, should the legislature fail to pass a reapportionment bill for either or both houses in the first regular session following the decennial census, the Legislative Redistricting Board shall meet within 90 days after the adjournment of the legislature and reapportion either or both houses. The board is composed of the lieutenant governor, the speaker of the house, the attorney general, the comptroller, and land commissioner. Any three constitute a quorum, and any bill approved by three of the group when filed with the secretary of state has the force of law. The governor's signature is not required, the supreme court of Texas has the power to issue a writ of mandamus compelling action.³⁴ This provision spurred the legislature to action early in the 1951 session, and it passed bills redistricting both houses.

After a generation of inaction the task of redistricting was faced with many obstacles, not the least of which was the rural-urban controversy. Reapportionment in the senate was complicated by the constitutional provision that no county may have more than one senator. As was pointed out in one newspaper, the districting could hardly be fair and constitutional at the same time.³⁵ After stormy sessions and amid cries of "it stinks," "it is in utter disregard of the constitution," and "a complete swapout in Northeast Texas," the bill was enacted.³⁶

The apportionment, as was to be expected, left much to be desired, especially in the way of urban representation. In the 31 senate districts, where suffrage qualifications including payment of poll taxes served as the basis, the size varied from 36,000 to 82,000, but the great majority of districts contained between 40,000 and 50,000 eligible voters. If one considers the previous apportionment and the over all difficulties, the bills passed were acceptable and an improvement.

E. California: Geography and Politics

Since 1927, the legislature of California has reapportioned itself four times— in

³³ TEX. CONST. Art. III, §§25, 26, 25a.

³⁴ For an appraisal of this amendment and a comparison with the Arkansas, California, and Missouri boards, see McClain, *Compulsory Reapportionment*, 40 NAT. MUNIC. REV. 305-308, 324 (1951).

³⁵ On struggles over reapportionment, see R. H. McClain, Jr., in *Austin American*, Feb. 6, 7, 8, 9, 1951. For background on Texas, see Nokes, *Constitution and Legislature in Texas*, 21 STATE GOVERNMENT 149 (1948), and MacCorkle, *Texas Apportionment Problem*, 34 NAT. MUNIC. REV. 540 (1945).

³⁶ Actually the house and senate bills, labelled as "must," were separate measures. Both passed by large majorities.

1927, 1931, 1941, and 1951.³⁷ It is almost alone among the large states having sharp cross currents of interest which has been able during the past generation to fulfill the time requirements imposed by its constitution. This enviable record, however, is modified upon closer scrutiny. For one thing, the 1931 and 1941 changes were neither substantial nor too controversial; both were essentially minor adjustments in the assembly. For another, it is debatable how well the legislature has fulfilled the other requirements set forth in the constitution.³⁸ Nevertheless, California's experiences and experiments are of great interest and importance. As a result, a full chapter is devoted to the subject in this symposium.³⁹ Our treatment here is limited to the more important factors which have facilitated this periodic reapportionment.

Prior to 1927 the constitution provided for reapportionment by population, and the legislature had reached an impasse because of bitter rural-urban rivalry and the shift from north to south both of wealth and of population. North cities would lose representation to southern California under a strictly population arrangement. In 1926 a "federal plan," limiting each county to no more than one senator and basing representation on population, was placed on the ballot through the process of initiative. The plan was adopted with only Los Angeles voting against it. This new basis of representation aided reapportionment because rural groups no longer needed to be concerned about the legislature falling into the hands of "city bosses." Furthermore, the plan essentially removed the senate as a reapportionment issue. Subsequent senate changes have involved only the shift of a handful of counties from an old to a new district. This reduced the difficulties of new apportionments substantially and made the problem one of making adjustments in the lower house.

The constitutional requirements for house districting are similar to those found in a great many states, such as contiguous territory, no division of a county with another to form a district, and as nearly equal population as may be. If the last mentioned were faithfully adhered to, there might be more difficulty in effecting changes, but it is obvious that considerations other than population have entered into reapportionment of the assembly. If a liberal norm, such as a maximum deviation of 25 per cent,⁴⁰ is accepted, then 8 of the 80 districts are considerably out of line and as many more deviated from 18 to 25 per cent.⁴¹ Two districts varied by more than 50 per cent. However, in proposing the boundary lines, the Assembly Interim Committee on Elections and Reapportionment admitted that population alone was not and could not be the only consideration. Other factors given recognition were: geographic facts such as coastal, valley and mountain counties; socio-

³⁷ Illuminating accounts of these reapportionments will be found in the REPORT OF THE ASSEMBLY INTERIM COMMITTEE ON ELECTIONS AND APPORTIONMENT (Sacramento, June 21, 1951). See also MARGARET GREENFIELD, LEGISLATIVE REAPPORTIONMENT (BUREAU OF PUBLIC ADMINISTRATION, UNIVERSITY OF CALIFORNIA, 1951).

³⁸ CALIF. CONST. Art. IV, §6. The size of the legislature is fixed at 80 assemblymen and 40 senators.

³⁹ See *infra*, Hinderaker and Waters, *Reapportionment in California in 1951—A Case Study*.

⁴⁰ This is the maximum deviation permitted, for example, under the Missouri plan.

⁴¹ REPORT OF ASSEMBLY INTERIM COMMITTEE, *op. cit. supra* note 37, at 74.

economic factors such as "farm versus metropolitan communities, north versus south, desert versus non-desert agriculture, etc."⁴² The wishes and desires of the people in specific areas, of elected congressmen, state senators and assemblymen, and of the political parties were also acknowledged factors. Numerous public hearings were held to obtain information on and to evaluate these considerations. This approach undoubtedly gained support for the reapportionment bill and the committee could point to its recognition of the complicated problems involved.

Another factor facilitating the 1951 changes was the strong control by the Republican party of the executive and both houses of the legislature. The chairman of the interim committee was also Vice-Chairman of the Republican State Central Committee and from southern California. Hence there were no strong partisan considerations such as a politically divided legislature to veto the apportionment. In 1941 the Democrats controlled both houses, and this partisan control helped to accomplish reapportionment on time.

Perhaps a feature aiding the 1951 apportionment bill was that it was in a sense a "package" with congressional reapportionment. In order to have congressional reapportionment there must be an assembly bill because congressional districts are based on assembly districts. Conceivably the 7 newly allotted congressmen could have been chosen at large, but this would likely favor the populous southern part of the state. Hence this put on pressure for congressional reapportionment and in turn indirectly for assembly redistricting. Although the senate, assembly and congressional apportionments were passed in the form of three separate bills, they were considered about the same time.

Many more studies are needed of California and of the other states where congressional reapportionment is a problem to ascertain whether a "package deal" with state legislative apportionment is desirable strategy. In the state of Washington it was argued successfully in 1951, as far as the legislature was concerned, that to attempt changes in the state legislature simultaneously would be to assure defeat of the congressional bill. It is frequently argued that to try to do the two simultaneously is too "complicated" with the likelihood of defeat for both. Yet grouping the two together has not been too complicated in California, and persons seeking reapportionment in Florida, Michigan, Illinois, and Pennsylvania, for example, might study the possibilities of tying the two together. Obviously, tying the two together is more likely where congressional districts are composed of contiguous senatorial or assembly districts. It may be further pointed out that apportionment of the state and congressional districts simultaneously opens the room for bargaining, which might foster enough compromises to obtain the passage of both. To illustrate, one section might take a smaller percentage or a part less of an assemblyman in order to obtain a larger percentage or a part more of a congressman, and vice versa.

Finally, and of real importance in the California picture, is the constitutional provision which states that reapportionment must be undertaken by the legislature

⁴² *Id.* at 37 ff.

in the regular session after the decennial census figures are available or the Reapportionment Commission will do the job. The Commission is composed of the lieutenant governor as chairman, attorney general, state comptroller, secretary of state, and state superintendent of instruction. The specter of the Commission being activated to apportion has led the legislature to act with speed rather than to have its districts touched by elective executive officials.

F. South Dakota: Relatively Stable

The legislature of South Dakota is among the few in the nation enjoying the distinction of complying with its periodic reapportionment obligation. Its last two were only 4 years apart, 1947 and 1951 respectively. The constitution had provided a census in 1945 to be followed by apportionment, but in November, 1948 the voters approved an amendment shifting the time of apportionment so that it would be based on the federal census. As elsewhere, reapportionment provokes detailed and bitter debate in the legislature, but the problem has not been a very serious one compared with other states. There are several reasons for this. The population remains relatively stable, actually increasing by only 7000 persons between 1940 and 1950. Though there are many towns and cities in the eastern two-thirds of the state, there is no huge concentration of population in one or two cities and the state is, percentagewise, the fourth most rural in the nation. While there is some discrimination in the senate against the cities, the situation is not serious when contrasted with many other midwestern states.

In the next place, the constitution imposes practically no standards for composing the legislature other than to fix a maximum size of 35 in the senate and 75 in the house.⁴³ Both houses have been increased to the maximum size allowed. The legislature, however, has recognized population as a standard for the lower house, and the distribution of legislators follows the distribution of the population quite well. Inasmuch as there are 68 counties and the senate is limited to 35, the practice of giving each county one senator is impossible and avoids the inequities found in most other states using a one-county, one-senator plan. When the legislature proposed⁴⁴ limiting any county to two senators, a sizable vote turned out to defeat it.⁴⁵

South Dakota has commanded interest mostly for its constitutional provision, similar in intent to California, charging the governor, superintendent of public instruction, presiding judge of the supreme court, attorney general, and secretary of state with the task of reapportioning within 30 days after the adjournment of the legislature should it fail to make an apportionment. This appears, as in California and Texas, to have a highly activating effect on the legislature, which seems to regard as an anathema the prospect of an ex-officio executive group performing the function. The last two acts (1947 and 1951) did not change the existing apportionment materially, but by passing them the legislature avoided being charged as dere-

⁴³ S. D. CONST. Art. III, §§2, 5.

⁴⁴ S. D. LAWS 1949, c. 237.

⁴⁵ The law was rejected 106,203 to 92,512 in the November 1950 election.

lict in its duty. This raises the interesting question as to whether, if widely adopted, this plan would cause legislatures to pass a reapportionment statute with little or no change for the express purpose of heading off a more equitable performance by a commission.

G. New York: Republicanism and Suburbia

New York was not reapportioned between 1917 and 1943; under the constitution another reapportionment must be made before 1956.⁴⁶ New York's experience provides a case study in the rural-urban struggle reflected through political party cleavages and efforts to minimize the influence of worldly and cosmopolitan New York City. Population is nominally the basis of apportionment in each house, but New York City's claims are modified by the constitutional exclusion of aliens⁴⁷ from the enumeration of inhabitants, and each county is given a minimum of one representative; both provisions favor the rural upstate areas.

Several attempts were made by Democratic Governors Roosevelt and Lehman to reapportion the state legislature between 1929 and 1942. All of these efforts failed chiefly because one or both houses remained Republican. During a brief period under Governor Lehman when both houses were Democratic, reapportionment efforts failed, however, because of the failure of Tammany Hall to go along. Tammany leaders recognized that New York county would stand to lose seats to other counties in New York City. When Thomas E. Dewey became governor in 1943, prompt action followed, thanks in part to party discipline of the huge Republican majorities and the ability to quell discontent among upstate Republicans. Actually the Republicans were not cutting their own throats, for they were increasing the number of seats from suburban areas which were inclining toward the party.⁴⁸ Warren Moscow, *The New York Times*' correspondent, notes that in the 1944 reapportionment ". . . the individual district lines were drawn in or around the counties to favor the Republicans. . . . So it appears that now and for many years to come the Senate and the Assembly will be safely tucked away in the Republican election basket no matter how the vote goes for other offices. This will be true until acquisition of half-acre estates ceases to make suburbanites conservative and until the farmers and villagers forsake the Republican Party they have supported since the Civil War."⁴⁹

The position of Tammany legislators is illustrative of the politics of reapportionment in several states today where politicians of the city proper team up with rural

⁴⁶ N. Y. CONST. Art. III, §§3-5. Under the New York provisions the legislature creates the senate districts, with the county supervisors and New York City Council drawing the assembly districts which lie within the senate districts.

⁴⁷ Maine, Nebraska, and North Carolina also have this provision, but the alien populations are not so important. California aims at some Asiatic peoples by excluding from the count aliens ineligible for naturalization.

⁴⁸ In the first selection (1944) held under the new division the Democrats elected only 21 of the 56 senators and 55 of the 150 assemblymen. Statutes governing the 1943 apportionment are found in N. Y. Laws 1943, c. 359; N. Y. Laws 1944, cc. 559, 725, 733.

⁴⁹ POLITICS IN THE EMPIRE STATE 167, 168 (1945).

county legislators to oppose redistricting along population lines because both are likely to lose some seats to the growing metropolitan areas. Careful studies of suburban sections probably would show in many places that the old city or city proper areas retain a better ratio of representation per population than the metropolitan areas. The change between what used to be the city proper (Manhattan) and the fast-growing borough of Queens (now a part of New York City) brings this fact into bold relief. Manhattan, with 1,890,000 inhabitants in 1940, received in the 1943 law 6 senators and 16 assemblymen, while Queens, with a population of 1,300,000, received 4 and 12 respectively. According to the 1950 census Manhattan's population increased only 70,000 during the last decade while Queens' rose over 250,000. Queens will demand increased representation in the next apportionment, as will its neighbor to the east, Nassau,⁵⁰ and upstate legislators are likely to suggest that this be partly at the expense of Manhattan.

In summary, the 1943 reapportionment was a victory for party discipline in the Dewey administration and Republican control of the state legislature. At the same time the constitutional requirements per se were fairly well met. These provisions are set forth in detail in the constitution and reflect the expedients and cross currents of the politics of the state. Similar to other states, the legislature was able to carry out its constitutional obligations without at the same time providing equitable representation for all of the population. Notwithstanding the perpetuation of many inequities the apportionment bill was one of the most thorough-going in the United States during the past decade. New York City increased its representation from 62 to 67 assembly seats and from 22½ to 25 senators. Based upon the population used in the apportionment, the City held 44.6 per cent of the membership, while possessing 53.4 per cent of the population. Redistricting in the senate was facilitated by increasing its size from 46 to 51. This caused the act to be challenged in the courts as exceeding the constitutional limit. After the lower court declared the act invalid, the court of appeals came to the rescue by reversing the lower court decision and upholding the apportionment.⁵¹ A new reapportionment is on the horizon, and the battle over it promises to be a strenuous one.^{51a}

Passing mention may be made of the urban areas across the Hudson River which fare less well than those in the Empire State. New Jersey has reapportioned twice since 1930 for the reason that it has a relatively simple constitutional formula. Each of the 21 counties is allotted one senator despite differences in status and character. In the house the membership is fixed at 60 and each county is given one representative; the remainder are allocated on the basis of population. Emmett Asseff notes that 8 New Jersey counties containing four fifths of the state's population have 8 senators, whereas the remaining 13 counties with one fifth of the popu-

⁵⁰ Nassau County's population increased from 406,000 to 672,000.

⁵¹ *In re Fay*, 52 N. E.2d 97, 291 N. Y. 198 (1943).

^{51a} See N. Y. Times, Dec. 16, 1951, §1, p. 1, col. 4, and p. 32, cols. 1-2.

lation have 13 senators.⁵² Proponents of a more equitable apportionment hoped to make this a top priority matter in the constitutional convention which drafted a revised constitution. However, the convention was prohibited by law from considering the subject of representation.

H. Florida: Executive Influence

The apportionment article in the Florida constitution provides among other things that "In the event the Legislature shall fail to reapportion the representation in the Legislature as required by this amendment, the Governor shall (within thirty days after the adjournment of the regular session), call the Legislature together in extraordinary session to consider the question of reapportionment and such extraordinary session of the Legislature is hereby mandatorily required to reapportion the representation as required by this amendment before its adjournment (and such extraordinary session so called for reapportionment shall not be limited to expire at the end of twenty days or at all, until reapportionment is effected, and shall consider no business other than such reapportionment)."⁵³ In 1945 the governor convened a special session for this purpose and the legislature enacted a new apportionment law. This provision in Florida is interesting to the extent that it contains about the strongest constitutional order to the legislature to apportion. Though "mandatorily required" who is to force compliance? It has been shown over and over again in American history that the courts under the separation of powers doctrine will make no attempt to compel a law-making body to perform the duty of apportionment. The courts may be helpful in noting certain violations of the constitution in the law enacted. Arkansas, New York, and Oklahoma recognize this by making a special point in their constitutions that apportionment is subject to review in the courts. But the judicial branch offers no hope for bringing about legislative apportionment except where apportionment falls upon an executive officer or a board and where it is conceivable that a writ of mandamus might be secured.

The role of the executive is limited formally to calling the session and the question may be raised as to whether the word "shall" is to be regarded as permissive or mandatory where the governor is concerned. Again, if the governor refuses to call a session what recourse may be had? Informally, however, a governor in calling a special session may help to focus public opinion on the problem and play a prominent part in encouraging action. Students of reapportionment might well study the governor's powers in their own state to see if, even in the absence of specific authorization, the governor might not call a special session. Governor Thomas E. Dewey called a special session late in 1951 for the purpose of obtaining a congressional reapportionment law.⁵⁴ Whether the calling of a special session for

⁵² LEGISLATIVE APPORTIONMENT IN LOUISIANA 3 (1950). For additional data on urban representation, see Walter, *Reapportionment and Urban Representation*, 195 ANNALS 11, 12-15 (1938).

⁵³ FLA. CONST. ART. VII, §3, 4. Enumeration of inhabitants is authorized between each federal census (1935, 1945, etc.) with reapportionment taking place immediately thereafter.

⁵⁴ N. Y. Times, Nov. 15, 1951, p. 23. It was also stated that Governor Dewey would probably call a special session in 1952 for state legislative apportionment.

the single purpose of redistricting the state legislature is advisable is another matter. A governor would open himself to the charge of meddling in a matter beyond his jurisdiction. At the same time, several governors have taken it upon themselves to urge each of their legislatures to attempt the revision of legislative districts.⁵⁶ The governor of Kentucky in 1942 threw his prestige and patronage behind pressure to obtain a redistricting law and must be given considerable credit for its enactment. This experience and the one in Florida, brief though they are, suggest the possibility of looking to the governor, as the representative of the entire state, for some leadership in the matter of apportionment.

Although the Florida constitution paved the way for action in 1945, the apportionment itself was far from equitable in terms of population. To a considerable extent this is because no county may have more than one senator or less than one representative. J. E. Dovell, using the 1945 state census, observed that "nineteen per cent of the Florida population elects a majority of the senate and twenty per cent elects a majority of the house . . . the three representatives from Hillsborough County represent 180,148 people, and the three from Dade County 267,739; the senator from Pinellas County represents 91,852 people, the senator from Duval 210,143."⁵⁶ The experience of Florida as in several other states, points up the fact that the legislature may be placed in a situation where it feels it must act, but there is little guarantee that the action taken will be equitable in terms of recognizing shifts in population.

I. Massachusetts: Equilibrium

Surprisingly little has been written about reapportionment problems in Massachusetts. Perhaps one of the reasons is the very fact that its general court (legislature) has consistently fulfilled its duty in this respect every 10 years and it is one of the few states, and probably the largest one, to achieve a fair degree of equality of representation. For example, Suffolk county which includes Boston, has approximately 19 per cent of the population and receives about 20 per cent of the senate and 19 per cent of the house representation. Boston itself has 16.9 per cent of the state's population and 17.1 per cent of the representatives and does about as well in the senate. Not all of the other cities do so well but nowhere does one find the sharp variations common to numerous other eastern states. John A. Perkins writes, ". . . Massachusetts is one of the few states in which the overwhelming urban population is reflected in the somewhat exemplary legislature to the extent that it, too, is urban dominated."⁵⁷ Nevertheless criticism of the "rural-dominated" legislature persists.

⁵⁶ Exemplified by Illinois, New York, North Dakota, Pennsylvania, and Texas.

⁵⁶ Dovell, *Apportionment in State Legislatures: Its Practice in Florida*, 7 ECONOMIC LEAFLETS No. 32, 3 (BUREAU OF ECONOMICS AND BUSINESS RESEARCH, COLLEGE OF BUSINESS ADMINISTRATION, UNIVERSITY OF FLORIDA, 1948).

⁵⁷ *State Legislative Reorganization*, 40 AM. POL. SCI. REV. 510, 513 (1946). Former U. S. Representative Robert Luce of Massachusetts once observed that it was "no great exaggeration to say Massachusetts is governed by the suburbs of Boston." LEGISLATIVE ASSEMBLIES 340 (1924). Luce was not referring exclusively to apportionment but to the able men representing these suburbs.

There seems to be no simple explanation for Massachusetts' comparative success. Tradition, the governmental framework, and the constitutional provisions all play a part and only careful on-the-spot observation is likely to yield a definitive explanation to the riddle. It has been traditional in Massachusetts, as in Virginia, to consider reapportionment as a duty-bound obligation and this has helped to compel action.

As for constitutional requirements,⁵⁸ an enumeration of both inhabitants and legal voters is made mandatory every tenth year beginning in 1935. The special enumeration of voters is used to determine the apportionment of both representatives and senators. The general court uses these figures to determine the number of seats to be allotted to each county and through the secretary of the Commonwealth notifies the commissioners in each of the 14 counties accordingly. Responsibility for redistricting the county thereupon rests with the county commissioners who must assemble within 30 days "to divide the same into representative districts of contiguous territory and assign representatives thereto, so that each representative in such county will represent an equal number of legal voters, as nearly as may be." Towns containing less than 12,000 inhabitants cannot be divided nor may precincts or wards of a city. No district may be created which would entitle it to more than three representatives. The board or county districting authority must number each district, publish the number of legal voters in each district, and so notify the secretary of the Commonwealth. Judicial proceedings may be instituted calling in question both the apportionment and division. County commissioners seem to be free to gerrymander districts if they wish, and some gerrymandering undoubtedly goes on. At the same time, the plan is such that commissioners departing too far from the norm will have to face the protests of public opinion, the political parties, and a possible challenge in the courts.

The legislature itself is charged with redistricting the 40 senate seats, subject to certain limitations. Similar to the lower house, senate districts are expected to include an equal number of voters but this may be modified by the proviso that two counties may not be united to form a district nor may towns, or wards of a city, be divided to make a district.

One of the reasons why comparative equality of representation prevails is because Massachusetts is "municipalized" in character. All of the state—rural, urban, suburban—is a part of a town. Within a given town is often found urban, suburban and rural populations and since towns cannot be divided, it is not so easy to isolate rural and urban voters, nor residential from farm areas. Where in many other states the line between rural and urban counties is sharp, the counties are few and are not the essential bases of representation in Massachusetts.

J. New Hampshire: "Part-time Representation"

New Hampshire has reapportioned its lower house quite promptly and accurately

⁵⁸ MASS. CONST. Art. 71. There are 240 representatives and 40 senators in the general court.

since 1930 due to a prodding requirement in its constitution⁵⁹ which would affect representation of the towns, the basic governmental units. This provision provides for "part-time" representation from small towns. It permits towns of 120 to 240 persons to be represented in one session out of every five during the ensuing decade. A town with 240 to 300 inhabitants is represented in two sessions, and so on until a population of 600 is reached entitling the town to one representative. Unless the state is reapportioned every 10 years these little towns would go unrepresented. New Hampshire apparently finds this scheme acceptable and it appears to fit the tradition of town-meeting democracy. However well it may operate in New Hampshire, the plan is not likely to have appeal or utility outside of New England.

An attempt was made in 1948 to replace the "part-time" representation plan with a "full-time" one. This came in the form of a constitutional amendment (No. 6) submitted by a constitutional convention, requiring that "the people of each town and ward shall be represented in the House of Representatives at each session of the General Court." There are over three hundred towns and wards and adoption of the amendment would have meant a sharp reduction in the representation of the city people to provide for continuous representation of each town, no matter how small. There are several towns in the state with less than 100 inhabitants and one town appears to have only 11 persons; yet it would be entitled under the plan to elect a representative. Although 71,822 voted for the change and only 58,404 against it, the amendment failed to receive the necessary two-thirds majority. The Republican party campaigned for the measure while the Democrats opposed it. Perhaps the most astonishing feature in connection with the proposal was the sizable vote which it received in cities, a case of people voting to lower even further their strength and power in the state legislature which was low to begin with! The vote in New Hampshire as well as in many other states on apportionment offers a fertile field for the study of political motivation in voting. It might also raise the question whether evaluation of reapportionment plans is within the competence of many voters and whether apportionment cannot be better served by placing it in the hands of an administrative agency.

New Hampshire's eastern neighbor, Maine, may be noted as having reapportioned after the 1930 and 1940 censuses. In 1951 a new measure became bogged down in the spurious argument over the accuracy of the 1950 census and the matter was laid aside until the 1953 session of the legislature. Earlier reapportionments were effected without too much difficulty because of unique and fairly complete formulas and population classifications for representation in the constitution⁶⁰ and the fact that slow increases in the population necessitated only small changes. Counties provide the basis for senate seats and a formula of expedients including counties, towns, and population is used in the house. Senate apportionment can be easily determined as

⁵⁹ N. H. CONST. Pt. II, §§9, 11, 26. See also Ware, *Legislative Apportionment in New Hampshire*, 31 NAT. MUNIC. REV. 34 (1942).

⁶⁰ ME. CONST. Art. IV, Pt. I, §3; Pt. II, §1.

one senator is allotted for 30,000 inhabitants,⁶¹ two for 60,000, then the units double successively for the third and fourth seat, and for all counties of 240,000 or more, there is provision for a fifth member. House seats are apportioned first according to population and then again within the county to towns and cities according to population, with a maximum of 7 representatives from any local unit of government. Representatives are elected from single-member districts within the county.

K. Nevada: Expediency at Work

The Nevada constitution requires reapportionment every tenth year by the legislature but has set up no method of compulsion or inducement for the legislature to act. Yet the time requirement has been consistently fulfilled. In fact, Nevada has apportioned even more often than required. Despite the fact that the population is scattered all over the great expanses of the state, there are comparatively heavy concentrations in the southern area around Las Vegas and the middlewestern corner occupied by Reno. Although the problem of representation is sharply debated, it has not been too difficult to resolve it for several reasons. At the outset, the senate posed no trouble because it became tradition and policy to give one senator to each of the 17 counties. In 1951 this was made official by so amending the constitution.⁶² In the next place, the legislature is given the authority to fix the number of assemblymen through the provision that "the number of senators shall not be less than one-third nor more than one-half of that of the members of the assembly." It has taken advantage of this flexibility.

There have been three general characteristics of the reapportionment bills in Nevada. One is the tendency to increase the size of the lower house. In 1947 it was raised from 40 to 43, and in 1951 to 47. Thus the legislature has been able partially to avoid having to meet squarely the problem of having to take many assembly seats from sparsely inhabited areas and to allocate them to the more populous sections. In the 1951 reapportionment, for example, 3 counties were given, collectively, 5 additional seats. This was achieved by taking only one seat from one county (Nye) and increasing the size of the house by 4.⁶³ Parenthetically, the size of the assembly can only be increased by 4 more seats until it reaches the two-thirds ratio with the senate. At this point either the size of the senate will have to be increased or the pain of a more thorough apportionment will have to be endured!

A second characteristic of the Nevada practice is what one observer has called the "county viewpoint." This is the provision in the bill for the election of assemblymen from the county at large. The reapportionment statute reads, for example, "Churchill County, one senator, two assemblymen, White Pine County, one senator and four assemblymen, etc." This is quite similar to Maryland and a few other states where, for all practical purposes, the senator and representatives represent precisely the same constituencies and a "united front" on county matters. Although

⁶¹ Aliens and Indians not taxed are excluded from the count.

⁶² NEV. CONST. Art. IV, §5.

⁶³ NEV. STAT. c. 270 (1951).

the consequences of this basis of representation on legislation are not invariably good, it eliminates painful redistricting problems. There is a good deal of discussion in Nevada as to the practicality of the district method of apportionment of assemblymen. This could only be done if the districts cut across county lines. If this were done, writes a Nevada official, "it might tend to get away from the purely county viewpoint in the assembly, and still prevent the two large counties from practically controlling the assembly."⁶⁴ Although 15 counties elect their assemblymen at large, the legislature has districted the 2 largest counties, Clark and Washoe, in unique fashion. Clark, which has 9 assemblymen, is broken up into 3 districts by township with 2 each electing 1 assemblyman and the remaining district choosing 7 at large. Washoe county is similarly redistricting except that the 3 districts choose, respectively, 1, 2, and 7 assemblymen.

Thirdly, the formula for reapportionment was, until 1951, left entirely to the discretion of the legislature. In theory, though seldom in practice, one assemblyman was provided for every 2000 or 3000 people.⁶⁵ There were many variations from this, but they look mild beside the sharp deviations in many of the large populous states. Under the amendment recently adopted the legislature is now formally charged with apportioning seats in the lower house "among the several counties of the state, according to the number of inhabitants in them, respectively." From this provision, together with the rapid increase in the population of the state,⁶⁶ it seems obvious that the haphazard system of apportionment, which in some respects suited earlier times, will no longer be satisfying, and the issues of distributing legislative memberships will be increasingly difficult.

L. Two Southern Styles

During the past generation Virginia has proceeded systematically and without much fanfare to reapportion every 10 years. It has followed a policy of appointing an interim legislative commission to make recommendations at the next regular session of the general assembly concerning apportionment. The commission's proposals have been adopted without significant change. In accordance with this custom, the 1950 general assembly provided for a commission and the latter is now at work on proposals which it will bring before the 1952 session of the legislature. The reports of the commissions have usually been of high calibre.⁶⁷

The Virginia constitution does not prescribe standards for the districts which may be created or retained. The number of delegates is limited to 100 and the

⁶⁴ Letter to writer, November 15, 1951. Clark and Washoe counties have about 62 per cent of the state's population and under the new reapportionment will have 19 of the 47 assemblymen. If assembly seats were allotted according to population, these two urban areas would easily control the lower house.

⁶⁵ Nevada has the third lowest ratio of representatives to population, one for each 2,755. Vermont and New Hampshire average respectively 1,469 and 1,109 per representative. See HARVEY WALKER, *THE LEGISLATIVE PROCESS: LAWMAKING IN THE UNITED STATES* 166 (1948).

⁶⁶ Nevada's population increased 43.6 per cent between 1940 and 1950.

⁶⁷ See for example the two reports of the redistricting commissions, *REPORT OF THE COMMISSION ON REAPPORTIONMENT TO THE GOVERNOR OF VIRGINIA AND THE GENERAL ASSEMBLY OF VIRGINIA* (H. R. DOC. No. 5 (1941) AND SEN. DOC. No. 6 (1940)).

senators to 40, and the general assembly has been inclined to use population as the basis of apportionment. It has been careful to point out, however, that other factors are considered. The interim committee of 1922 indicated that equal population was its guide but "found itself confronted with many difficulties such as natural topographical barriers, divergent business and social interests, lack of communication by rail and highway, and disinclinations of communities to breaking up political ties of long standing, resulting in some cases of districts requesting to remain with populations more than their averages rather than have their equal representation with the changed conditions."⁶⁸ These various considerations have been recognized by subsequent interim committees on apportionment.

Although this would seem to leave the way open for rotten borough and gerrymandering practices, Virginia has enjoyed fewer inequities than a great many other states.⁶⁹ Unless one wishes to argue that the absence of detailed constitutional language encourages periodic and fairly reasonable reapportionment, the Virginia record must be attributed to non-constitutional factors. As with many other things in Virginia government and politics, custom and intangibles play a great part and these are not easy to isolate and to evaluate. The Byrd group has controlled the Virginia political organization for a generation and has operated on the basis of limited suffrage. It has been able to keep the "antiorganization" faction weak. This assists in the selection and election of the personnel of the legislature. There are no huge urban majorities or near majorities concentrated in any one area of the state which, if reapportioned fairly, would offer the threat of "radicalism" or of "labor control." Richmond and Norfolk are treated quite well in terms of representation. Even combined they would not offer any great threat. It may be noted that in 1940 only 35 per cent of the population was classed as urban.

The South Carolina constitution provides that each county shall have one senator, thus obviating the need for reapportionment of the senate. The legislature is required to reapportion the house every 10 years after the census—an obligation which has been fulfilled. The house consists of 124 members, and each district is expected to have 1/124 of the state's population.⁷⁰ Rural areas are protected, however, by the provision that every county (46 in all) is entitled to one representative regardless of population. South Carolina, therefore, has been able to fulfill its requirements because of the simplicity of the provisions and because rural counties are assured dominance in the senate, with a fair chance to control the house.

IV. APPORTIONMENT THROUGH INITIATIVE

The process of popular initiative should not be overlooked as a method of

⁶⁸ REPORT OF THE JOINT COMMITTEE ON THE REAPPORTIONMENT OF THE STATE INTO SENATORIAL AND HOUSE DISTRICTS (GENERAL ASSEMBLY, HOUSE OF DELEGATES, JANUARY SESSION, 1922).

⁶⁹ Apportionment based on the 1940 census showed the largest and smallest senate districts as 99,000 and 40,000; house districts varied from 16,000 to 41,000. What is more important, a large number of districts clustered near the average size. For example, 27 of the 40 senate seats contained a population between 51,000 and 76,000.

⁷⁰ The 1940 ratio was 15,000; the 1950 ratio will allow one representative for 17,073 inhabitants. See S. C. CONST. Art. III, §§3-6 for apportionment provisions.

achieving, by one way or another, reapportionment. In Arkansas the voters forced, by initiative, a constitutional amendment (No. 23) in 1936 which took the power of reapportionment from the legislature and vested it in an apportionment board composed of three top executive officials. The mathematical formula for senatorial districts in Arizona was modified by a constitutional initiative.⁷¹ Colorado and Washington have made use of statutory initiative to bring about reapportionment. Colorado reapportioned both of its houses by initiative in 1932, and its provisions are still in effect. Washington has only been reapportioned once in the last 50 years despite the fact that the state constitution requires reapportionment every 5 years. That lone reapportionment was accomplished in 1931 through initiative,⁷² and provided on the whole a quite fair apportionment. A bill creating a new congressional district for Washington's newly allotted seat passed the legislature in 1951, only to be vetoed by the governor, thus necessitating a representative-at-large election in 1952. One prominent legislator after seeing the failure of a comparatively simple, single congressional redistricting bill, stated that "Washington can hope to obtain a State legislative reapportionment only through initiative." Proof that this view is widely held is the fact that several citizens' groups are now working on an initiative proposal based on the 1950 census.

In some respects the experience in Washington lends encouragement to the use of initiative, but the preponderance of evidence elsewhere points to the contrary. For one thing, constitutional initiative is found in only 10 states other than Arizona, Arkansas, and Colorado.⁷³ Maine, Montana, South Dakota, Utah, and Washington permit statutory initiative which could probably be used to achieve some reapportionment. In most of the states providing for initiative, the device has not even been tried. Apportionment by initiative is expensive and cumbersome and is likely to be successful only where there is a large, under-represented urban population which organizes itself into a great citizens' movement for reapportionment. The successful initiative in Washington in 1930 was carried by a margin of less than 1000 votes out of a total vote of 232,000. Only 6 out of 39 counties returned majorities in favor of the measure. King county (metropolitan Seattle) provided the drive behind the initiative, and its overwhelming vote carried it. In 1942 a further attempt at reapportionment through initiative failed to obtain the required 50,000 signatures on the petition.

An important lesson may be learned by comparing the successful Washington initiative in 1930 with the highly unsuccessful one in California in 1948. The sponsorship of the Washington initiative was unusually broad. The King County Reapportionment League spearheaded and coordinated the efforts of such diverse groups as the Seattle Chamber of Commerce, the Washington State Federation of

⁷¹ The voters approved an amendment in November 1932 raising the number of votes cast for governor from 1500 to 2500.

⁷² See Webster, *Voters Take the Law in Hand*, 35 NAT. MUNIC. REV. 240 (1946).

⁷³ California, Massachusetts, Michigan, Missouri, Nebraska, Nevada, North Dakota, Ohio, Oklahoma, and Oregon.

Labor, druggists' and veterans' organizations, women's groups, and community clubs. Numerous urban state legislators of both parties gave support, and neither party officially opposed the movement. The initiative could not, therefore, be convincingly labelled as a piece of private-interest-group legislation.

By contrast, the initiative constitutional amendment in California in 1948 fell heir to the charge of "special interests" from its inception. The State Federation of Labor led the movement for the initiative and provided most of the finance for its adoption. The CIO and Democratic party gave nominal support, though Democrats from the rural areas fought the proposal. Opponents included the State Chamber of Commerce, the Farm Bureau Federation, the Grange, the press, many office-holders, and various conservative groups. The plan was attacked as "un-American," "communist-inspired," and a "labor plot" which would result in "political boss rule of labor racketeers" under the sponsorship of "leftists and crackpots in the big cities who have plans for ruinous taxation of city home owners and wealth producing farm areas."⁷⁴ The campaign, says Barclay, ". . . gave meager support to the dogma that man is a rational being. . . . The use of symbols of identification and the appeals to special groups were thoroughly exploited by the opponents of reapportionment, whose sententious generalities were respectfully received."⁷⁵

When the ballots were counted, the proposition failed to carry a single county, and the 4 most populous counties (which would have profited by its adoption) gave a half million majority against it! Carey McWilliams saw the outcome as an "amazing spectacle of a people approving its own disfranchisement." It seems obvious that apportionment by initiative will only be successful when based upon an enlightened electorate which understands the complexities involved.

Two attempts were made in 1950 in Oregon to reapportion through initiative.⁷⁶ Only one proposal succeeded in obtaining the required 26,000 signatures for placing it on the ballot. This proposal was the so-called "federal plan" of giving each of the 36 counties one representative and distributing an additional 24 seats according to population and using the method of equal proportions. The senate was to be based on population. City voters felt the plan, in the final analysis, did less for them than the existing arrangements, and it was voted down 215,000 to 191,000. The matter has now been turned over to an interim committee. The Oregon experience is of interest for two particular aspects. One is the increasing discussion given to the possibilities of apportionment by initiative, a discussion which may bear fruit. The other was the debate given during the election to the possible use of a commission to reapportion. This feature appears to be gaining support in Oregon.

Notwithstanding that many more attempts to achieve reapportionment through initiative fail than succeed, the initiative should be available as a method either (a)

⁷⁴ For an illuminating account of the campaign see Barclay, *The Reapportionment Struggle in California in 1948*, 4 WESTERN POL. Q. 313, 320 (1951).

⁷⁵ *Id.* at 317, 319.

⁷⁶ See Schumacher, *Reapportionment in Oregon*, 3 WESTERN POL. Q. 428 (1950).

to be used when all else fails, or (b) to amend the constitution to provide for machinery with the power to bring about reapportionment after each federal census. The use of the initiative to provide for the creation of a committee to reapportion would be a better long-run solution than merely to initiate a redistricting law which would need to be changed each decade, presumably by another initiative. The Connecticut Commission on State Government Organization in its report noted that it was unable to reconcile its own views on a reapportionment plan. It recommended, however, that the initiative be made available to the people. "We think a method of change should be provided by which the people can speak directly in such a situation [reapportionment]," said the Commission, "without placing on the General Assembly a burden of decision it cannot reasonably be expected to carry. . . . we recommend an additional method of constitutional change, by initiative petition and popular referendum."⁷⁷

V. FACTORS AIDING REAPPORTIONMENT: A SUMMARY AND UNRESOLVED QUESTIONS

During the next few years constitutional revision and reapportionment problems will be before many states. No foolproof generalizations and conclusions which might be taken as dogma for constitutional amendments have emerged from our study. Nevertheless there are certain helpful principles and experiences growing out of this review of states achieving a modicum of reapportionment.

A. Constitutional and Political Considerations

A considerable number of proposals have been advocated, and a few are being tried, to make apportionment compulsory and periodic if not more or less automatic. Most of these have grown out of the understandable disillusionment with the record of state legislatures. Many experts in state government have reached the conclusion that reapportionment is not a proper function of the legislature. This view was stated in a recent report on governmental organization in these words: "To ask the General Assembly to reconsider its own basis of apportionment is to ask a man to judge his own case. He can scarcely rise above his own interest if he does, and he cannot escape the charge of bias however he decides. It is not fair to impose even a moral responsibility for such a judgment on the principal party at interest."⁷⁸ Many believe that a fairly specific formula should be written into the state constitution and that from thereon reapportionment should become a matter of public administration entrusted to a board or commission. With variations, Arizona, Arkansas,⁷⁹ Missouri, and Ohio are experimenting with this principle. The Arkansas board has not been active and the Ohio board's efforts, as we saw

⁷⁷ REPORT TO THE GENERAL ASSEMBLY AND THE GOVERNOR OF CONNECTICUT 55 (COMMISSION ON STATE GOVERNMENT ORGANIZATION, 1950).

⁷⁸ *Id.* at 54-55.

⁷⁹ The Arkansas plan was not investigated in this study because it is not one of the states which has acted to fulfill its reapportionment provisions.

earlier, were once nullified by the courts. To date "compulsory reapportionment" in Arizona and Missouri appears to be working satisfactorily.

A "second best" plan, in terms of action, authorizes a commission to reapportion when the legislature fails to do so within a prescribed length of time. The very existence of these provisions in the California, South Dakota, and Texas constitutions has provided their legislatures with sufficient motivation to compel action. A potential weakness of this plan is that the legislature may merely go through the motions of making changes without effecting any real changes. Should the legislature resort to such deception, experience in Kentucky and elsewhere suggests the possibility of a successful challenge in the courts. In this event, some provision should presumably be made for a second try or for empowering the reapportionment commission to proceed. This scheme is based on the assumption that periodic apportionment is likely to be gained only if there is a mandatory provision in the state constitution which will become operative in case of inaction by the state legislature.

In both of these plans, there is also the presumption that the executive officials will act. If they do not act, what can be done? American courts show an unwillingness to compel the chief executive of the state to act. Where the job is to be done by lesser elected officials such as the secretary of state or the county commissioners, can they be mandamus-ed? The Texas constitution gives its supreme court the power to issue a writ of mandamus. The question of the nature of the task may be important. If the constitutional formula is detailed then the job may be essentially ministerial; if discretionary, how can a court compel the officials to agree? In time, these problems may arise and ways and means of coping with them will have to be evolved. It is always possible, of course, to make neglect of one's duty a campaign issue and such an issue could probably be used more effectively against an incumbent executive than against a legislator. From a practical point of view, an executive commission is likely to receive more censure for failing to perform its duty or for failing to apportion in strict accordance to law than would the legislature.

Although the use of the initiative as a successful weapon of reapportionment is limited to Colorado and Washington, it should not be ruled out as a method. Provisions for it in other states can be used to stimulate the legislature to action. No hope for this method exists unless there are a large number of broadly based and virile citizens' associations willing to put time, energy, and money into the undertaking. For that matter, citizens' movements and the support of the press are important parts of the reapportionment process under any plan. It may be observed, however, that very large numbers of civic organizations ignore the whole question of reapportionment or do little more than give it lip service. Reapportionment has failed to excite civic leaders to the same extent as the tax base, schools, hospitals, the merit system, and transportation.

The closely related factors of party discipline and leadership by the executive are most important as non-constitutional methods for bringing about apportionment

changes. In recent years the governors of California, New York, Kentucky, Florida, and Texas, to mention only a few, have been important cogs in the political wheels of reapportionment. Some governors have found championing the apportionment article of their constitutions "sound politics." A governor willing to press for action and supported by majorities of his own party in the legislature has helped the cause in numerous states; divided party control by the same token has hindered it. Yet it is easy to overgeneralize this point because political parties in many of our states are highly ephemeral and are incapable of evolving a reapportionment plan and mustering enough loyalty to push it through the legislature. Urban Republican and Democratic legislators are likely to be teamed against their rural brethren because reapportionment cuts across whatever party lines there may be. The political factor is also important in terms of the selection of members serving on legislative reapportionment committees. A political scientist in North Carolina writes, "reapportionment might take place in 1953 should a Lieutenant-Governor be elected and a speaker selected from the Piedmont section of the state. These men appoint the committees and would choose men favoring reapportionment."⁸⁰

B. Some Intangibles and Unsolved Questions

Custom has certainly played a part in facilitating apportionment changes in California, Massachusetts, South Carolina, Virginia, and perhaps in several other states. There are likewise other intangible factors enmeshed in the politics of apportionment. Many citizens have failed to recognize the extent to which the struggle for power, real or alleged, is involved in the process of redistricting. The naïve belief persists in some quarters that the legislature will redistrict itself on a fair basis. If compromises can be worked out in constitutional or legal formulae or informally between the parties-in-interest through gentlemen's agreements, a long step will have been taken toward bringing about changes in representation. A careful study of the distribution of population, wealth, and influence is an essential requirement of which only a few reapportionment committees appear to be aware. Further recognition by more persons both inside and outside the legislature of these considerations is desirable.

Anyone studying the states which have or have not met their constitutional requirements becomes aware of many areas calling for fuller investigations. One of these is a thorough state-by-state exploration of the relationship of formula or basis of representation to periodic reapportionment. Is the latter easier to obtain when the formula is based on area than on population? On the surface this would seem a correct assumption but the heavily populated areas do not willingly accept an area basis. What about a "federal plan" allotting counties equal representation with a thoroughly honest population base for the lower house? Several states having

⁸⁰Letter to the writer. The same letter attributes inaction in the 1951 session of the legislature to "First, the persons who would lose seats were very influential in both Senate and House. Second, the bills that were introduced were inspired by the Republican minority. Third, the counties that would have gained representation were those where organized labor is strong."

somewhat similar plans have been able to undertake fairly regular redistribution in the lower house. But in many instances, well illustrated by New Jersey, the populous areas are not treated fairly, hence virtually all compromises are made by the cities. Many students share the view of Thornton and Brandenburg that "the tendency to 'sanctify' county lines not only constitutes the chief obstacle to fair and regular apportionment, but interferes often with policies which might effect improved and more economical administration of the laws of the state. Few, if any of the circumstances which justify area representation in the Senate of the United States are pertinent to the allocation of representation in either the lower or upper house of a state legislature."⁸¹

Another question deserving comprehensive investigation is the theory and practice, both in terms of representation and in terms of facility of districting and apportionment, as between single-member districts and selection of several representatives at large. Election at large does away with many districting headaches and requires the representative to accommodate and synthesize the interests of a larger number of people but at the same time it may increase the size of the legislature and give the illusion of granting the populous areas more representation.

Finally, special investigation is needed of suffrage as an alternative basis for representation, as now used for one or both houses in Arizona, Massachusetts, Tennessee, and Texas. Tennessee offers no data for appraising the use of this plan for it has not been reapportioned in a generation; its voters refused to ratify a reapportionment bill a few years ago. The other 3 states were recently apportioned and seem to like the basis. The constitutional convention in Hawaii in 1950 provided in its proposed constitution for representation in the lower house on the basis of registered voters, and charged the governor with the duty of reapportionment. The supreme court is given the power of mandamus to compel the executive to reapportion on the application of a registered voter within 30 days after the reapportionment date. Evaluation of suffrage as the basis for representation is not within our scope except to say that proponents will have to convince many persons that the right to be represented should, in the final analysis, rest with those who vote or who possess the privilege of franchise.

C. Conclusion

The Model State Constitution prepared by the National Municipal League would use proportional representation as the ideal method for bringing about accurate and automatic reapportionment in the state legislature. The state would be divided into districts of contiguous and compact territory with each district electing from 3 to 7 members in accordance with the population of the respective districts. It would be the duty of the secretary of the legislature to reallocate the number of members assigned

⁸¹ Thornton and Brandenburg, *Apportionment in Oklahoma*, OKLAHOMA CONSTITUTIONAL STUDIES 91 (OKLAHOMA STATE LEGISLATIVE COUNCIL, 1950). The extent to which counties are involved in apportionment is shown by Shull, *Counties in the Apportionment Process*, 6 THE COUNTY OFFICER 247-249 (1951).

to each district on the basis of changes in population not oftener than once in each census period. Notwithstanding recognizable merits in this plan, no state seems to be ready for a change-over to proportional representation. Those unhappy with the present constitutional membership of their state legislature will have to be satisfied with something less than the ideal. With traditions hardened against reapportionment and constitutional provisions designed to make changes either difficult or immaterial, there appears to be no one solution which might be universally applied to each of the 48 states. Perhaps the best approach is the careful study of the situation in one's own state and of the methods proved successful in other states to bring about a better reallocation in legislative seats. Then it becomes a question of rallying public support behind those devices and methods which seem to offer the most promise for obtaining some redress.