

League of Women Voters of Minnesota Records

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## APPORTIONMENT IN MINNESOTA

League of Women Voters of Minnesota 1964

#### APPORTIONMENT IN MINNESOTA

#### I. DEFINITIONS

APPORTIONMENT: The distribution of representation. Another way of saying it: assigning one or more members of a legislature to geographic areas such as counties, cities, towns.

REAPPORTIONMENT: A change in apportionment. In most cases, a change in the previous reapportionment, since only the first assignment of legislators under a new constitution is an apportionment.

DISTRICTING AND REDISTRICTING: These terms are generally used interchangeably with apportionment and reapportionment. Strictly speaking, districting is the process of drawing lines within a political unit to which a number of representatives has been assigned.

CONSTITUTIONAL (RE) APPORTIONMENT: The ground rules laid down in a constitution for assigning and reassigning representation in a legislature.

STATUTORY REAPPORTIONMENT: The law which defines the boundaries of the legislative districts and apportions the legislators to the districts so defined. According to the Minnesota Constitution, as interpreted by the courts, statutory reapportionment should be done by the legislature after every federal census.

POPULATION REAPPORTIONMENT: Giving the same number of people the same number of legislators.

AREA REAPPORTIONMENT: Area does not mean acres or square miles, but refers to the assignment of legislators to political subdivisions, usually counties. In its simplest form each county would be assigned one representative. However many states have used modified area formulas, giving some weight to population.

AVERAGE OR IDEAL DISTRICT: The population of the state divided by the total number of representatives or senators. On the basis of the 1960 census the ideal Senatorial district in Minnesota is 3,413,864 divided by 67, or 50,953; the ideal House district is 3,413,864 divided by 135, or 25,288.

DEVIATION: The mathematical difference between supposedly equal districts. Political scientists have said that districts may vary from the ideal by 15% either way and still be fair.

PER CENT OF POPULATION THAT CAN CONTROL. The smallest number which could in theory elect a majority of the legislature. This criterion is frequently used to measure the representativeness of a legislature.

FROZEN DISTRICTS: Legislative districts whose boundaries and representation are set down in the constitution and cannot be changed except by a constitutional amendment.

FLOTERIAL DISTRICTS: Counties remain intact, but additional population over a certain amount is counted with other units for additional at-large representatives.

ENFORCEMENT PROVISIONS: Amending the constitution to insure that the legislature is reapportioned as stipulated by the constitution. 4 ...

As we look ahead to the 1965 session of the Minnesota State Legislature, it is apparent that one of the most challenging and controversial issues will be that of apportionment. On June 15, 1964 the United States Supreme Court in Reynolds v. Sims handed down a precedent-shattering decision requiring that both houses of state legislatures be apportioned on a population basis. Just before the Supreme Court decision, a suit (Honsey v. Donnovan) was filed in Federal District Court by a group of Twin City area officials asking for reapportionment for Minnesota.

Minnesota's Constitution already specifies that representation in both houses is to be based on population. Minnesota was last redistricted in 1959 on the basis of 1950 census figures. The suit contends that the apportionment of 1959 did not accurately reflect population even on the basis of 1950 figures, and that the 1960 census figures reveal further shifts. The suit therefore claims that Minnesota's amoptroinment is in violation of the equal protection

clause of the Fourteenth Amendment.

The combination of the Supreme Court decision and the pending federal court case establishes a whole new climate for reapportionment in Minnesota. The Legislature must consider (1) a statutory plan for redistricting in compliance with the Sims decision and Minnesota's constitutional requirements, (2) possible changes in the Minnesota Constitution to Tacilitate reapportionment under the "one man, one vote" principle, and (3) the possibility of an amendment to the federal Constitution permitting an area factor in one house which would enable the legislature to submit an area amendment to the Minnesota Constitution permitting and the submitted of the Minnesota Constitution if they desired to do so.

Although the Supreme Court established a basic principle for apportionment, it did not set up precise formulas or machinery, but rather left these problems for lower courts and state legislatures. As in the school desegregation decisions, it will probably be a number of years before standards and procedures are established in the various states. Undoubtedly the Supreme Court will have to give further clarification on different plans of apportionment as they are proposed by state legislatures. In the two months after the court handed down its decision there was considerable variance in the methods of implementation. In Colorado the Governor called a special session of the legislature to deal with the problem. Connecticut started a process to elect delegates to a constitutional convention to establish new standards. A federal court in Oklahoma invalidated a May primary and set up new districts for fall elections. Other states were planning to conduct elections under their old systems, expecting the newly elected legislatures to reapportion. Over one hundred different bills dealing with apportionment have been introduced into Congress.

The precise implications of the Supreme Court decisions for Minnesota may be clarified by the ruling of the Federal Court this fall. A citizens commission appointed by Governor Rolvaag is also expected to make recommenda-

Under the new conditions will it be necessary or desirable to establish constitutional rules for apportionment? Before trying to answer this question it is necessary to understand what the basic problems have been, the implications of the Supreme Court decision, and some of the early reactions to the decision.

Malapportionment—the undue discrepancy between the weight given the votes of citizens in different legislative districts—has long been a concern of civic groups such as the League of Women Voters, and of students of politics. According to a recent report on the subsect.

No single feature of State government has been so vulnerable to criticism by statesmen and scholars alike as the unrepresentative situation into which many State legislatures have permitted themselves to drift.<sup>1</sup>

Some factors accounting for widespread malapportionment are: 1) the mobility of population in general, and the fact that reapportionment does not take place continuously, necessarily means that the newest centers of population are underrepresented; 2) voters of one party may be discriminated against by gerrymandering—the drawing of districts to the advantage of one party—by the majority in the state legislature; 3) some state constitutions have contained provisions specifically basing representation on extreme area factors such as the equal representation of all counties regardless of population; 4) because reapportionment its such a difficult problem, many legislatures have simply retised to reapportion and redistrict their component districts despite constitutional provisions calling for regular reapportionment.

At least until 1962, the pattern of representation in most states was one of overtrepresentation of rural areas and underrepresentation of cities and suburbs; metropolitan areas are the ones in which population gains have generally taken place. The pattern appears at least partially responsible for the generally unresponsive attitude of state legislatures to urban demands. Numerical underrepresentation of some areas, and the consequent inability of one party to elect the governor and majorities of both legislative houses, has led to divided government and statemates in decision-making, Both of these factors, it is argued, contribute to the increasing involvement of the federal government in urban and state concerns.

Until quite recently, the malapportionment problem had two sides, neither of which seemed very susceptible to change. According to one writer:

The problem is twofold—first, one of obtaining an equitable and acceptable pattern of representation for each of the houses; second, of assuring periodic reapportionment in accordance with the agreed pattern.<sup>2</sup>

Although the original constitutional provisions of thirty-six states based apportionment completely or substantially on population, thirty-five of the state legislatures were apportioned at least partially on the basis of are factors by November 1961. Such provisions were most extreme in Connecticut—where each town, including Hartford with some 177,397 population and Union with only 261, sent two representatives to the lower house—and Newada, where 8%, of the population could in theory control the Senate.

Obstacles to changing constitutional provisions to clauses stipulating population alone as the basis of representation, or to some more reasonable area factors, were numerous. A simple amendment in most states required, of course, the concurrence of the legislature which was the prime beneficiary of the status quo. Even if it were possible to get a constitutional convention, this was frequently composed of members elected on the basis of existing

legislative districts. Indeed, in spite of increasing advocacy of pure population factors by political scientists, the trend in a number of states was to add an area factor where the previous constitutional basis had been population

The second main impediment to securing equitable reapportionment was the reluctance of legislatures to act. (Reapportionment would have required depriving fellow legislators of re-election, and involved rural legislators handing over control to urban and suburban representatives.) Legislatures there frequently ignored constitutional provisions requiring reapportionment after each federal census and, having failed to reapportion for a number of years, the legislatures were faced with an even more aggravated situation, since the discrepancy between the existing distribution of power and the constitutionally required distribution became greater. If they did reapportion, they made only very minor changes.

Had appropriate sanctions been available, legislative balking might not have been crucial. Frequently, the governor was not empowered—at least not explicitly—on intervene. State courts were sometimes unwilling to intervene at all in what was a "legislative" function. The Minnesota Supreme Court in 1945 said in essence "Yes, the legislature does have a dayty to reapportion, but because of the separation-of-powers doctrine, we can't force the legislature to do its duty; that is up to the voters." Until 1962 the federal courts had refused to rule on cases involving legislative apportionment.

These various factors meant that the urban voter, confronted by both constitutional obstacles and legislative intransigence, had really no means of achieving just representation except in the states (some 15) allowing constitutional change by initiative.

#### IV. SUPREME COURT DECISIONS

Baker v. Carr: the Tennessee case

In 1962 the Supreme Court opened Federal Courts to voter complaints about unfair representation in state legislatures. In an opinion overturning previous precedents, the Court justified intervention on the provision of the 14th Amendment to the U.S. Constitution that requires that no state "shall deny to any person within its jurisdiction the equal protection of the laws."

The Buker v. Carr decision represented a substantial victory for advocates of reapportionment, but it left unclear the precise criteria for representation which the Supeme Court would hold as not incompatible with the "equal protection" clause of the Fourteenth Amendment.

The decision immediately prompted the citizens of many states to bring in both state and federal courts challenging existing apportionment plans. Fearful of court action, or having their statutes branded unconstitutional, state legislatures began to reapportion themselves. Near the end of 1963 there were only eleven states in which suits had not been brought. All of these, except Minnesota, had been reapportioned in the previous two years. Twenty-cight of the other thirty-nine states were reapportioned in 1961 or later, and some of these were the first actions in many years. Mississippi had not previously reapportioned since 1890, Delaware since 1897, Alabama and Tennessee since 1901, Wyoming since 1931, Nebraska since 1935, Kentucky since 1942, and Maryland since 1943.

Only twelve states had not been reapportioned since the last federal census, and only four of these had not been reapportioned at all in the last decade.

... At the time of the Baker decision, there were only twenty-seven legislative houses, in twenty-two states, where as high as 40 per cent or more of the voters was required to elect a bare majority of legislators. In the remaining seventy-two houses, a smaller percentage of voters could elect a majority of legislators. Eighteen months later, a vote of 40 per cent or more voters was required to elect majorities in forty-five houses in hitty-five states.<sup>3</sup>

Reynolds v. Sims

On June 15, 1964 Chief Justice Warren, in a majority opinion dealing with a number of cases from various states, ruled that under the "equal protection" clause of the Fourteenth Amendment of the Federal Constitution, neither house of a state legislature could deviate from a population basis:

Legislatures represent people, not trees or acres. Legislators are elected by voters, not farms or cities or economic interests. As long as ours is a representative form of government, and our legislatures are those instruments of government elected directly by and directly representative of the people, the right to elect legislators in a full and unimpaired fashion is a bedrock of our political system.

Continuing, the opinion stated the dilution of a citizen's vote by malapportionment meant counting the vote of one citizen more than another:

It would appear extraordinary to suggest that a state could be constitutionally permitted to enact a law providing that certain of the state's voters could vote two, five, or ten times for their legislative representatives, while voters living elsewhere could vote only once... Of course, the effect of state legislative districting schemes which give the same number of representatives to unequal numbers of constituents is identical.

If the Court was absolutely definite about requiring both houses to be based on population, however, it specifically granted latitude to the states in determining exact formulas of representation:

By holding that as a federal constitutional requisite both houses of a state legislature must be apportioned on a population basis, we mean that the Equal Protection Clause requires that a State make an honest and good fatth effort to construct districts in both houses of its legislature as nearly of equal population as is practicable. We realize that it is a practical impossibility to arrange legislative districts so that each one has an identical number of residents or citizens or voters. Mathematical exactness or precision is hardly a workable constitutional requirement.

The Court suggested the possibility of more latitude in using political subdivisions in legislative than in congressional districting "as long as the resulting apportionment was one based substantially on population and the equal-protection principle was not diluted in any significant way."

A state might it suggested:

. . . legitimately desire to maintain the integrity of various political subdivisions insofar as possible and provide for compact districts of

contiguous territory in designing a legislative apportionment scheme ... Indiscriminate districting without any regard for political subdivisions or natural or historical boundary lines may be little more than an open invitation to partisan gerrymandering. Single-member districts may be the rule in one state while another state might desire to achieve some flexibility by creating multi-member or flotrail districts. The opinion also stated that continual reapportionment was not necessary

and that decennial reapportionment would meet minimal criteria.

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Dissenting from the Warren opinion were justice Harlan, Stewart, and Clark. In a strong dissent, Justice Harlan attacked the theory that "every major social ill in the country can find its cure in some 'constitutional principle'" and stated that "the equal protection clause was never intended to inhibit the states in choosing any democratic method they pleased for apportionment of their legislatures." Justices Stewart and Clark took a moderate position, saying that a state need only be "rational" in its districting. The problem with this approach, and its lack of definite standards, was shown by the inability of these two justices to agree on its application to the six cases before the court.

#### V. TRADITIONAL ARGUMENTS FOR AN AREA FACTOR

Before discussing the reactions to the Supreme Court decision, it may be well to consider briefly some of the traditional reasons advanced for including area or other non-population factors as a basis for legislative representation.

The "Federal" Analogy

One traditional reason for the incorporation of an area factor in one legislative house has been based on the example of the federal Congress, If it is logical, or acceptable, that the states—regardless of size—receive equal representation in the federal Senate, is it not equally acceptable that the counties within a state receive equal representation in one house?

The historical reason for equality in the federal Senate was the insistence on the part of the smaller sovereign states on this scheme if they were to

agree to union. The Warren opinion stated:

Political subdivision of states—counties, cities or whatever—never and never have been considered as sovereign entities. Rather, they have been traditionally regarded as subordinate governmental instrumentalities created by the state to assist in the carrying out of state governmental functions.

The use of the analogy by defenders of existing apportionments appeared, declared the Court, "often to be little more than an after-the-fact rationalization offered in defense of maladjusted state apportionment arrangements."

Another argument in favor of the "federal" analogy is the desirability of two houses, with differing bases, checking each other. The Supreme Court's answer to this is that differing size of constituencies and differing terms would provide variety between the houses, without necessitating the representation of areas.

Protection of Minority Rights

Another argument for departing from strict population figures as a basis

of apportionment is that concerning the necessity of protecting minority rights. Proponents of this view stress the fact that the United States, like Great Britain and unlike revolutionary France, has been a constitutional, limited, perpenentative democracy as opposed to the sort of "Rousseauan" democracy characterized by mass rule. The system of checks and balances, the separation of powers and the inclusion of Bills of Rights in both the federal and state constitutions, as well as federalism itself, are all safeguards against hasty, ill.considered, drastic action by majority.

There are several arguments against this view.

1) Only certain interests, or minorities, are in fact so overrepresented and assured of consideration. Urban groups of all sorts, immigrants and their immediate descendants, Northern Negroes, union members, and others are all among those numerically underrepresented by schemes which value area in favor of population factors. One could perhaps make a case for overrepresenting all minorities—although most majorities are formed of minorities—but it appears indefensible to overrepresent some supposedly vulnerable minorities but to underrepresent others.

2) The Supreme Court opinion stated:

Logically, in a society ostensibly grounded on representative government, it would seem reasonable that a majority of the people of a state could elect a majority of that state's legislators. To conclude differently, and to sanction minority control of state legislative bodies, would appear to deny majority rights in a way that far surpasses any possible denial of minority rights that might otherwise be thought to result.

#### The Functional Argument

According to some theorists, the appropriate way to represent citizens in a political system is not as individuals but rather as members of groups or interests which perform different functions for society. One can also argue that functions served by some interests are far more important than numbers of citizens involved would indicate. Agriculture, for instance, is more essential to American well-being than a head count of farmers in relation to the total neonulation would suerees.

Arguments against this theory are several. First, if existing malapportionment does represent the agricultural function "fairly," it is obviously "unfair" to such functional groups as manufacturers, retailers, distributive services, etc. Second, it would be all but impossible to get widespread agreement on what constituted fair "functional" representation if population were to be completely abandoned as the basis of representation.

The Danger of Fragmentation

This argument, a corollary to the above, stresses the dangers of doing away with such factors as community, tradition, group membership, etc., as buttresses between the citizen and government. Once cut adrift from stabilizing influences such as these, citizens would be powerless before an all-powerful government. Certainly, the priority which totalitarian governments have attached to abolishing interest groups suggest their insulating function.

It is perhaps unrealistic, though, to argue that merely counting each citizen equally will serve to break down real bonds which exist,

#### Rural Superiority

While rarely stating it as haldly as saying rural residents are good and city dwellers are bad, opponents of equal districting do imply that the political ethics, at least, of countryfolk are superior to those of city residents. There is also the fear expressed that accurate representation of cities would subject the entire state to the "bossism" of political machines. What these commentators overlook, however, is that "machines" may exist in rural areas on the county level. More genuine is the fear that with urban areas electing both houses and the governor and other state officers, rural voters will have no voice at all in state government.

#### The "Unfairness" of Voter Representation Even With Equal Population Districts

One aspect of this argument states that individuals differ in terms of wealth, prestige, and political influence, and that these inequalities will not be erased by merely giving each individual the same weight toward representation.

A second line of argument contends that the emphasis being placed on the "unfairness" of existing apportionment schemes is quite out of proportion to the relative lack of concern about other sorts of unfairness in the political system.

Cited as one of the least "fair" aspects of most United States politics is the one-member district system under which the majority gets its representative sent to Congress or the legislature, while the minority, even if it is very large, is completely unrepresented.

#### VI. REACTION TO THE SIMS DECISION

Area was more than a theoretical concept. It was embodied to a greater or lesser degree in the apportionment of more than forty of the state legislatures. It is not surprising therefore that the Sims decision was highly unpopular in many quarters. A number of different bills were introduced in Congress to delay or modify the court's decision. As of mid September 1964, two major bills were pending

#### The Tuck Bill

As passed by the House, this bill would remove state legislative apportionment from the jurisdiction of Federal Courts. However there was considerable feeling that this bill would itself be unconstitutional. Only once before, in 1868 during the reconstruction period, had Congress restricted the power of the courts. To avoid this objection a group of senators in conjunction with officials of the Attorney General's office worked out the Dirksen Bill which is designed to regulate the enforcement of the Sims decision.

#### The Dirksen Bill

This bill would give states a period of grace before complying with the "one man, one vote" decision. Court action is to be stopped for as long as the courts feel the stay is in the "public interest." Congress would specifically define "the public interest" to permit the status quo to continue until January 1, 1966 and added "it would be in the 'public interest' to allow states a reasonable opportunity to act through regular legislative sessions or amend-

ments to the state constitutions." The courts would have to follow the criteria established by Congress "in the absence of highly unusual circumstances."

#### The Mansfield Resolution

With liberal Senators blocking the passage of the Dirksen Bill and hence the adjournment of Congress, the Senate agreed on a compromise resolution, stating that it is the "sense of Congress" that the courts should give legislatures six months to comply with the Sims decision.

#### The McCulloch Amendment

The purpose of the bills was to give Congress and the states time to act on an amendment such as the one introduced by Representative McCulloch of Ohio and Senator Dirksen of Illinois. This amendment would provide that if a state legislature based one of its houses on population it might use some other criterion for the second. It also provides that any alternative scheme to strict population would require approval of the people in a referendum. This type of amendment is supported by a number of Midwest congressmen, and it would seem that if it is passed by Congress there would be little difficulty in finding 38 states that would rativ it.

#### The Disunion Amendments

One group, the Council of States, prompted by the Tennessee decision in 1920 put forth three proposed amendments to the United States Constitution: the first would establish a procedure for amending the Constitution by state legislative initiative without congressional action; the second would place control of state legislative approximente beyond any federal court jurisdiction; the third would create a Court of the Union composed of the chief justice of the highest courts of the states to sit above the Supreme Court. These amendments called "Freedom Amendments" by their opponents have attracted increased support since the Sims decision. Their adherents are concerned not only with the reapportionment decisions as those regarding school segregation has been making attack on states rights and has not been interpreting the Constitution but has in effect been rewriting it.

#### Favorable Reactions

In other quarters the Sims decision was hailed as a victory for democracy, It has been stated that, although on the surface it looks as if the trend of Supreme Court decisions has been to minimize states rights in actuality these decisions should help to strengthen state legislatures. Made more effective by being more representative, a general upgrading of legislatures should be the most effective way to reserve to the states those powers which otherwise will be taken away and performed on a federal level due to abdication of responsibilities by present less effective legislatures.

With both houses of a bicameral state legislature to be apportioned on a population basis, other observers have gone on to ask why two houses at all? Chief Justice Warren answered such arguments by stating that two houses would prevent precipitate action, and that even if both were apportioned substantially on a population basis, they would develop different collective attitudes because of the different size of constituencies and different length of terms. His argument was characterized by the New York Times as being

#### VII. OUESTIONS TO BE DECIDED IN MINNESOTA

Either an amendment to the federal constitution permitting an area factor or a unicameral legislature are possibilities for the future. More important for the next legislature will be a number of questions relating to the precise mechanics and formulas of apportionment. Precise rules for apportionment may be written into a state constitution, or details may be left to the discretion of the legislature. The recent Supreme Court decision has invalidated provisions in state constitutions which established an area factor for either or both houses of state legislatures; however, the Warren opinion also indicates that states should be permitted some flexibility in the methods they use in apportionment. Lower courts and state courts in reviewing legislative plans for reapportionment have given considerable weight to state constitutional provisions, assuming these provisions did not violate the basic premise of 'population-only," Traditionally, explicit instructions on reapportionment have been regarded as a protection to the people against the possible malfeasance of their legislatures. However, with the likelihood of court review, legislatures themselves may wish to establish more definite constitutional standards.

According to the Minnesota constitution, the representation of both houses of the legislature shall be "apportioned equally throughout the different sections of the state, in proportion to the population thereof"; "the senators shall be chosen by single districts of convenient contiguous territory," and "no representative district shall be divided in the formation of a senate district"; reapportionment is to take place at the first session after each federal census. The constitution also states that half the senate is to be elected every two years, except that all senators shall stand for election at the election following each new apportionment; actually Minnesota has always elected the entire senate every four years. In considering whether the present constitutional provisions should be changed or made more specific, here are some of the factors that might be considered.

1) How often should reapportionment take place?

Traditionally, most states have specified that reapportionment should take place every ten years in keeping with the most recent federal census. In an era when the population is so mobile, such a relatively long time lag means that there will be considerable change. Possibly it would be easier for legislatures to make smaller adjustments after shorter periods of time.

However, the Warren decision indicated that reapportionment every ten years would meet the Court's minimal criteria. Certainly arithmetical exactness is not so vital that legislatures should be forced to reapportion annually.

The Report of the Minnesota Constitutional Commission of 1948 recom-

mended a provision that reapportionment should become effective with the expiration of senate terms.

If a decision is made that more frequent reapportionment is desirable, population data other than the federal census figures now utilized must be obtained. This will probably necessitate a different definition of "population."

2) Precisely who should constitute "population"?

If the federal census figures are not used, the most logical basis for representation would be either registered voters, or voters in an election—probably a presidential election where the turnout is largest. This would, of course, make possible reapportionment every four years.

The practical effects of basing representation on voters, or registered voters, instead of on total population, would probably be quite small—at least in a northern two-party state. (In the South, of course, where substantial groups in the population have been systematically denied enfranchisement, the effects might be quite different.) The argument against the use of registered voters as a basis is that such lists are frequently out of date or inaccurate. Minnested adoes not require smaller communities to register voters. Those opposing the use of election figures argue that the presence or absence of local issues may distort the turnout. Those in favor cite the ready availability of such figures and believe their use for representation would encourage higher citizen participation in voting. Presently only one state uses election figures as a basis for apportionment. Several states specify "eligible voter" rather than population as a criterion.

3) Permissable deviation from the ideal.

The Supreme Court decision left in doubt precisely how equal "equal population" districts must be. The Court said, "Mathematical exactness or precision is hardly a workable constitutional requirement." Political scientists have recommended a constitutional provision specifying the maximum deviation any one district may have from the ideal. Figures range from the 10% recommended by the Commission on Intergovernmental Relations to 20% with 15% most generally accepted. Based upon 1900 census figures, the ideal Flouse district in Minnesota contains 50,953 people, while the ideal Flouse district is 25,288. In actually Senate district vary from 24,940 to 100,520, and House from 8,343 to 52,015. Some of the largest discrepancies occur within the city of Minneapolis, and appear to have very fuller attional basis. Another check on too great legislative latitude in specifying district size would be a provision whereby not less than 40% or 45% of the population could elect a majority of each house.

4) Counties as units of representation

Certainly if rules are incorporated that counties may not be divided or that county lines must be followed whenever possible, the resulting districts may diverge substantially from the ideal. The 1959 statute in Minnesota does not cut across county lines. One advantage cited in using whole counties is that their use precludes extreme gerrymandering. More important is the fact that outside of metropolitan areas, business is conducted on a county basis. Counties serve as a geographical identification of districts and candidates, while artificial boundaries are generally unknown by the general populace. However, many critics of the numerous counties in Minnesota maintain that county lines are themselves artificial and should be redrawn to make more

economic and efficient units of government. It is interesting to contrast two different plans for redistricting established by the Supreme Courts of Wisconsin and Michigan. The Supreme Court in Michigan districted across county lines and produced a plan where senate districts varied less than 2% from the ideal and house districts less than 5%. In Wisconsin the Court followed a constitutional provision requiring the observance of county lines. Although an occasional district did deviate from the ideal, the end result was that 45.4% of the voters are required to elect a majority of the Assembly, and 48.4% to elect a majority of the Senate.

#### 5) Size of the legislature

It is always tempting for a legislature, when struggling with the problem of which seats must be eliminated, to add a few representatives to make things come out even. Presently Minnesota's state senate is the largest in the nation and the house is the fifteenth largest. Political scientists tend to agree that state legislatures function better if they remain relatively small. In practice state legislatures are often short-handed, It is probably unrealistic urge Minnesota's legislatures are often short-handed, It is probably unrealistic to urge Minnesota's legislature to reduce its size, because this would mean asking legislators to vote themselves out of a job; but perhaps it would be desirable to have a constitutional amendment probabiting further growth.

#### 6) Which agency should reapportion?

Traditionally, in the majorisy of states including Minnesota, the function of reapportionment has been entrusted either wholly or initially to the legislature. Increasingly, however, because of legislative reluctance or failure in this area, the function has been delegated to other agencies as was done in Hawaii, where the governor has the responsibility, and Alaska, where there is an apportionment board. Such an agency may be a specifically listed group of officials of the state, as named in the constitution or in a statute. Another possibility is for the governor to name a committee to perform this function and to review its work. Conceivably, if a semi-automatic formula is available for reapportionment, it could be the responsibility of one official like the secretary of state.

The courts have also recently been named as reapportioners, although their function is generally one of inspecting new laws in the area and determining their constitutionality, rather than doing the original districting.

Political scientists widely favor the efficient expert commission as opposed to the more cumbersome and often protracted legislative process. A major problem with this approach is that, because of widespread party affiliation in this country, it is difficult to find experts o Olympian that they have no partisan leanings. If this problem is bypassed by equally dividing an independent agency between the two parties, the likelihood of stalemate appears. This actually happened in Illinois in 1964 when the commission, like the legislature before it, was unable to agree on any scheme; the result was an at-large election.

There is still a great deal to be said for a respected, relatively nonpartisan commission reapportioning or backstopping legislative reapportionment. If one cannot completely remove politics from the process, one can at least reduce it.

Because of the practical difficulty of gaining legislative approval of an independent agency initiating redistricting, the best use for an agency might

be the legislature first, and a commission second if the legislature failed to act in a given time period.

#### 7) Enforcement machinery

Prior to the Supreme Court decisions, there was no remedy for the citizer if the legislature failed to act; now he has the opportunity of seeking relief from the courts. With the threat of court action it seems likely that legislatures will prefer to reapportion themselves rather than have it done for them by the courts. Court action, however, is not automatic. It requires someone to file a suit, it is expensive for the individual involved, and it can be a slow process.

For these reasons it may be desirable to set up definite enforcement machinery. The possibilities available are (1) a special session of the legislature, (2) a commission as dicussed above, or (3) the responsibility could be turned over to the State Supreme Court.

It is also possible to establish a procedure for the review of any redistricting legislation by a special agency or the courts.

8) Multiple-member vs. single-member districts, and different alternatives

The Minnesota Constitution specifies that senators be elected from singlemember districts (only two candidates for one seat). It is silent on the election of representatives. Traditionally Minneapolis has elected two representatives at large from each senatorial district. Advocates of multimember districts say that within a city a single-member district may be so small that the average voter has no idea of its boundaries and consequently who his representatives are. The opposite extreme-electing all the representatives of an urban county at large-presents the voter with a long list of candidates with whom he may not be familiar, and sometimes enables one party to elect its entire slate. Opponents of multimember districts point to the added expense for a candidate of campaigning in a large area. Outstate, some senatorial districts elect two representatives at large; some are divided into three house districts, some two, and a few have only one. In striving for equality of population, it is possible to create large multiple-member districts outstate where two senators would be elected from three counties or even three senators from four, Removing the restriction that representative districts must not be divided in forming senate districts would give the legislature additional flexibility.

Another possibility would be a system of "floterial votes" where counties remain intact, but additional population over a certain figure is counted with other units for an additional at-large representative.

A different scheme allows a county which is entitled to one and a half representatives to elect one representative for each session and another for every alternate session.

Still another alternative is "weighted votings." Under this arrangement the legislators themselves would remain constant and shifts in population would be represented by giving or taking away the votes they could cast in the legislature. The major advantages of this system are: 1) areas with sparse population could retain a representative to handle special local problems, 2) counties that deviate from the average would not have to be divided, and 3) continuity of leadership in the legislature would be preserved. A disadvantage is that a small number of men with a large number of votes might be able to exert undue influence on legislation.

All these plans are rational and have been used in one or more states,

#### APPENDIX I

#### HISTORY OF REAPPORTIONMENT IN MINNESOTA

The problem in any reapportionment is the possible shift in control following transfer of legislative seats—a shift largely circumvented in the past by increasing the size of the legislature.

Constitutional Provision of 1857. Article IV, Legislative Department, Sec. 2... "The representation in both houses shall be apportioned equally throughout the different sections of the State, in proportion to the population there-

Reapportionment of 1860. This was the only redistricting act in Minnesota history which did not increase the size of the legislature, and actually decreased the size of both houses. The Senate was reduced from 37 to 21, the House from 80 to 42.

Reapportionment of 1866. The Senate was increased by 1 to 22. The House was increased by 5 and brought to 47.

Reapportionment of 1871. The population of the state increased by 75% during the previous five years which made necessary either a tremendous shift in legislative power or another increase in size of the legislature. The legislature chose to increase the number of legislators. The Senate increased from 22 to 41 and the House from 47 to 103.

Reapportionment of 1881. This was the first large-scale redistribution of legislative seats, The population had increased 78% in the previous 10 years. The Senate was increased only 6 (from 41 to 47) and the House from 103 to only 106.

Reapportionment of 1888. Ramsey and Hennepin showed great growth in the intervening 7 years and for the first time discrimination against the two counties appeared. The Senate was increased from 47 to 54, and the House from 106 to 114.

Reapportionment of 1897. This act was considered to be fairly equitable throughout the state although Hennepin and Ramsey were somewhat underrepresented. Again the legislature was increased from 54 to 63 in the Senate and from 114 to 119 in the House.

Reapportionment of 1913. Southern Minnesota was shown to be overrepresented by the 1910 census. Instead of redistricting, a constitutional amendment was passed by the legislature and presented to the voters in 1912. This was known as the Seven Senators Bill since it permanently restricted Hennepin county to seven senators. It was defeated by the people

The 1913 Legislature redistricted, increasing the Senate from 63 to 67 and the House from 119 to 130. Southern Minnesota had the greatest loss of representatives. The 131st member of the House was added in 1921.

The 1913 Legislature also passed the Seven Senators Bill again, but at the 1914 general election the voters again, by a larger majority, rejected the proposed amendment.

Reapportionment of 1959. Based on the 1950 census figures, this statute was really an area-population compromise in both houses. It gave the metropolitan center about half the increase to which its population entitled it. The suburbanite had been the forgotten man in the previous 46 years of growth. Badly underrepresented suburban areas benefited the most, and Ramsey county lines were well drawn, but the City of Minneapolis retained some discrepancies (about 2 or 3 to 1). Outstate, the worst inequilities of both under and overpresentation were rectified. The statute increased the House from 191 to 135 but the Senate remained at 67. The statute became effective in 1962 with the expiration of senate terms.

A constitutional amendment was also passed by the 1959 Legislature which would have changed the Constitution in two ways: (a) By making the basis of the Senate membership area instead of population; (b) by adding enforcement machinery that would make reapportionment more likely after each census. The amendment was to take effect after the 1970 census. This amendment provided that the five metropolitan counties surrounding the Twin Cities would have a permanent Senate representation of 35%, commonly referred to as a frozen district. The method of enforcement was a special session to be called immediately if the reapportionment were not accomplished within the regular session. The special session could only consider reapportionment, and was to remain in session until the jeb was accomplished. Legislators would receive no compensation during the special session. Amendment No. 2 on Reapportionment was presented to the voters in 1960 and defeated.

#### APPENDIX II.

## LEAGUE OF WOMEN VOTERS ACTION ON REAPPORTIONMENT

At its 1953 convention the League of Women Voters of Minnesota decided to consider reapportionment as one of three areas of emphasis in its study of constitutional revision. League principles state that every citizen should be fairly represented in his lawmaking bodies.

At the Council Meeting of 1954 delegates decided that the reapportionment situation in Minnesota justified legislative action in the 1955 Legislature.

During the fall of 1954 League units overwhelmingly decided in their first consensus on reapportionment to support a double approach:

(a) The League believes our constitutional provisions should be changed to give some consideration to an area factor. This is because we have an unusually large metropolitan center. Urban centers can be fairly represented by less than their full quota of legislators because of their cohesiveness, and ordinarily their closeness to the capitol.

(b) Until such time as our constitution is changed to provide this different basis for representation, its present provision should be carried out.

In the 1955 Legislature the League supported a statute (the Bergerud Bill) as carrying out item (b) above, and testified for an amendment to provide fair population-area compromise. We supported a Senate amendment providing for an area in that chamber. The League helped get the Bergerud Bill through the House. The newspapers and the chief author gave the League credit for its help in passing the bill. However, the bill failed in the Senate. In the 1957 Legislature an aroused interest was apparent. Legislators sought League lobbyists out and the Bergerud Bill just passed the House by 2 votes.

The House also passed a constitutional amendment putting area into that body (LWV withheld support because of inflexibility and insufficient enforcement). The Senate distorted the Bergerud-Gillen bill (renamed for its new Senate author) by restoring the status quo; then added a constitutional amendment providing for a population-apportioned House and an area-apportioned Senate; the House rejected it upon final referral.

Between 1957-59 three important events took place, all of which exerted pressure on the Legislature:

- (1) A suit was brought in Federal Court claiming that the citizens of Minnesota were being denied equal protection of the laws by the long failure of the legislature to reapportion. In 1958 the Federal Court ruled that would not even rule on whether it had the power to intervene until after the 1959 session of the legislature—giving that body one more chance to fulfill its constitutional duty. If it did not reapportion, the plaintiffs were invited to readdress the court for relief.
- (2) A committee on reapportionment, appointed by Governor Freeman in 1958, consisting of 9 Senators, 9 House members, and 9 laymen (including two LWV members), recommended a constitutional amendment that put the area factor in the House (County Representation Plan).
- (3) The imminence of the 1960 census also exerted pressure upon the legislators. If action did not come in 1959, the basis of reapportionment would then be the new census figures, which by all indications would show an even greater discrepancy between under and overrepresented areas.
- In 1959 the League, realizing that its membership had changed a great deal since its 1954 consensus, provided updated information, and asked for a new consensus. Results showed our members still in favor of two approaches to reapportionment:
  - (a) A temporary statutory solution such as the Bergerud Bill.
  - (b) A constitutional amendment recognizing area in one chamber in a fair, flexible, and specific manner; guaranteeing population in the other house; providing effective enforcement machinery and no increase in legislative size.

In the 1959 Legislature the House passed the County Representation Plan and the Bergerud Bill. The Senate passed a greatly amended Bergerud Bill and an amendment giving that chamber the area factor. The conference committee deadlocked and the session ended without action. After several weeks of heated meetings during the special session, the conference committee agreed on a statute adding four members to the House to become effective in 1962 without reference to the amendment.

The proposed amendment was studied by the League of Women Voters and found short of its standards of fairness and enforceability. The League decided it would rather continue the fight for a good amendment than settle for something inadequate. Consequently, in 1960 before the general election, the League worked actively to inform the public about Amendment No. 2 and explain its opposition to the amendment. Amendment No. 2 was defeated at the polls in the fall of 1960.

In the 1963 legislative session Amendment No. 2 was repassed by the House but laid over and finally killed by a Senate committee.

#### APPENDIX III.

#### POPULATION OF LEGISLATIVE DISTRICTS IN MINNESOTA ON THE BASIS OF 1960 CENSUS FIGURES

During the 1950-1960 decade the urban population of the state increased by 30.6 per cent while the rural population decreased by 4.9 per cent. Only 49 of Minnesot's 87 counties showed an increase, and in general these were counties having cities of 10,000 or more. The central cities showed a slight decrease while their suburban areas increased by a staggering 278.9 per cent. Presently about 1½ million people live in the Minneapolis and St. Paul area, ½ million in the Duluth-Superior area, and 100,000 in the Moorhead-Fargo

It is expected that further increases in population will occur in the metropolitan suburban areas. The Metropolitan Planning Commission has estimated that in the four years since the 1960 census, suburban Hennepin had grown by more than  $25\%_{\phi}$  suburban Ramsey by  $20\%_{\phi}$  and Anoka County, the fastest-growing county in the state, by  $44\%_{\phi}$ .

## PRESENT APPORTIONMENT OF LEGISLATIVE DISTRICTS IN MINNESOTA AND 1960 CENSUS FIGURES

No. o Distric		House Population	Area of Districts
1	40,356	16,588	Houston
2	40,937	23,768 24,895	Fillmore Winona (city)
- 6	10,737	16,042	Winona exclusive of city
3	30,517	17,007	Wabasha
		13,517	Olmsted exclusive of Rochester
4	52,015	52,015	Rochester (city)
5	61,757	20,590	Mower exclusive of Austin
		13,259	Dodge
		27,908	Austin (city)
6	33,035	33,035	Goodhue
7 8	38,988	38,988	Rice
-8	41,070	16,041	Waseca
		25,029	Steele
9	37,891	37,891	Freeborn
10	50,671	23,685	Faribault
		26,986	Martin
11	44,385	20,588	Blue Earth exclusive of Mankato
		23,797	Mankato (city)
12	41,815	19,906	Le Sueur
		21,909	Scott
13	78,303	42,457	Dakota (in part)
		35,846	Dakota (in part)
14	45,759	24,401	McLeod
		21,358	Carver
15	39,424	23,196	Nicollet

No. of District	Senate Population	House Population	Area of Districts	No. of	Senate	House	
2,71347161	1 opinimon	The state of the s	The state of the s	District	Population	Population	Area of Districts
100		16,228	Sibley	38	24,428	12,214 av	Minneapolis
16	42,156	18,887	Meeker	1000		12,214 av	two at large
772		23,249	Renville	39	67,808	38,904 av	Minneapolis
17	49,394	21,718	Redwood			38,904 av	two at large
100	meanage	27,676	Brown	40	37,143	18,572 av	Minneapolis
18	46,127	14,460	Watonwan	1000		18,572 av	two at large
		16,166	Cottonwood	41	65,162	32,581 av	Minneapolis
		15,501	Jackson	1989	10000000	32,581 av	two at large
19	49,972	23,365	Nobles	42	44,323	22,162 av	Minneapolis
		11,864	Rock			22,162 av	two at large
		14,743	Murray	43	83,348	56,076	Ramsey
20	45,911	9,651	Lincoln			27,272	Ramsey
		13,605	Pipestone	44	53,150	27,664	Ramsey
		22,655	Lyon	100	,	25,486	Ramsey
21	43,953	17,004	Pine	45	51,639	28,020	Ramsey
		26,949	Chisago and Isanti		2.1000	23,619	Ramsey
22	45,173	13,330	Lac qui Parle	46	42,176	21,520	Ramsey
		16,320	Chippewa	- 10	72,170	20,656	Ramsey
		15,523	Yellow Medicine	47	62,551	30,429	Ramsey
23	44,923	14,936	Swift	7/	06,001	32,122	Ramsey
		29,987	Kandiyohi	48	76,011	53,038	Ramsey
24	36,589	20,132	Stevens and Grant	70	70,011	22,973	Ramsey
	17000000	16,457	Traverse and Big Stone	49	53,650	25,644	Ramsey
25	33,227	21,313	Douglas	19	23,020		
		11,914	Pope		F2 422	28,006	Ramsey
26	46,542	12,367	Stearns (exclusive of St. Cloud)	50	52,432	26,216 av	Washington
	Top-10	34,175	Stearns (in part)	-	00.000	26,216 av	elect two at large
27	54,256	33,803	St. Cloud (city)	51	85,916	42,958 av	Anoka
-	-1,20	20,453	Benton and St. Cloud in Sherburne	122	200000	42,958	elect two at large
28	33,262	16,631 av	Kanabec, Mille Lacs, Sherburne	52	40,094	12,162	Aitkin
44	50,000	16,631 av		1000		27,932	Carlton
29	29,935	29,935	elect two at large	53	58,775	32,134	Crow Wing
30	100,524		Wright			26,641	Morrison
30	100,524	50,934 49,586	Hennepin (part)	54	35,318	12,199	Wadena
31	85,637	33,916	Hennepin	- O. C.		23,119	Todd
31	02,037	41,721	Hennepin	55	48,960	24,480 av	Ottertail
32	93,919		Hennepin			24,480 av	elect two at large
32	93,919	50,498	Hennepin	56	49,730	39,080	Clay
33	05.160	43,421	Hennepin			10,650	Wilkin
33	85,162	41,852	Hennepin	57	33,921	23,958	Becker
**	FO 485	43,310	Hennepin			9,962	Hubbard
34	59,475	23,738 av	Minneapolis	58	54,726	38,006	Itasca
	2002000	23,738 av	two at large			16,720	Cass
35	70,915	35,438 av	Minneapolis	59	56,554	28,277 av	St. Louis (part)
		35,438 av	two at large			28,277 av	elect two at large
36	53,233	26,617 av	Minneapolis	60	46,012	23,006 av	St. Louis (part)
		26,617 av	two at large		10,010	23,006 av	elect two at large
37	65,120	32,560 av	Minneapolis	61	50,738	30,362	St. Louis (part)
		32,560 av	two at large	01	50,730	20,376	Cook and Lake
		Fac	A CONTRACTOR OF THE CONTRACTOR			20,570	COOK and Lake

No. of Districts	Senate Population	House Population	Area of Districts
62	50,135	25,068 av 25,068 av	St. Louis elect two at large
63	45,228	22,614 av 22,614 av	St. Louis elect two at large
64	45,919	27,729 18,190	Beltrami and Lake of the Woods Koochiching
65	26,458	11,253 15,205	Norman Mahnomen and Clearwater
66	54,480	18,298 36,182	Pennington and Red Lake Polk
67	34,759	8,343 12,154	Kittson Roseau
		14,262	Marshall

#### SELECTED BIBLIOGRAPHY ON APPORTIONMENT

Baker, Gordon E. Malapportionment: The Judger, the Politicians and the People. Address before the League of Women Voters of the United States' Conference on Apportionment and State Government, Chicago, March 19, 1963.

Baker, Gordon E. State Constitutions: Respportionment. New York: National Municipal League, 1960.

Boyd, William J. D. Patterns of Apportionment. New York: National Municipal League, 1962.

Council of State Governments: Legislative Reapportionment in the States. Chicago, June, 1964.

Council of State Governments: The Book of the States 1964-65 Volume XV. Chicago, 1962. David & Eisenberg. State Legislative Redistricting. Chicago: Public Administration Service, 1962.

de Grazia, Alfred. Essay on Apportionment and Representative Government. Washington: American Enterprise Institute for Public Policy Research, 1963.

Jewell, Malcolm E. (ed.). The Politics of Reapportionment. New York: Atherton Press, 1962.
Leazue of Women Voters of the United States. Inventors of Work on Reapportionment by

League of Women Voters of the United States. Insentory of Work on Reapportionment by State Leagues of Women Voters, Washington: Jan., 1963.

McKav. Robert B. Reapportionment and the Federal Analogy, New York: National Muni-

cipal League, 1962.

National Municipal League. Model State Continuation, 6th ed. New York: 1963. See also their periodical, National Ciric Review, for current activity in the field of reapportionment.
Silva, Ruth C. and Boyd, William J. D. Selected Bibliography on Legislative Apportion-

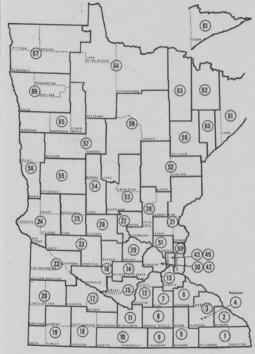
ment and Districting. New York: National Municipal League, 1963.

Twentieth Century Fund, One Man—One Vote, New York: 1962.

United States Advisory Committee on Intergovernmental Relations. Apportionment of State Legislatures, Commission Report A-5, Washington: 1962.

#### NOTES

- Advisory Commission on Intergovernmental Relations, A Commission Report, Apportionment of State Legislatures, Washington, D.C., December 1962, p. 77.
- Herbert L. Wiltsee, in The Book of the States, 1962-63, Volume XIV, The Council of State Governments, Chicago, 1962, p. 34.
- Herbert L. Wiltsee, in The Book of the States, 1964,65, Volume XV, The Council of State Governments, Chicago, 1964, p. 36.



LEGISLATIVE DISTRICT MAP

#### LEAGUE OF WOMEN VOTERS OF MINNESOTA

State Organization Service
University of Minnesota
Minneapolis, Minnesota 55455
5000 9-64 15c

FILE COPY 54

A STUDY OF

Reapportionment in Minnesota

# DEMOCRACY DENIED

JUNE, 1954

LEAGUE OF WOMEN VOTERS OF MINNESOTA

84 SOUTH 10TH STREET \* ROOM 406 \* MINNEAPOLIS, MINN.

PRICE 25e

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#### REAPPORTIONMENT IN MINNESOTA: DEMOCRACY DENIED

In 1936 an indignant Chicagoan petitioned the Circuit Court to declare the Illinois legislature illegal because great inequities in apportionment prevented its being a representative body. When a judge refused to hear the case, the petitioner shot at the judge, and shot and killed the opposing attorney—because, he said, "Something drastic has to be done to awaken the people."

The League of Women Voters would hardly agree that such drastic action is justified—even to awaken the people. Instead it is calling on you, in more patient, informed League fashion, to awaken the people in your community to Minnesota's need for reapportionment, beginning with your family and your neighbors, reaching out to your local organizations, and finally, we hope, catching your legislators' ears.

#### Apportionment in a Representative Democracy

Basic to the democratic system is the right of every adult citizen to vote. A corollary is that every vote carry the same weight. When legislative districts become as grossly uneven as they have in many states, including Minnesota, the inevitable result is a grave distortion of public opinion in our legislative assemblies and a corresponding departure from truly representative government.

In commenting on an apportionment case, the Kentucky Supreme Court said:

He has multied our constitution in vain who has not discovered that the keystone of that great instrument is equality—equality of men, equality of temperentation, equality of borden, against of the contentation, expanding the state of the content of the content

With this broad principle of equality every American must agree. How is it, then, that in many representative bodies we have a government not of men but of actes? How has the city voter come gradually to be looked upon as dangerous, or at least as so inferior to his rural cousin in intelligence, honesty, and patriotism that the state must be protected from him? The answer is complicated, bound up not only with regional conflicts and vested interests, but with traditions, with legal, administrative, and even mathematical difficulties. We shall try below to explore some of the answers.

#### Fitting Minnesota into the National Picture

Time has compounded the apportionment problem. What started out in our started constitutions as only a minor slight to much smaller urban areas has ended up with gross inequalities to 84,000,000 city dwellers; these 59% of our citizens elect only 25% of our representatives. For several generations, the problem of representation for growing urban areas could be met by simply giving them additional levidators: the unwelled size of levidatures finally made this impossible.

Minnesota increased its legislature from 63 to 198 in the period between 1840 in 1913. Since then, our legislature has been caught on the horns of this dilemma—to add to a legislature already the ninth largest in the nation by giving under-represented areas more legislature; or to rectify inequities by redistricting and reapportioning the entire state. Ostrichlike, our legislature has responded by burying its head in the sand, where it can see neither need nor duty to change the errors inequalities surrounding it.

In this disregard of duty how does Minnesota fit into a national picture which we know gives a far from flattering view of democracy in our state assemblies? Answer: Minnesota is one of only six states? which have taken no action on reapportionment in the last 40 years (though some of the other 42 states have made changes in but one house).

Analyzing the situations in these five other states we find that in only three besides Minnesota is periodic reapportionment a duty of the legislature:

Alabama is longer overdue for change than Minnesota, her last apportionment having been made in 1901. However, her situation is complicated not only by the usual rural-urban split, but in addition by an emotionally charged racial issue and a north-south aericultural-industrial stress.

In Delaware no reapportionment could be expected, as it is the only state where districts are laid out and representation assigned by constitution, with no provision for reapportionment.

In Illinois, unapportioned since 1901, a long, bitter, and complicated fight has been in progress, with reapportionment a hopeful result of the 1954 election (see page 25).

At first glance, Mississippi seems to have been more negligent than Minnesota, since general reapportionment was last carried out there in 1890. However, (1) her legislature is given only the power not the duty to reapportion; (2) her constitution sets forth districts for both houses, so the margin of legislative discretion is narrow; (3) a system of rotating some legislators among counties and of electing others at large provides some de leader oreapportionment.

Tennessee, it is true, has not reapportioned since 1901. However, in 1949 the

<sup>5</sup> Figures, from Conference of Marors, see as of 1988. Generally quoted by most writers on the subject. Though some inequalities have since been corrected, when growth has probably been sufficient to keep the percentages fairly constant. One of the confusing factors in working with such 'urban' attributes in that any tillage or city over 2,500 is claused inficulty as "what yet we know that the sympathies of many places this size are must)—rather than orban-orban transportations.

Although we are not here concerned with Congrussional apportisament, it may be noted that throughout the nation urban dwelfers are intended to predict presented in the U. S. House of Representatives. This is in agive of wide deviations in Congrussional districts (which have laid out by vate legislatures). In Municota, the Third District is mort inadequally represented, having 30%, more people than the average; note that in general this mouth metropolitan area is also bothly under-represented in the state legislature.

\*Connecticut missed this list by reapportioning her Senate in June, 1953, for the first time in 50 years; her House remains the same as in 1818, To these facts can be laid many of her urthan wors, some cited below.

legislature submitted to the voters the calling of a limited constitutional convention to deal, among other things, with reapportionment. The measure was rejected by a narrow margin, like every other amendment that had ever been submitted in this state, where the amending requirements have been termed "impossible to meet." A recent change in Tennessee's amending process may now ease the path to reapportionment.

We can hardly be satisfied that in its refusal to meet a constitutional mandate, Minnesota's record is only not as bad as Alabama's.

We shall be challenged in use of the word "mandate" by legislators who prefer to think reapportionment is a privilege, not a duty, of the legislature. The constitution says "the legislature shall have the power" to reapportion, which permits of some interpretation, it is true. However, in 1914, the state Supreme Court construct this language as "imposing a days of reapportionment, and that the duty so imposed continues until performed" (State ex rel. Meighen v. Weatherill, 125 Minn, 336). In 1945, asked to pass on inequities existing under the 1913 law, the Court reinterated this position: "The remedy lies in the political conscience of the legislature, where lies the burden of the constitutional mandate" (Smith v. Holm, 220 Minn, 486).

It must be admitted that all the reapportionments carried out by other states recently of frequently reapportioned—and are the result either constitutional difficulties, of niggardly concessions to urban areas, or of a populationarea compromise reached in order to secure any reapportionment at all. But even where it fails to bring about all desired improvements, periodic reapportionment almost always accomplishes something: concessions are quite uniformly made to under-represented areas.

#### What Apportionment Laws Deal With

Two types of factors are responsible for malapportionment: first, inadequate apportionment laws; second, community stresses and strains—political, economic, regional. To understand the first type of difficulty we shall have to look at the common provisions of reapportionment laws.

1. Basis upon which number of representatives shall be figured. The word most frequently mentioned in state constitutions is "population." (A few states exclude aliens, or military personnel, or Indians not taxed; in Minnesota this latter provision has been negated by a Supreme Court decision that all Indians are subject to some form of taxation and should be counted.)

"Area" is the other word to remember. Area representation usually results from giving counties representation, with complete or modified disregard for their populations. (See pages 21-22 for particulars.)

In 14 states, including Minnesota, population is the basis specified for reapportioning both houses. In 14 states population is the basis in one house; in the

\*This figure, which changes rapidly, is given as 16 in the 1951-52 studies used in preparation of this section (mainly Greenfield, Jugilative Reapportsonment, University of California, 1951). But Michigan and Nevada have recently dropped into the next category and Illinois is preparing to do 60.

other, area prevails. In 20 states straight population is the basis in neither house.

2. Restrictions on the laying out of districts. Framers of our state constitutions took firm measures to prevent gerrymandering (laying out districts for the benefit of one political party). Districts must be "compact," "contiguous," as neatly equal as possible," and/or "with no division of counties," Most important to remember for practical purposes: the county is the basis for districting in most states.

3. A limit on legislative size is often specified in the constitution, added by later statute, or observed by common consent.

4. Reapportionment agencies are, in the large majority of states, the legislature themselves. In some states provisions are made for another body to act if the legislature does not. In a few, the power is in a separate commission, with the legislature quite divorced from the proceedings. States which have recently made basic changes in their reapportionment laws vary widely in other respects, but all specify some sort of "self-enactment provisions" to assure automatic periodic changes in the future.

5. Time for reapportionment is specified as every ten years in 42 states (six and five in two others).

It can be seen from the above provisions that most constitutions aim at excellent broad principles, designated by several writers in the field as:

a. Equality of representation (i.e., equal districts).

b. Convenient geographic basis for districting (i.e., county).

c. Flexibility to meet population changes (i.e., periodic reapportionment).

d. Stability of membership (i.e., limit on size of legislature).

It can also readily be seen that these four admirable principles are far from enterprishe. The difficulty in reconciling them has become more difficult with each year. Those who complain of unfair apportionment claim that equality and flexibility have been sacrificed to geographic considerations and stability. Let's examine why this has happened.

#### Why Reapportionment Laws Don't Work

There is a wide gulf in many states between the theory and practice of reapportionment, between what constitutional framers laid down and what legislators are able or willing to carry out. The following factors either prevent legislators from effecting a fair apportionment or offer a legal cover-up for their unwillingness to do so:

1. It is sometimes impossible effectively to reconcile the provisions of a reap-portionment law. More than one constitution lays down an "equal population" formula, and then prohibits cutting up counties, which would be the only way of making equal districts. Consider, for example, difficulties to be met in Kentucky, where he law provides that 76 counties be divided to make 100 representative districts, yet no county may be divided unless large enough to make two districts, and no more than two counties may be joined. Indeed, two of Kentucky's four reapportionments since 1900 have been thrown out by the Supreme Court on grounds of gross inequality.

The use of county lines in redistricting is perhaps the most maddening of all parriers to equal apportionment. The practice would seem so easy to get rid of, yet has become sort of a sacred cow demanding eternal obeisance.

Arguments against commy districts: Rigidly drawn county lines were originally intended to prevent gerrymandering, but they allow so little discretion in redistricting that we now have "gerrymandering by inaction." The importance of the county as a unit in pioneer society has almost disappeared with modern modes of transportation and communication. The county hasn't the same significance in state legislatures as has the state in Congress, since states are policymaking bodies, countes purely administrative. County districts come easily to serve as tools of political party control; we have all heard impolite references to "the courthouse gang." In short, most writers on reapportionment feel that rural supremacy is well served by county lines. (See also page 20.)

Proponents of the county line have, and need, only two short arguments: the psychological hold of the county on the American political imagination; and convenience of election procedures.

None of the states with new apportionment laws have disturbed the county line.

2. We have come to see the doubtful wisdom of most state constitutions in giving the reapportioning power to the body affected by the process—the legislature itself. In judicial procedures, a judge is not allowed to preside over a case in which he has an interest. Yet legislators make decisions in a matter in which they have the closest personal interest, It is only human nature not to change the status quo if it is favorable to you—and of course it is only charity not to change it if it is favorable to you friend from the next levislative district!

3. The problem is complicated by two legal considerations which are not defects in apportionment laws themselves. On first becoming aware of the need for reapportionment most people say, "Well, why don't the courts do something about it?" Courts have had regretfully to decline the honor whenever approached —on the basis that our government is one of separation of powers. The legislature is a separate and distinct branch of government, and cannot be coerced into action by either the executive or indicial branch.

As in Minnesota, many supreme courts have underlined in clearest language the absolute day of the legislature to reapportion. In some cases they have thrown out reapportionment laws which violated constitutional requirements as to number of legislators, compactness of districts, etc. But they have consistently refused, and must, to issue a writ of mandanus forcing a legislature to reapportion. (That courts are becoming a factor under some new apportionment laws will be seen on page 23.)

4. Difficulty of amending the constitution is the other legal handicap to reapportionment in many states, Says Dr. Lloyd M, Short:4

\*Of the University of Minnesota, in Legislative Reopportionment, Volume 17 of Law and Contemporary Problems, Duke University, 1952. These 13 studies by autional authorities on both Congressional and state responsionment owne to have almost the salidity of Stripture to anyone working in the field. This volume will hereafter be referred to simply as the Duke University study.

If present state constitutional provisions are unworkable, incomistant, and contlated, why are these constitutional lateries to reapportisoments permitted to continue? The answers to this question are presty obvious to anyone familiar with recent attempts to amend or review state constitutions. The amending process, frequently made difficult for the purpose of provising constitutional stability, stands in the way. Except in those few states which permit use of the intriduce and referendum, proposed amendments must run the guardies of a hordier or indifferent to the voters. If they just the first hardle, they must then often win an extraordinary majority of the popular vote to become a part of the constitution.

(Relation of the amending process to Minnesota's problem is discussed on page 17 below.)

#### **Community Pressures Opposing Reapportionment**

We pass now from the rusty, creaking legal machinery inherited by many usable condition. "The apportionment struggle compounds other important partisan, economic, sectional, class, and racial pressures, depending upon the historical background of the particular state." 3

1. The rural-urban controversy is the bogey-man of reapportionment, On the one hand, we have to concede that this feeling is the most difficult obstacle to reapportionment both in Minnesota and throughout the country. On the other hand, it is our present task to make both the agrarian and the metropolitan citizens ware of their interdependence. We must convince the people of Minnesota that the rural-urban split is founded less on reality than on inherited mistrust; that the sharp demarcation between town and country is fast disappearing as farms become more mechanized and industry spreads into rural areas; that a healthy economy in a rural state demands stable metropolitan and industrial centers; that satisfactory settlement calls mainly for good will on both sides.

States which have done a reasonably fair job of reapportionment find no evidence of damage to their rural areas."

The rural-urban split is deliberately fostered by some urban interests who find it convenient, and by many rural legislators honestly mistrustful of urban motives. As a practical matter, rural legislators from over-represented counties naturally dread campaigning in an enlarged district, quite probably against another veteran legislator.

The feeling of many rural and small-town dwellers also runs deep; and is reinforced by the more conservative urban dweller, who would rather see what he calls his 'conservative' country cousin in the saddle than a more "liberal" member of his immediate urban family. The extreme position has been somewhat startlingly stated by Herbert Nelson, then president of the National Association of Real Estate Boards: "

Today the greatest threat to democratic institutions, to the republican form of government, and ultimately to freedom itself, lies in our big cities. They are populated for the most part

with the mass-man devoid of intelligence and devoid of civic responsibility. . . Our one hope of survival as a free country is that raral and semi-tural areas still dominate most of the state legislatures. . . Our best hope for the future is to keep it that way.

(See page 15 for evidence that fear of big-city domination is groundless in Minnesota.)

2. Sectional interests are often not rural-urban. In Alabama, for instance, an important stress is north-south, with an additional "white aspremacy" factor. San Francisco-Los Angeles rivalry has been so strong as to make rural-urban division take a back seat in California; in 1927 northern urban centers accepted a compromise limiting their Senate representation in order to curb the influence of rapidly expanding southern cities. New York has a strong upstate-New York City rivalry.

 In some places emotionally charged issues such as prohibition, blue laws, or racial supremacy have complicated change.

4. Resistance to reapportionment has a strong partisan basis in many states. "The shameful reason for this nullification of representative government is clear: currently successful political organizations don't want to risk loss of control." In northern states this reluctance is primarily based on fear of increased Democratic influence from properly represented urban centers. In Minnesota, although our legislators are not chosen by party, the struggle is translated into Conservative-Liberal terms.

Lashley G. Harvey contends that the rural-urban split in Minnesota is intensified because our legislators have no party affiliations; parties are the one force canable of merging city and farm elements.<sup>8</sup>

5. Lord Bryce long ago pointed out that "the money power, which is most formidable in the shape of large corporations, chiefly attacks the legislatures of the states." "Large tax-paying interests frequently gain from rural domination and will go to great lengths to maintain existing apportionments." Banks, private utilities, transportation systems, and insurance companies come in for most of the blame. These economic interests all too often use the rural-utshan controversy as a covering smoke screen for their behind-the-scenes activities; the rural legislator whose district has no direct interest in a problem may become its arch-defender or opponent.

We shall see that in Michigan the constitutional plan for reapportionment lost by being identified with labor groups, and that city industrialists teamed up with rural areas to defeat it.

6. While rural feeling presents an almost solid front, urban areas are not united on reapportionment. Business and partisan interests have already been mentioned as breaks in the front. Also to blame are some urban legislators who do not relish the thought of unknown constituencies in which to campaign. Seldom would the legislator from an under-represented area cast a vote against reapportionment. However, many can be charged with failure to study reapportionment bills presented by others, or use their influence with fellow legislators,

\*Lashley G. Harvey, chairman, Department of Government, Boston University, First quotation is from Western Political Quarterly, 3:428 (1950); second from Duke University study.

<sup>&</sup>lt;sup>6</sup> Thomas Page, Legislative Apportionment in Kansas, 1952, This report, by a University of Minnesota graduate, goes far beyond the situation in Kansas to an interesting, theoretical,

even philosophical treatment of the problem in context.

"Self-Destruction by the States," National Manierpal Review, 34:534 (Dec., 1945).

"Mation (Wisc.) Capital Times, Aug. 26, 1947. Quoted by Page, p. 332.

or impress their constituents with the seriousness of the problem. Only too often these legislators count on public apathy,

From public anathy to public knowledge to public action are long stepspeculiarly suited to seven-League boots!

#### **Evils Attending Legislative Disproportion**

When opponents of reapportionment run out of arguments on the principle of the matter, they often take refuge in a type of question which demands prompt and specific answer-or it may be widely assumed they have the best of the debate. This type of question we have long been familiar with in arguing the need for constitutional revision. What difference does it make, anyway? Isn't our state pretty well governed? If not, how is unfair apportionment to blame?

Around the nation, we may point to the following evils which authorities on reapportionment uniformly point to as being intensified by malapportionment. They are applicable to Minnesota in varying degree.

1. Decline in legislative prestige, described thus by Robert Kramer: 9

When the United States, in 1790, began its career as a nation, the legislatures, both state and federal, stood high in public esteem. One of the chief reasons for this was the fact that, unlike most colonial governors and judges, the legislatures had been that part of the government most closely associated with and representative of popular sentiment and feeling for independence. . . . But subsequent to the high point of congressional power immediately following the Civil War, a rapid decline in legislative prestige and, to a limited extent, even in legislative power, occurred. This decline has continued even until today, . . . The causes for this decline in American legislative prestige and leadership are numerous and complex. Certainly one factor was various structural defects in the typical American legislature. . . . Equally if not more important was the widespread feeling among the electorate that for various reasons the legislature had ceased to be truly representative of the wither of all the people and had become frequently a tool for certain favored classes or interests. Substantially contributing to this feeling of nonrepresentation was the patent under or over-representation of many localities in the state or federal legislature arising from the failure properly and periodically to reapportion the reats in that body.

2. Concentration of power in the federal government. One of the complaints most frequently, indeed most noisily, heard in state legislative halls, is the tendency to bypass local government channels and look to Washington for the solution of local problems. Legislators should hardly express either surprise or disapproval, since the situation is largely of their own making. Under-represented areas, finding no help at home, naturally journey to Washington, "There is much clatter in state circles about federal encroachment upon the domain of the states. That is pure balderdash. The federal government has not encroached upon state government. State governments have defaulted." 10

Says Douglas H, MacNeil,11 Director of Division of Statistics and Research of New Jersey: "It cannot be doubted that the trend toward encroachment upon fields of service heretofore reserved to the states has been accentuated by the long-continued reluctance of legislative bodies in many states to accord to cities representation proportionate to their population."

"In introducing the Duke University study,

3. Insoluble urban problems. A large share of the problems which plague legislatures all over the nation are the result of rapid urbanization and industrialization of our society; social welfare legislation, home rule, housing, labormanagement problems, transportation, traffic control, consumer protection, metropolitan planning, etc. The increasing demand for services is strained on one hand by limited taxing powers, on the other by suburban developments which deprive cities of property development and improvement and thus decrease their tax base. Commented the Conference of Mayors in 1948: "The matter is not now one of theory or nebulous ideals. It has become almost a case of life or death for cities,"

Can a legislature top-heavy with rural interests be expected to treat these problems with either the knowledge or sympathy they deserve?

Of America's 67 largest cities. Douglas MacNeil points out that 45 have less than their proper representation, including all 10 of the largest; 12 of the 45 have less than one-half their true share. Los Angeles, for example, with 39% of California's population, has 21/2% of its senators. St. Louis has 18 representatives for its 816,000, the same number as 18 rural counties with 158,000. Atlanta has 1 representative for 131,000, neighboring rural counties 1 for 3,000.12

Typical of the countless injustices to American cities cited in the literature are these three examples: 18 In Oregon, the recent fight for true population representation was sparked by rural-engineered defeat in 1949 of a state-supported junior college in Portland, a bill to repeal the oleo tax, and a bill which would have cut milk costs-all "discriminatory against low-income city families" (Rep. Richard Neuberger).

Knoxville, Tennessee, has twice (1937 and 1947) had its city manager form of government taken away by the legislature, which replaced it with a mayorcouncil form more to its liking.

In New Orleans in 1946 Mayor Chep Morrison's reform government went about routing out the vice, corruption, and inefficiency left by the Huey Long machine. Immediately the rural-Long controlled legislature rammed through one hamstringing bill after another: city courts were abolished and re-established under legislative control; merit system was wrecked; sales tax was cut in half; five-man city commission was replaced by a seven-man council elected by districts, with much greater pork-barrel potential.

4. Home rule is often denied, limited, or taken back by rural-dominated legislatures. Under our federal constitution jurisdiction of state government extends to municipal affairs of all kinds; powers granted to cities are completely at its discretion. An unsympathetic legislature can exert power over a city that is close

In Ohio, where rural-urban cleavage is sharp, cities were granted home rule in 1912. The legislature soon repented and took away: in 1918, right to fix

28 Ibid. The alarming discrepancies in the three cities mentioned are in one chamber only, and are on basis of 1940 census. Many of the urban injustices cited throughout this section are from "Our Plundered

Cities," This Week, Aug. 28, 1949.

<sup>35</sup> According to Robert Allen, in Our Sovereign States (1949). 31 "Urban Representation in State Legislatures." State Government, 18:59 (Apr., 1945).

eas and electricity rates; 1925, right to create municipal courts; 1941, right to prescribe qualifications for city policemen; 1943, right to establish a retirement system for firemen.

In Minnesota, Prof. William Anderson 18 cites these legislative acts which have had the effect of overruling provisions of our fairly adequate home rule legislation: limiting the amount of wheelage tax which cities can levy on cars to one-fifth of the state tax thereon; putting a per capita limit on municipal

taxes and local school taxes.

Weak home rule charters also crowd the legislative calendars with special bills, diverting time and attention from matters of statewide importance. Thomas Page a points out that although legislatures usually yield to requests of local governments, urban legislators must often trade for these concessions to their constituencies, a favorable attitude toward some more important and general program. In general, rural legislators enjoy their power of special legislation, as it "facilitates their keeping the upper hand in tax matters." Another evil of overcrowded calendars is cited by Robert Allen: 10 It is when legislatures are harassed by lack of time that "self-seeking and obstructive forces have their greatest sway."

In Minnesota, in spite of quite liberal home rule provisions, 653 (30%) of bills introduced between 1929 and 1937 fell into the class of special legislation, 179 dealing with municipalities. Minnesota's chief needs are for change in the charter amending process, now so difficult that cities take the easier course of applying to the legislature for needed change; and increased powers to cities and

villages without home rule.15

Persons close to Minnesota's legislative scene say that objections to home rule liberalization come less from rural, than from certain urban, legislators-which leads to three observations and questions: (a) This is excellent proof that urban areas do not vote in a bloc. (b) Is this an example of urban economic interests siding with like-minded rural legislators, out of fear that liberalized enabling legislation might provide cities with power to levy new taxes? (c) The best interests of small cities throughout the state are here identical with those of large urban areas, yet they are served by "rural" legislators-a rebuke to those who emphasize the sharp cleavage between urban and rural interests,

5. Elimination of unnecessary local government units has often been opposed by rural blocs. Multiple small units, of course, make it impossible to use centralized budgeting, purchasing, and other modern administrative methods, and consequently impose much heavier tax burdens than are justified by their services.

Minnesota now has the largest number of local units (9,026)16 of any state in the union. Of these the majority are school districts. Under enabling legislation passed in 1947, such great progress has been made in school reorganization

"Table 1, p. 11, of Government in the United States in 1952 (Census Bureau Publication),

that an original 7.800 school districts now stand at 5,300. This is still two or three times too many, according to our Commissioner of Education.15 In the face of these great accomplishments and these great needs, determined opposition to renewal of the reorganization bill developed in the 1953 legislature, led by rural legislators from the southern part of the state.

6, Unfair distribution of taxing power and receipts. It is easy to make unfair accusations in this complicated field. For instance, the 1948 Conference of Mayors charged that under-represented cities pay 90% of state taxes, and raised the war cry "Taxation without representation!" The fact is, of course, that corporations pay taxes on income earned in both urban and rural communities through their metropolitan offices.

However, it is obvious that there is too much taxation with too little representation. The Wall Street lournal points to the fact that state governments are monopolizing lucrative sources of taxation and starving municipal governments for revenues. The states lav heavy taxes on city business, while cities are restricted largely to property and "nuisance" taxes. Between 1932 and 1941, federal revenues increased 313%; state 138%; city 21/2%.

An extreme example of how rural domination has set unfair tax patterns is provided by Connecticut, in whose House six rural towns with a population of 10,000 can out-vote five cities with 700,000. City schools get \$30 in state aid per pupil; rural schools \$100. Union (population 234) receives \$50,000; so does Hartford (1950 population 177,397), Connecticut is also renowned for her "gold highway law." Waterbury, the fourth largest city, is taxed over one million dollars annually for state road maintenance and gets back \$26,000 for its 200 miles of streets. Rural Canaan with 555 persons pays \$6,000 and receives \$26,000, which it can't even use. "About as democratic." comments the Waterbury Republican, "as election day in a concentration camp."

Minnesota's municipalities share in the general revenue dilemma of all American cities. It is suggested that proper representation of urban areas in our policymaking bodies is one, if only one, of the ways in which Minnesota may find a just solution to the thorny problem of state-local sharing of financial burdens

and proceeds. Problems common to local units are:

a. The property tax, to which municipalities are largely confined, though once adequate, has "become less equitable as a measure of either benefit or ability to pay taxes, less productive of revenue, and more difficult of administration," 18 It is obvious cities must look elsewhere.

b. The inadequacies of the property tax system are intensified by the fact that railroad and freight lines, telephone and telegraph companies are exempt from the local property tax, in lieu of which they pay a gross earnings tax to the state (in 1944.45, \$14,040,000). These utilities thus pay no direct share of

"Radio broadcast, Listen with the League, KUOM, Nov. 11, 1953; An Analysis of Projected Public School Building Needs in Minnesota (Dept. of Education, 1953). "C. C. Ludwig, "The Case for Local Sharing in the Gross Earnings Taxes," Minnesota

Municipalities, Ian. 1945,

<sup>&</sup>quot; "Municipal Home Rule in Minnesota," Minnesota Municipalities, 23:408 (1938), Those interested in home rule will find suggested remedies for home rule inadequacies in this article and the one cited in note 15. 18 Horace E. Read, "Congestion in the Minnesota Legislature," Minnesota Municipalities,

the cost of local services demanded from the community. It is "the unanimous recommendation of tax experts, municipal associations, committees, and authorities which have studied federal-state-local fiscal relations" is that 40% of these

gross earnings taxes be allocated to local units,

To quote from the Report of the Mayor's Tax and Finance Commission (Minneapolis, 1947): "Minneapolis might have nearly adequate funds if Minnesotta did not divert such large proportions of income, gasoline, automobile, liquor, gross earnings and other taxes collected in Minneapolis to other parts of the state." (With more recent increases in basic state aid to schools, inequities in income tax distribution have been somewhat ameliorated. For instance, in the peried 1942-64 Minneapolis received back only 13.3% of what it paid in state income tax; figures from the city engineer's office show this has now increased to 40%.)

7. It is questionable whether any of the above evils commonly attributed to disproportion is potentially as grave as the following two general considerations: A disrespect for law on the part of legislators, sworn to uphold that very law, is conducive to a like disrespect on the part of the ordinary citizen for any law he happens not to like.

8. Democracy gone to seed is the phrase used by one Minnesota economist to describe legislative neglect of its manifest duty.

Thomas Carlyle, whose whole political trust was in the hero-leader, once concludy remarked, "Democracy is, by the very nature of it, a self-cancelling business." Carried far enough, self-perpetuating legislative disproportion could

easily prove him right.

On the other hand, "if legislators perform their task of reapportionment in a statesmanlike fashion, they will go far toward enhancing the prestige of their profession. In a time when representative government is fighting for its very life throughout the world, when the very idea of political democracy is upon the defensive as it has not been for two or three centuries, it behoves legislation bedies to look with great care to their own composition. If narrow partisan advantage or personal or sectional inserest is put above the general good, the means employed will have destroyed the vitality of the end set up. Dishonest apportionment is a direct invitation to subversion and treason." 19

#### Disproportions Under the Minnesota Law \*\*

Constitutional provisions on apportionment are contained in Article IV, Secs. 2, 23 and 24, of the 1857 Constitution and read as follows:

The number of members who compose the Senate and House of Representatives shall be prescribed by law, but the representation in the Senate shall never exceed one member for every 5,000 inhabitants, and in the House of Representatives, one member for every 2,000 inhabitants. The representation in both houses shall be apportioned equally throughout the

Degislative and Congressional Redistricting in Kentuchy (University of Kentucky Bureau of Governmental Research, 1951).

<sup>30</sup> For these figures we are greatly indebted to an unfunished Ph.D. thesis by John A. Bond of the University of Minnesota, Figures for Dists, 19, 28-42, 45, 46, 55, and 57-62 were compiled by him from crosus tracts and enumerations.

different sections of the state, in proportion to the population thereof, exclusive of Indians not taxable under the provisions of law (Sec. 2),

[After each censua] the legislature shall have the power to prescribe the bounds of congressional, senatorial and representative districts, and to apportion anew the senators and representative among the several district, according to the provision of Sec. 2 of this article

(Sec. 24) and the senators shall also be chosen by single districts of convenient, contiguous territory, at the same time that rembers of the Home of Representatives are required to be chosen, and the same time that rembers of the Home of Representative store required to be the chosen, and the same time that the divided in the formation of a senate district (Sec. 24).

Although the law itself is just, simple, and flexible, the impossibility of enforcing it upon an unwilling legislature makes it empty legislation. The true state of affairs under it is this:

Over 50% of our legislators are chosen by less than 35% of our population. This means that ½ of Minnesota's voters can impose their will on the entire state.

In order to judge disproportions among Minnesota legislative districts, it is necessary to find the population figure of a fairly apportioned district. This is arrived at in the following manner:

House: 2,982,483 (population of Minnesota) -- 131 (number of House dis-

tricts)=22,767 (ideal House district).

Senate: 2,982,483 (population of Minnesota) ÷ 67 (number of Senate districts) = 44,515 (ideal Senate district).

There is, even in a fairly apportioned state, unavoidable deviation between districts. This is due to difficulties in cutting up districts according to county or ward lines. The amount of acceptable deviation is put at 15% by the American Political Science Association. Thus, in Minnesota, a fairly apportioned House district would contain a population varying from 19,352 to 26,182 (22,767 minus or plus 15%); a fairly apportioned Senate district would contain a population varying from 37,838 to 51,192 (44,515 minus or plus 15%).

Using this 15% standard, we find that inequities in representation are of five types:

- 1. Under-representation of fast growing districts.
- 2. Over-representation of districts with declining population.
- 3. Under-representation of the three largest cities.
- Under-representation of suburban areas amounting almost to non-representation.
- 5. Unequal districting within counties and senatorial districts.
- Undersepresented Districts. The population of Minnesota increased by 13% from 1910 (basis of our last apportimenent) to 1950. Because this growth has been very unevenly distributed, the following districts and counties are at present seriously under-represented in the Senate (using the 15% permissible deviation standard):

 $^{26}$  In the House, 50% of the legislators are chosen by 31.4% of the state's population; in the Senate, by 35.3% .

|--|--|--|

This under-representation is further pushed out of line by over-representation in the districts listed under (2) below, so that the lopsided picture really looks like this: Senators represent districts that range in population from 16,878 in Dist, 3 (Wabasha) to 153,455 in Dist, 36 (rural Hennepin). The Wabasha County voter is thus over nine times as important in the Senate as the voter from rural Hennepin.

In the House, population has increased so rapidly in Dist. 4 (Olmsted) and Dist. 20 (Dakota) that 53% of the people are not represented at all. In Dist. 44 (Anoka, Isani) 52% of the citizens are without representation; in Dists. 28-36 (Hennepin average) 39%; in 18 (Rice) 37%; in 6 (Freeborn) 34%; in 37-42 (Ramsey average) 23%.

The following districts are seriously under-represented in the House:

4 Olmsted 5 Mower 6 Freeborn	32 Hennepin (2) 33 Hennepin (2) 34 Hennepin (2)	44 Anoka, Isanti 45 Stearns (eastern part) 49 Clay
18 Rice	35 Hennepin (2)	52 Itaica 57 St. Louis
20 Dakota 25 Kandiyohi	36 Hennepin (2) 40 Ward 7, St. Paul	59 St. Louis (2)
	41 Ramsey (2)	62 Beltrami, Lake of the
29 Hennepin (2)	71 Ramsey (2)	Woods Lake of the

The smallest and the largest House districts are found within Ramsey and Hennepin Counties, respectively. Deviations run from 7,290 voters in Ward 4 of Dist. 40 in Ramsey County to 107,246 in the south half of rural Hennepin (36). This is more than a 1-14 ratio for run-representative democracy.

2. Over-represented Districts. Using the 15% deviation, 29 of Minnesota's 67 districts are over-represented in the Senate:

3 Wabasha 6 Freeborn 7 Faribault 10 Cottonwood, Jackson 11 Nobles, Rock 15 Nocollet, Sibley 16 Steele, Waseca 17 LeSasur	21 Carver, Scott 22 McLeod 23 Renville 24 Lac qui Parle, Chippewa 26 Mecker 27 Wright 28 Hennepin 37 Ramsey 43 Washington 45 Secure (central and	47 Douglas, Pope 55 Mille Lacs, Kanabec, Sherburne 56 Chisago, Pine 58 St. Louis 61 St. Louis 61 St. Louis 64 Mahnomen, Norman 65 Clearwater, Pennington Red Lake
18 Rice	46 Stearns (central and	Red Lake

The following districts are seriously over-represented in the House

Aitkin Benton Big Stone	*Chisago *Clearwater Cook	Grant Hennepin (Duts. *28, 30)	Kittson Koochiching *Lac qui Parle
Blue Earth	*Cottonwood	Houston	Lake
Brown	Dodge	*Hubbard	*LeSueur
*Carver	Fillmore	*Jackson	Lincoln Marshall

*Mecker *Mille Lacs Morrison Murray Otter Tail *Pennington *Pine Pipestone *Polk	*Pope Ramusy (Dists, *37-S, 38-S, 40 ward 4) *Red Lake Redwood *Rock Roseau St. Louis (*Diots, 58 and 61)	*Scott Sherburne (*Dist. 55). *Sibley *Steams (central and western parts) Stevens Swift Traverse *Wabasha	Wadena *Waseca *Washington Watonwan Wilkin Winona (not city) *Wright Yellow Medicine
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(\* The starred districts are over-represented in both houses by over 15%-)

 Under-represented Cities. Minneapolis, with 17.5% of the state's population, has 12% of the representation in the Senate, or 68% of its rightful share; in the House it has 70% of its rightful share.

Ramsey County has a population of 355,332 (St. Paul making up 311,349 of this figure); this is 12% of the population of Minnesota. Ramsey County has a little less than 9% of the representation in the Senate, or 75% of its share; a little less than 9% of the representation in the House, or 77% of its share.

Duluth makes up the major part of three legislative districts. Of these the 57th and 59th are greatly under-represented, although the 58th, in the center of the city, is greatly over-represented.

Two points need emphasis: (a) The metropolitan areas are badly in need of adjustment. (b) In Minnesota, the reapportionment battle should not center around domination by one large urban center as in Illinois and New York, where the largest city in the state contains over half of its population.

Together, Minneapolis and St. Paul have only 28% of the state's population. Minnesota's three largest cities contain less than 32%. Even with their rural areas, Minnesota's two largest cities together have less than 35% of the state's population.

4. Under-represented Suburban Areas. The Twin Cities are surrounded by mushrooming areas which are not only inadequately represented in the legislature, but practically non-represented. In 1950 suburban Hennepin County had only 29% of its rightful representation in the Senate; 30% in the House. Even this unfavorable ratio has now been much further reduced. For instance, on the basis of building permits, allowing about 4½, error, the 1953 population had increased by the following proportions: Crystal from 6,000 to 15,000; Golden Valley from 5,551 to 9,600; St. Louis Park from 22,604 to 31,000; Richfield from 17,415 to 30,000; Eding from 10,000 to 15,000.

The plight of south rural Hennepin becomes apparent from this comparison. It has 1 representative for its 107,246 people; 11 representatives are elected by practically the same number of voters (108,969) in Ward 4, St. Paul, Traverse, Grant, Big Stone, Kittson, Lincoln, Wilkin, Cook-Lake, Hubbard, and Stevens counties, and Dist. 37-S. St. Paul.

What is more, these almost totally unrepresented areas are faced with particularly difficult problems of schools, transportation, road-building, fire and police protection, etc. Their need for a voice in the legislature is currently very acute. 5. Discrepancies within Counties and Senatorial Districts. In Hennepin County, Senate districts vary from Dist, 28 with a population of 27,574 to Dist, 36 with a population of 13,455, a ratio of approximately 1 to 6, Dist, 28 is over-represented by 38.1% and Dist, 36 is under-represented by 244.7%, a variation of 282.8%. Other discrepancies between districts within a county can be found in Goodbue, Ramsey, 8t. Louis, Shebrure, Steams, and Winnay.

In some senatorial districts which contain more than one county, there are population deviations between the representative districts. In the first-mentioned of the paired counties below the representative speaks for about twice as many people as the representative in the last-mentioned: Martin-Watonwan; Kandiyohi-Swift; Todd-Wadena; Carlton-Aitkin; Beltrami, Lake of the Woods-Kooching. Wider deviations in representation can be found in Dist. 63 (Becker-Hubbard) 60.4%; Dist. 52 (Itasca-Cass) 60.9%; Dist. 45 (eastern part of Stearms-Benton, minor part of Sherburne) 71%; Dist. 49 (Clay-Wilkin) 87%; Dist. 5 (Mower-Dodge) 130.3%; and Dist. 57 (St. Louis-Cook, Lake) 150.9%.

Even in districts which are over-represented in both Houses (and from which opposition to reapportionment might be expected) there exist discrepancies between House districts as high as 49% for Nobles-Rock.

There are two possibilities of ironing out these discrepancies between House districts: One is to depart from the county line (as has been done in Sherburne and Steams). The other is to elect representatives at large.

#### Ways of Achieving Reapportionment in Minnesota

What we expect of reapportionment in Minnesota and the ways in which we hope to achieve it are inextricably bound up together.

 Achieving reapportionment as part of a constitutional convention is the League ideal. The chicken-egg aspect of the situation, however, is emphasized by many League members who feel a constitutional convention will never be called until the legislative climate is changed by reapportionment.

This point is raised by Professor Short: "A recent attempt in Minnesota to secure favorable legislative action upon a proposal to submit to the people the question of calling a constitutional convention was unsuccessful, at least in part, because of the fear of some legislators that a convention, once called, would in some way effect a change in the present apportionment and districting."

It may be pointed out that New Jersey, where apportionment is on a population basis in neither house, had high hopes of a 1943 constitutional convention only to have the legislature prohibit the convention from even considering the subject of reapportionment. Thomas Page, considering the same question in Kanasa, warns that a constitutional convention must have other purposes so important to legislators that probable reapportionment would not be likely to block a whole group of changes.

Under the framework of our present constitution we can achieve reapportunent on a population basis in both houses. The method is simple; the difficulties are freculean. The strategy would have to be flawless. The entire state

Duke University study, p. 379.

would have to be mobilized in no less than a crusade for democracy. What has been done so far by a few legislators, the metropolitan papers, and the League of Women Voters would be a mere starting point for a long, bitter, dedicated, and uncertain fight. It has been done, as we shall see later on.

3. It is quite possible that a compromise plan with greater chances of success could be achieved under our present constitution. The carefully drawn bill (H.F. 525) presented to the House in 1953 was in effect a compromise measure, retaining some metropolitan under-representation in both House and Senate while adjusting rural inequities. (Hennepin and Ramsey Counties would have been given 19 as against the 22 senators to which their population entitles them; and 38 as a sgainst 45 representatives.)

There is some opinion that the constitutionality of such a bill would be challenged on the basis it is not the true population reapportionment our constitution calls for (of four persons polled, a legislator, an administrative officer, a political scientist, a law professor, the second felt such a bill would be declared unconstitutional; the other three felt quite sure it would be upheld by the courts).

4. A constitutional amendment is viewed by many Minnesotans who have studied the problem as the only practical way to reapportionment. The trural areas would find reapportionment quite palatable if sufficiently seasoned with compromise, retaining population base in one chamber and using some sort of area arrangement in the other. This sort of compromise could be achieved only through constitutional amendment.

An amendment would also be necessary to incorporate the reinforcement provisions necessary to insure future periodic reapportionment.

Pertinent to this part of the discussion is this question: Does Minnesota's amending process pose such difficulties to constitutional change that it must be modified before we work for other reforms? Constitutions in Illinois and Tennessee presented such obstacles to amendment that Illinois had to work for its Gateway Amendment (easing the amending process) for over half a century before making headway on reapportionment and other reforms. In Tennessee an amendment had never been passed until November, 1953; in that election voters approved several changes in the constitution, one intended to facilitate amendment.

While not faced with these insurmountable obstacles, Minnesota is one of cities that as still requiring for ratification a majority of those voting at the election rather than a majority of those voting on the amendment. Of these eight, Arkansas and Oklahoma give voters power to initiate amendments by petition, and for initiated amendments only a majority voting thereon is required; Tennessee has made recent modifications.

The Book of States points to Minnesota, Indiana, Illinois, and Arkansas as where nuncontroversial and nonpartisan measures with no real opposition have been defeated by blank ballots. Is W. Brook Graves in his textbook classic, American State Government, also referring to Minnesota when he says: "Unworkable amending provisions in many states constitute a serious barrier to their progress. Government is a changing, growing, developing, dynamic institution,

in need of continuous adaptation to changed social and economic conditions. A constitution whose amending process makes it impossible to make necessary modifications comes to be a sort of strati-tacket."

The Minnesora Constitutional Commission (1948) advocated a two-thirds vote of the legislature to submit amendments to the voters, instead of the present one-half; but only a majority of those voting on the amendment for ratification. The Model Constitution <sup>52</sup> advocates proposal of amendments by initiative or by a simple majority of the legislature. Ratification would be by a majority of those voting thereon if 20% of those participating in the election vote affirmatively.

Whether reapportionment is achieved through constitutional convention, under the present law, or by amendment, auxiliary methods used in other states should be explored:

- a. In a few states where the power of initiative exists, petitions were used by voters to place reapportionment on the hallot, thus bypassing unwilling legislatures. This was done with notable success in Colorado, Oregon, and Washington, with notable failure in California. Minnesota hasn't this channel.
- b. Gubernatorial leadership. The governor has an actual role in securing reapportionment only in Florida, where he is to call a special session if the legislature fails to reapportion. However, the governor of Kentucky is held largely responsible "through prestige and patronage" for the 1942 reapportionment in his state. Governor Dewey called a special session in 1951 for congressional reapportionment. Governors in Illinois, particularly Horner and Stevenson, played a significant role in that state's fight. Governor Kohler's personal influence was crucial in Wisconsin's reapportionment. Recently, Governor Battle called the Virginia legislature into special session because it had neglected reapportionment during the first session after the 1950 census. There is evidently a wide difference in the sensitivity of legislative consciences, as the legislature immediately obliged with a new apportionment bill.

In Minnesota the governor has the prerogative of calling a special session when emergencies require it.

- c. Committees. The Rosenberry Committee, composed of legislators and laymen, provided the impetus to reapportionment in Wisconsin. An interim commission is given great credit for the fair and systematic reapportionment Virginia has enjoyed after each federal census. In California an interim commission was appointed to carry out planning and research for the apportionment due in 1951;8 A bill with the power and prestige of a committee in back of it should have easier sledding than a one-man bill which the legislators have no chance to study before the hustle and bustle of the session—and consequently never study at all.
- d. Party influence. Although political parties could be powerful allies for 
  # Published by the Committee on State Government of the National Municipal League.

  # See the Duke University study, p. 44th, for a detailed account of the scope and activities of such a body.

reapportionment because their financial support comes largely from underrepresented cities, parties usually split into rural-urban segments on the matter. Thomas Page a also attributes some of the decline in party pressure for reapportionment to the highly complex, even technical subject matter trivolved. However, he does recommend recourse to the young people's sections of both parties as having "potentialities for imaginative action"; and in Oregon this approach worked well. We in Minnesota are fortunate that both political parties have in their platforms strongly worded statements (avoring fair and periodic reapportionment.

6. Getting reapportionment in Minnesota is like weaving her a new cloak. Only the warp can be supplied by the legal methods described above. The woof must be filled in by the perserverance and purpose of her people. The Fort Wayne News-Sentinel describes the task thus:

[Disproportion] work get any better until the pressure of an aroused public goes to work on our legitatines. It work to done by editorial or by a few industed complaints from scattered sources. The subject will have to be talked about in homes, on street corners, in organization meetings, in business, professional, and labor circles, The case for reapportionment will have to be carried through in an organized way, on a nonpartisan basis, and in support of a fundamental principle of democracy.

Page looks to "segmental pressures, organized around persons, institutions, occupations, and lines of endearour to press for legislation at present." Pressure groups for constitutional reform would need a broad membership, crossing party lines and including both rural and urban leaders.

#### Should Area Be Accepted as a Basis in One House in Minnesota?

Before we can consider what kind of a reapportionment law would be desirable in Minnesota, we have to make up our minds on this highly debatable question: Should we follow other states which have accepted an area basis in one house to achieve reapportionment?

The principle of apportionment based on population is that democracy rests on a vote for every citizen rather than representation of area or group interests. The principle of apportionment based on area is that weight should also be given to territorial, sectional, and occupational interests.

Here are arguments most frequently advanced for and against area consideration:

, Pro—In order to obtain a "true equilibrium" between rural and urban constituencies, it is desirable for the latter to forego full representation. This is because city dwellers vote more cohesively than rural ones. Also representation is only one of the avenues by which citizens have access to the legislative ear; city dwellers are better organized into pressure groups for purposes of lobbying and better situated geographically to engage; in its activities.<sup>228</sup>

Afred de Grazia, of political science and government departments at Indiana, Northewstern, Minnesona, Brown, and Stanford universities, says: "Since reapportionment is only one stage of the process of representation, values that are blocked entrance into politics at that level may seek and find other levels on which they may enter and be counsed. . . The most consignous example of such interest in American experience is the pressure group and in Cloud Control of the Control of t

Con—There is no more evidence that city groups vote cohesively than rural ones. Indeed, on levying and division of taxes, grants-in-aid, etc., country dwellers have voted much more consistently as blocs. The resistance to reapportionment is per sea proof of this cohesiveness.

Pro—In varying degrees in most states geographic factors (semi-arid and fertile lands; valley and mountainous terrain) and economic factors (grazing and agriculture; mining and manufacturing) represent such different outlooks they have been given consideration in reapportionment.

Con-Even in a legislature based strictly on population, we have represention by area interests because legislators are elected by districts. Only if all legislators were elected at large, would area not be represented. Also, too much emphasis has been put on sectional interests, too little on the health of the state as a whole.

Pro—In our federal government one house is based on area. This has worked well, preserving an excellent system of checks and balances. Indeed, two houses based on population cannot be justified, but are simply duplications of the same interests, involving extra expense.<sup>56</sup>

Con—This argument from tradition is a false analogy. There is no parallel between the position of states in the upper house of our Congress and of counties in our state legislatures. States are sovereign, policy-making bodies, the original sources of power in our union, which is a federation of states. Counties are mere administrative units, without autonomy, almost lacking in corporate power. Anyway, the federal plan was never looked upon as an ideal solution, but as a necessary compromise in attaining any union at all.<sup>27</sup>

In 1787, the very year the federal constitution was adopted, Congress passed the Northwest Ordinance, basing all representation within states to be created from the Northwest Territory on population.

Pro—To quote the New York Joint Legislative Committee on Reapportionment (1950): A state legislator can more easily represent 290,000 constituents in a New York City district than a legislator in upstate New York can represent 130,000 citizens living in three cities and fifty-six towns, requiring services of 77 post offices with their many rural delivery routes and scattered in villages, farms, and hamlets over a mountainous territory of 50,000 square milles.

Con—It would be impossible for any representative, rural or urban, to maintain a personal relationship to his constituency unless districts were made so small as to make legislatures unwieldy in size.

<sup>28</sup>To anyone interested in a unicameral legislature, this quotation from Professor Short (p. 378 of Duke University study) will be provocative: "It is the view of this writer that one of the most powerful deterrents to the spread of unicameralism in the states will be the pressure for compromise in the bases of legislative representation for which bicameralism in perhaps the most convenient though certainly not the only vehicle."

"Hamilton in The Federalits, Paper No. 62, termed this provision of the Constitution," a concusion which the peculiarity of our political situation renedered indispensable. . . The only option lies between the proposed government and a government will more objectionable. The advice of prudence must be to embrace the lesser retil."

Pro—City voters are more likely to be dominated by party machines, are more exposed to influence of graft and corruption. Rural legislators have usually been officeholders on the local level and bring more direct experience with selfgovernment to legislative bodies. Urban communities provide such multiple outlets for ability that the ablest city dwellers are not drawn to political service.

Con—Rural legislators have all too often shown themselves more responsive to economic pressure groups than urban legislators. Also the rural viewpoint is too often circumscribed by lack of experience, is over-conservative, resistant to change. This whole argument as to the wisdom of any group of voters runs counter to deepest American principles—equal representation in government to every citizen no matter what his qualifications for the franchise. Is a man's vote to be expressed as a fraction because he is either a Democrat or Republican, a member of the N.A.M. or the C.I.O., owns a dairy farm or delivers milk in the city?

Political scientists find themselves in fairly wide agreement on these facts: that political, social, economic, and geographic factors need consideration; that appulation deserves greater consideration than at present; that whatever the theoretical merits of the arguments, reapportionment is seldom to be accomplished without some compromise.

The whole area-population conflict can be summed up in this somewhat contorting paradox: In most states where concessions have been made to the area principle, they have been made with the purpose of securing greater recognition of the population principle. A state may well change its requirements from "population in both bouses" to "population in one, area in one," and still serve the interests of greater population representation, because the legislature will then carry out the constitutional provisions.

#### What Kind of Reapportionment Law for Minnesota?

The answers to these two questions: What kind of law do we went for Minnesta? and What kind of law can we get in Minnesota? may be miles apart or they may be closer together than we sometimes think. The gap is composed of many intangibles over which citizens' groups have no control. It is also composed of at least three tangibles very much under their control: a thoughtful study and presentation of the case, with possible recommendations; public pressure upon the levislature; and hard work.

If the League and/or other groups decided to press for a population basis in both houses, then we must prepare for the kind of fight just won in Wisconsin and Oregon and lost in Michigan (see page 26).

#### COMPROMISE PLANS ACCEPTED BY OTHER STATES

If we decide that compromise is desirable or necessary, then we must ask: What kind? Once that is answered, we would at least have some basis for supporting or opposing any bills offered in the next legislature. Our answer may be aided by a quick look at the plans adopted by other states. Some provide very wide, others only slight, concessions to the area principle. Unless otherwise indicated, the following restrictions apply to one house only.

 The most complete representation of area is provided by allowing each county one representative, regardless of population (eight states, including Vermont, in which towns rather than counties are represented). This works two ways: it cuts down representation from urban centers and increases that from sparsely settled areas.

2. In five states, "population" is specified as the basis but no county may have more than I representative. Smaller counties are combined into single districts. This plan cuts down representation from large centers of population (and

is the plan which makes Los Angeles so unhappy).

3. The most frequent area concession (23 states) is to base representation on the guarantee that each county have at least one member. This increases small-county representation. (Both Rhode Island and Wyoming use this system in both houses; in Rhode Island, cities or towns, not counties, are represented.)

4. Although these 3 plans are the most common guarantees of area interests, 14 other states have adopted individually devised plans for area representation or population restriction. For example, Georgia and Florida both divide counties into three groups, the most populous getting 3 representatives, the intermediate 2, and the smallest 1. New York cristrics New York City by providing that no county have more than ½ nor any two adjoining counties more than ½ of the Senate membership. Missouri provides an example of a ratio plan,

As previously pointed out, 20 states use one or another of these 4 general types of plans in both houses.

MISSOURI PLAN

Missouri should be singled out for special attention. Its new constitution (1945) contains an apportionment law pointed to by many political scientists as providing speedy reapportionment every 10 years on a clearly specified, yet flexible basis. The Senate is based on population, with 34 districts to be divided equally, with no more than 25% deviation between districts. The House makes concessions to rural areas through a ratio system of representation. This gives each county at least one representative and the more populous counties considerably less than true representation.

The House ratio is determined like this: the population of the state is divided by 200. Counties having 1 ratio or less elect 1 representative; counties having 2½ times the ratio elect 2; counties having 4 times the ratio elect 3; counties having 6 times the ratio elect 4. Above 6; 1 representative is allowed for each 2½ additional ratios.

The legislature has nothing to do with reapportionment. The Senate is reapportioned by a 10-member bipartisan commission appointed by the governor from lists submitted by parry committees. Should this commission fail to reapportion within six months, all senators would be elected at large in the next election, and a new commission thereafter appointed. For the House, the secretary of state, after each federal census, applies the ratio system and informs each county of its representation; the county court draws the districts if the county has more than one representative. (In St. Louis city both House and Senate districts are drawn by the bipartisan Board of Election Commissioners.)

REINFORCEMENT PROVISIONS

That some sort of "self-enacting" clause is essential to insure that a reapportionment law is carried out is strikingly illustrated by the following comparison:

All of the states which employ non-legislative bodies in connection with reapportionment actually reapports of the other states have done so.<sup>28</sup>

1. In the following states the reapportionment power is initially in the legislature, but within a specified period passes to some other body. In California, if the legislature fails to act within the first session after each federal census, power passes to Lieutenant Governor, Attorney General, Secretary of State, State Convoller, and State Superintendent of Public Instruction. In Michigan the alternate body is the State Board of Canvassers (Secretary of State, Treasurer, and Superintendent of Public Instruction). In Oregon, if the legislature fails to pass a reapportionment bill by July 1 of the session following the federal census, the Secretary of State intervenes. In South Dukota, if the legislature does not reapport to the first session after each census, a committee of Governor, Superintendent of Public Instruction, a presiding judge of Supreme Court, Attorney General, and Secretary of State must do so in 30 days. In Texas, if the legislature fails in its duty after the federal census, the Lieutenant Governor, Speaker, Attorney General, Comptroller, and Commissioner of Public Lands must act in 150 days. 39

In the following states reapportionment is entirely divorced from the legislature:

Arizona-County Boards of Supervisors,

Arkansas-Governor, Secretary of State, Attorney General.

Missouri-Secretary of State, County Boards for House; a bipartisan commission for the Senate.

Ohio-Governor, Auditor, Secretary of State, or any two of them.

An inherent danger is seen by some political scientists in boards composed entirely of state officials, as they are frequently all of one political party.

 Court review is specifically provided in New York, Oklahoma, and Oregon. Arkansa goes even further, allowing the Supreme Court to devise and proclaim a substitute plan.<sup>30</sup>

\* Book of States, 1953-54,

"The Illinois amendment, to be world on in Nov. 1954, provides that if the legislature table to not by July 1 of the session following the census, a sliquitisan commission of 10 members, choose by the Governor fram Jets prepared by State Central Committee of both parties, will act. If this commission does not act within 4 months, all legislators shall be elected at larger. See "distances allowed and the season of the Minnescal Commission below." Colorado initiated an amendment in 1953 providing for a committee to be appointed by the Chief Justice.

"Has worked perfectly"—Kenneth Seats, Methods of Reapportionment (University of Chicano Law School, 1952). OTHER NECESSARY PROVISIONS

A limit upon the size of the house and senate might be considered.

"Total" population is generally used as the basis for reapportionment, but there might be discussion of "legal voters," or of exclusions, as of aliens, or of "votes cast in last election," as in Arizona.

RECOMMENDATIONS OF THE "MODEL CONSTITUTION"

The Model Communion might be of more help if it were less of a "model" and closer to accepted legislative raditions and procedures. It specifies a unicameral legislature (accepted only in Nebraska), to be chosen by proportional representation (a system totally unaccepted at the state level, except for a modified system in Illinois). The state would be divided into contiguous and compact territories, from each of which three to seven legislators would be chosen at large in accordance with population. The secretary of state would reallot membership after each federal census.

Recommendations of American Political Science Association's Committee on American Legislatures  $^{41}$ 

 Disregard of counties in laying out districts insofar as consistent with efficient election machinery (since counties strengthen importance of local units as against the univing influence of the states),

In bicameral legislatures, use of single-member districts for one house; large, multi-member districts, with election at large, with or without proportional representation, for other house.

3. Reapportionment after each federal census, either immediately by an administrative body or by such a body if the legislature fails to act.

RECOMMENDATIONS OF THE MINNESOTA CONSTITUTIONAL COMMISSION

Minnesota's Constitutional Commission report of 1948 recommended achieving reapportionment by means of a constitutional amendment providing some area compromise in the Senate.

1. Limitation on size of legislature.

2. Representation in both houses to be apportioned "as nearly equal as practicable," with, however—

 Limitation of metropolitan representation in the Senate by restricting any one county to ½ of all senators or any two contiguous counties to ¼.

Two observations, quite unrelated to each other, might be made at this point.

(a) This 25% limit, as compared to the 35% of the state's population contained in these two counties, would mean Hennepin and Ramsey would have about 70% full representation in the Senate. (b) Would Hennepin County accept as fair the possibility of an equal division of Senators between herself and Ramsey County, since her population is not far from twice as large?

4. Reinforcement would be provided by a 10-man bipartisan committee ap-

<sup>30</sup> The full report of this committee, American State Legislatures (Belle Zeller ed., 1954), contains chapters on numerous aspects of modernization of state legislatures, which should be of great interest to League members in their present study of Legislature Reorganization.

pointed by the governor from lists submitted by party committees. This commission would function if the legislature did not reapportion within the first regular session after each federal census report. Its recommendations would remain in force until the legislature reapportioned. Should the commission fail to reach agreement, five senators would be elected from each Congressional district and one representative from each county.

5. The Supreme Court would review the validity of any reapportionment within 30 days on petition of any qualified voter. If the court declared the law invalid, the legislature would have to reapportion within 90 days; otherwise the commission would function as provided in (4).

#### A Tale of Four States

The dubious honor of being one of the last states to tackle reapportionment gives Minnesota at least one advantage: it may be possible to profit from experiences elsewhere.

Four states which have had recent widespread campaigns provide particular help because they had situations like Minnesota's: constitutional provisions specifying a population base (somewhat modified in Michigan and Oregon) in both houses; reapportionment power in the legislature, with no provision for reinforcement; and decided urban under-representation. Two of these states, Wisconsin and Oregon, have won reapportionment on their constitutional basis of population in both houses. Illinois' peculiar situation led her to offer compromise from the outset. Michigan staged an area-population battle, with the former winning out.

Illinois—In Illinois reapportionment is not yet attained; but there is well-founded hope that an amendment to be submitted in 1954 will assure it. A thorny problem had to be disposed of first: The issual rural-urban split was intensified by the fact that Cook County dominates the state population-wise (51.9%); thus any hope of reapportionment demanded that Cook County be limited in one house; limitation demanded a constitutional amendment; an amendment, to have any hope of passage, demanded a change in Illinois' peculiarly difficult amending process. A Gateway Amendment, easing this process, was finally passed in 1950 (though it had been on the ballot intermittently since 1896). Under the Gateway Amendment it is now possible for an amendment to be passed by either ½ of those voting thereon or ½ of those voting tat the election, whichever is less.

The subsequent legislature voted to submit a reapportionment amendment to the voters in 1954. Under its terms Cook County will be accorded a majority in the House (30 out of 59); of the 58 Senate districts, 34 will go "downstate"; 24 to Cook County. A 10-man bipartisan commission will reinforce reapportionment.

The Illinois League, while recognizing "certain weaknesses" in the law (some inflexibility in future districting needs, cumbersome self-enacting clause; no limit on deviations), supports it as a "long step forward." Opposition to the amendment can be expected not only from rural areas whose representation is decreased but from some districts on the industrial west side of downtown Chicago now over-represented at the particular expense of suburban Cook County.

Michigan—Here a bitter struggle took on the hoe not only of a rural-urban contest but of a management-labor fight. Two reapportionment plans were presented to the voters in 1952. One bill called for reapportioning both houses on a population basis, and was supported by urban centers, liberal organizations, the League of Women Voters, and large segments of the Democratic party. This became dubbed the "C.I.O. Plan" by opponents, who backed a "Citizens' Plan" or "Balanced Plan." This was backed not only by rural areas, but by metropelitan papers, various conservative and Republican groups in Detroit, and industrialists who look to rural legislators for support in lobbying. This compromise plan won by a marrow majority. Under it Wayne County, which has \$8% of the state's population, will have 20%, errestentation in the Senate.

Warns John Creecy, a Detroit newspaperman who gives a highly readable account of the struggle in the August, 1953, Harper's: "It becomes clear that the embattled farmers have a trick or two up their sleeves—and disillusioningly clear that fair representation for city dwellers is the last thing that some city dwellers want. . . One generalization can be made. The proposal should be as simple as possible. If the city campaigners allow the ruralites to outsimplify them, as

happened in Michigan, they won't stand much of a chance."

Oregon, whose legislature had neglected to reapportion since 1911, was fortuspring of 1952 petitions were circulated (by the League) to assure a reapportionment measure appearing on the ballot in the November general election. The
League, which had been studying the matter since 1949 and had rejected a 1950
area compromise bill, was joined by the Young Republicans, Young Democrats,
the important daily papers, the State Grange, and the labor unions. The League
took major responsibility for informing the public, using all possible techniques,
"press, radio, parades, gimmicks, flyers." The result was an overwhelming victory.

It must be noted that "population" was not the flaming issue in Oregon it is in many states. The constitution contained a "major fraction" provise which did in reality effect some compromise with "area." (When a county or district has over ½ of the ratio necessary for a member, it is entitled to a member. Also, since the Senate is limited to 30 and the House to 60, there are not enough members to go around; the smaller counties get theirs first and Multinomah (Portland) what is left. Multinomah County now has seven senators, instead of the 9½ her population would allow; if or persentatives instead of 19. Also, Oregon hasn't the one very-large city problem of Illinois and Michigan; Portland has only 25% of the state's population in contrast to 50½ for Chicago, 38% for Detroit, 28% for Minneapolis and St. Paul).

Wisconsin—The Wisconsin drama has an extremely complicated plot, with villains, a rescuing hero, and a seemingly happy ending.

Scene 1—In 1951 the Legislative Council's reapportionment committee drafted the Rosenberry Plan to reapportion the legislature on the population basis prescribed in the Constitution. After much opposition the plan was adopted by the legislature; however, an important concession was extracted by its enemies. An

advisory referendum was to go on the ballot in the November, 1952, election: "Shall the constitution be amended to provide for re-establishment of either assembly districts on an area as well as population basis?" Passage of this referendum would kill the Rosenberry Plan.

Scene 2—The referendum was rejected by a majority of 64,000 voters. This meant that the Rosenberry Plan would go into effect January 1, 1954.

Scen 3—To go back a step, the same legislature which passed the Rosenberry hand also passed three constitutional amendments, embodying some sort of area compromise. (In Wisconsin an amendment must pass two successive sessions of the legislature, then be submitted to the voters as a referendum.) When the legislature convened in January, 1933 (after voters' approval of Rosenberry Plan), the first matter of business was to pass for the second time one of these "areacrat" amendments, to be submitted to the voters in April, 1953.

Scene 4—This April, 1953, election was cunningly timed by rural legislators to coincide with local elections in small cities, villages, and townships, at a time when Milwaukee was holding no election. As a result, only 33% of the eligible voters went to the polls and the areacrat referendum passed by a margin of 25,000.

Scene 5—The legislature then implemented the amendment with the Rogan Law, apportioning the Senate on a 70% population, 30% area basis (the sum total of which, according to its opponents "was to give the veto power to a

majority of senators representing a minority of voters").

Scene 6—(The Reicue). In the meantime the Supreme Court had been saked to decide on the constitutionality of this amendment, inasmuch as the Rosenberry Law was already on the books. In October, 1953, the Supreme Court unanimously declared invalid the Rogan Act and the amendment it implemented. (The decision was based on the fact that actually three separate questions had been submitted in the April, 1953, referendum, whereas only one was proper. In addition to putting the area-population decision up to the voters, the referendum also contained a provision discontinuing exclusion of certain Indians and the military, and a drastic change in boundary limits of assembly districts).

The Rosenberry Plan is now Wisconsin law,

Epilogue—The legislature, meeting in special session in November, 1953, passed three rural-inspired resolutions, one of which weighted rural representation in the House, another in the Senate. You remember that before being submitted to the voters, any of these resolutions would have to be passed by the next regular session; and in the next session legislators will be chosen on the population basis of the Rosenberry Law. Supposing that one of the resolutions did pass, it is doubtful that going to the voters with a third referendum would be successful.

Thus, although the Wisconsin situation bears future watching, there is much hope that the final curtain will come down on a happy ending.

We in Minnesota may decide the Wisconsin experience is discouraging in that it proves how overwhelming are the odds against securing true population reapportionment. Or we may take inspiration from the words of one of her League members: "The League in Wisconsin felt that if Wisconsin could reapportion on a population basis and finally have a legislature representative of all the people, we could prove to the rest of the states that government by the people still works; I'm sure the year of study was a real opportunity for each League member to realfirm her faith in representative self-government even in the face of terrific odds. . . And, all in all, we did get a lot of people to think about government who otherwise never would have thought about it at all."

#### Present Apportionment of Legislative Districts in Minnesota®

The table below shows the population each legislator represents and the percentage by which population deviates from that of the ideal district. An ideal district is arrived at in the following manner:

House: 2,982,483 (population of Minnesota) + 131 (number of House districts) = 22,767 (ideal House district)

22,767 (ideal House district)

Senate: 2.982,483 (population of Minnesota) = 67 (number of Senate districts) = 44.515 (ideal Senate district)

A district is not considered unfairly apportioned unless the deviation is greater than 15%, the amount of acceptable deviation set by the American Political Science Association.

	Pop. Repre- sented by Each Sen.	Deviation from Ideal	Representative District		No. of Reps.	Pop. Repre- sented by Each Rep.	Deviation from Ideal
1	38,900	+12.6%	Fillmore Houston		1.63*	15,018 10,529	+34.0%
2	39,841	+10.5%	Winona (except city) City of Winona	).:	1	14,810 25,031	+34.9%
3	16,878	+62.1%	Wahasha		1	16,878	+25,9%
4	48,228	8.3%	Olmstod		1	48,228	-111.8%
5	54,901	-23.31/4	Dodge Mower		1	12,624 42,277	+44,6% -85.7%
6	34,517	+22.5%	Freeborn		1	34,517	-51.6%
7	23,879	+46.4%	Faribault		1	23,879	- 4.9%
8	38,327	+13.9%	Blue Earth		2	19,164	+15.89
9	39,536	+11.2%	Martin Watonwan		1	25,655 13,881	-12.7% +39.0%
10	52,069	+28.0%	Cottonwood Jackson		1	15,763 16,306	+30.8% +28.4%
11	33,713	+24.3%	Nobles Rock		1	22,435 11,278	+ 1.5% +50.5%
12	38,954	+12.5%	Lincoln Murray Pipertone		1	10,150 14,801 14,003	+55.4% +35.0% +38.5%

<sup>\*</sup>These figures are from an unfinished Ph.D. thesis by John A. Bond of the University of Minnesota, Figures for Dists. 19, 28-42, 45, 46, 55, 57-62 were compiled from census tracts and

Sen.	Pop. Repre- sented by Each Sen.	Deviation from Ideal	Representative District	No. of Reps.	Pop. Repre- sented by Each Rep.	Deviation from Ideal
13	38,532	+13.4%	Lyon Yellow Medicine	1	22,253 16,279	+ 2.5% +28.5%
14	48,022	- 7.9%	Brown Redwood	1.54*	16,823 15,148	+26.1% +33.5%
15	36,745	+175%	Nicollet Sibley	1	20,929 15,816	+ 8.1% +30,5%
16	36,112	+18.9%	Steele Waseca	1	21,155 14,957	+ 7.1% +34.3%
17	19,088	+57.1%	LeSueur	1	19,688	+16.25
18.	36,235	+18.6%	Rice	1	36,235	-59.29
19	32,118	+27.8%	Goodbue (N. part) Goodbue (S. part)	1	18,109 14,009	+20.5% +38.5%
20	49,019	-10.1%	Dukota	1	49,019	-115.35
21	34,611	+22.2%	Carver Scott	1	18,155 16,486	+20.3° +27.6°
22	22,198	+50.1%	McLeod	-1	22,198	+ 2,5%
25	23,954	+46.2%	Renville	-1	25,954	- 5.25
24	31,284	+29.7%	Chippewa Lac qui Parle	1	16,739	+26.5° +36.1°
25	44,481	+ 0.1%	Kandiyohi Swift	1	28,644 15,837	-25,87 +30.45
26	18,966	+57.4%	Mecker	1	18,966	+16.75
27	27,716	+37.7%	Wright	2	13,858	+39.15
28	27,574	+38.1%	Minneapolis (part)	2	13,787	+39.45
29	65,344	-46.8%	Minncapolis (part)	2	32,672	-43.55
30	38,048	+14.5%	Minneapolis (part)	2	19,024	+16.35
31	45,461	2.1%	Minneapolis (part)	2	22,730	+ 25
32	80,880	-81.7%	Minneapolis (part)	2	40,440	-77.67
33	125,165	-181.2%	Minocapolis (part)	2	62,582	-124.91
34	60,137	-35.1%	Minneapolis (part)	2	30,068	-32.15
35	80,515	-80.9%	Minneapolis (part)	2	40,257	-76.8
36	153,455	-244,7%	Hennepin (rural north) Hennepin (rural south)	1	46,209 107,246	-103.0 $-371.1$
37	36,955	+17.0%	St. Paul (37N) St. Paul (37S)	1	25,716 11,239	-13.0 +50.6
38	42,560	+ 4.4%	St. Paul (38N) St. Paul (38S)	3	23,253 19,307	2.1° +15.2°
39	48,704	- 9.4%	St. Paul (Ward 5) St. Paul (Ward 6)	1	25,981 22,723	-14.19 + 29
40	.44,991	- 1.1%	St. Paul (Ward 4) St. Paul (Ward 7)	1	7,290 37,701	+68.0° -65.6°
41	62,015	-39.3%	Ranney (purt)	2	31,007	-36.2
42	120,107	-169.8%	Ramsey (part—42N) Ramsey (part—42S)	1	57,538 62,569	-152.7 -174.8

enumerations.

\*One senator is elected from each senatorial district.

<sup>\*</sup>Fillmore and Houston Counties, Brown and Redwood Counties, and Crow Wing and Morrison Counties, in addition to reach electing one representative, also elect a representative between them (at large). In the above calculations, the representatives at large were allocated to each councy in proportion to the ratio of its populations to the combined populations of both counties.

Sen.	Pop. Repre- sented by Each Sen.	Deviation from Ideal	Representative District	No. of Reps.	Pop. Repre- sented by Each Rep.	Deviation from Ideal
43	34,544	+22.4%	Washington	2	17,272	+24.1%
44	47,702	- 7.2%	Anoka & Isanti	1	47,702	-109.5%
45	53,319	-19.8%	Benton & minor part of Sherburne Stearns (E. part)	1	18,567 34,752	+18.4% -52.6%
46	35,929	+19.3%	Stearns (W. part) Stearns (Central part)	1	16,599 19,330	+27.1% +15.1%
47	34,166	+23.2%	Douglas Pope	1	21,304 12,862	+ 6.4% +43.5%
48	38,308	+13.9%	Big Stone Grant Stevens Traverse	1 1 1	9,607 9,542 11,106 8,053	+57.8% +58.1% +51.2% +64.6%
49	40,930	+ 8.1%	Clay Wilkin	1	30,363 10,567	-33.4% +53.6%
50	51,320	-15.3%	Otter Tail	4	12,830	+43.6%
51	38,226	+14.1%	Todd Wadena	1	25,420 12,806	11.7% +43.8%
52	52,789	-18.6%	Cass Itasca	1	19,468 33,321	+14.5%
53	56,707	-27.4%	Crow Wing Morrison	1.54"	19,991 17,747	+12.2% +22.0%
54	38,911	+12.6%	Aitkin Carlton	1	14,327 24,584	+37.1%
55	32,362	+27.3%	Kanabec, Mille Lacs & major part of Sherburne	2	16,181	+28.9%
56	30,892	+30.6%	Chisago Pine	1	12,669 18,223	+44.4%
57	55,707	-25,1%	Cook and Lake St. Louis (S.E. part)	1	10,681 45,026	+53.1% -97.8%
58	29,182	+34.4%	St. Louis (S. Central part)	2	14,591	+35.9%
59	54,489	-22.4%	St. Louis (S.W. part)	2	27,244	-19.7%
60	40,751	+ 8.5%	St. Louis (N.W. part)	2	20,375	+10.5%
61	36,614	+17.7%	St. Louis (N.E. part)	2	18,307	+19.6%
62	46,827	- 5.2%	Beltrami & Lake of the Woods Koochiching	1	29,917 16,910	-31.4% +25.7%
63	35,921	+19.3%	Becker Hubbard	1	24,836 11,085	- 9.1% +51.3%
64	19,968	+55.1%	Mahnomen & Norman	1	19,968	+12.3%
65	29,975	+32.7%	Clearwater, Pennington & Red Lake	2	14,988	+34.2%
66	35,900	+19.4%	Polk	2	17,950	+21.2%
67	40,279	+ 9.5%	Kittson Marshall Roscau	1 1 1	9,649 16,125 14,505	+57.6% +29.2% +36.3%
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## MINNESOTA VOTER

ICATION OF THE LEAGUE OF WOMEN VOTERS OF MINNESOTA

VOL. 38

July-August, 1959

### REAPPORTIONMENT AMENDMENT-SOLUTION OR DILEMMA?

WORDING OF AMENDMENT NO. 2

The legislature at its first session after the 1970 census and each decennial census thereafter made by the authority of the United States, shall have the power to prescribe the bounds of congressional, senatorial, and representative districts, and to apportion anew the senators and representatives among the several districts. The number of members who compose the Senate shall not exceed 67 and the number of members who compose the House of Representatives shall not exceed 135/No representative district shall be divided in the formation of a senatorial district. The senators shall be chosen by single districts of convenient, contiguous territory and in the same manner as members of the House of Representatives are required to be chosen.

Representation in the House of Representatives shall be apportioned throughout the state on the basis of equality according to population. Representation in the Senate shall be apportioned in a manner which will give fair representation to all parts of the state. Provided, however, the five counties adjacent to and including the county containing the seat of government of the state having 35% or more of the total population of the state shall have 35% of the members of the Senate computed to the closest whole number. 23 gentless

If the legislature does not reapportion in compliance with this section at its first regular session after a decennial census, it shall be in extraordinary session immediately after the end of the regular session for the purpose of such compliance only. Such extraordinary session will continue until its purpose is accomplished and the members shall not be allowed compensation or expense reimbursement for services therein.

Representatives shall be elected for a term of two years and senators for a term of four years. When there is reapportionment of the legislature, pursuant to this section, it shall not be effective until the next election of senators.

#### LEAGUE CRITERIA

The League of Women Voters of Minnesota will support a constitutional amendment on reapportionment which will do the following things:

- 1. Provide enforcement machinery which will insure reapportionment promptly after each federal census.
- 2. Limit the legislature to its present size.
- 3. a) Provide that population be guaranteed as the sole basis for representation in one House, but
  - b) Modify the population requirement in the other House in favor of the less populous counties in a fair, flexible and specific manner.

ment with the League criteria which emerged from our

study and consensus of 1958, that the two are by no

means identical twins. It is true that the amendment

makes provision in all fields in which we asked for ac-

SOMETIME IN THE NEXT FEW MONTHS you and your League will be asked to answer a very important question: shall the LWV of Minnesota support or oppose the reapportionment measure to be submitted to the voters in November, 1960, as Amendment No. 2? Rightly or wrongly, League support is generally regarded as crucial to the passage of constitutional amendments, so that both opponents and proponents of this measure are somewhat anxiously awaiting our decision. You will see, by comparing the constitutional amend-

measurements fail to meet specifications in all four areas.

tion. But, applying your yardstick, you will see that History of the League Stand

You all remember how closely the League has participated in the reapportionment effort since 1953; three pub-

This is an unusual issue of the VOTER, both in size and in content.

The analysis of the proposed amendment will be resource material when the Leagues are asked to study the amendment to decide whether or not we will support it.

The review of legislative action on the League Program is in lieu of the final edition of the Capitol Letter. The unexpected length of the session made it possible to include this report in this issue.

We hope that you read this issue now; SAVE it to read again.

lished studies, three sessions of lobbying, a fairly sustained public relations effort during which we helped capture, coordinate and sustain the interest of other persons and groups. In 1959, the legislature did the two things the League had (overoptimistically, many said) asked them to do: passed a statute effectuating our present constitution and formulated a constitutional amendment.

Some of you may be wondering why, since a fair semblance of representative government will be returned to the state in 1963, under terms of the statute, we should any longer bother with the amendment. The answer was clearly given by you in your consensus of 1954 and of 1958-59. Although League members and Leagues, too, have diverse attitudes toward reapportionment, these several paths led to the same Rome.

Those who believe strongly that only people should be represented (never square miles or telephone poles, or cows, they are likely to say) admit that they will have to compromise population representation in one House to be assured of 1) true population in the other, and 2) prompt reapportionment after each census.

Other members staunchly hold that fair representation means that somewhat fewer legislators per person are needed in a compact, jeavily populated area, embracing only one municipality, where both the representative and the seat of the government are easily accessible. Conversely, they hold that more representatives are needed for the same number of persons living farther apart in a large geographical area which contains numerous governmental units with diverse problems, and in which communication between the legislator and his constituents is more difficult. These persons would like to see an area factor in one House, now recognized in fact, clearly written into the constitution, They, too, want population guaranteed in the other house and periodic reapportionment enforced.

Presumably, holders of both viewpoints insist on a good bargain. It was for the purpose of so evaluating an amendment that our criteria were set up by the State Board from your League replies of last winter.

#### First Criterion: Enforceability

League members, legislators, and all citizens thoughtful about reapportionment clearly agree on one point. A delay in reapportionment compounds its inherent difficulties. This shameful hiatus of half a century must never again be allowed to occur.

The framers of Amendment 2 (the conference committee of five senators and five representatives) say thatit will correct this difficulty and bring reapportionment
promptly after each census. They are probably right
about the promptness. We would like to be sure, not

only about the prompt delivery but about the quality of the delivered product.

What can be said for the enforcement provision of Amendment 2? Legislators, faced with the necessity of going into special session, will most likely meet the obligation on time. Also, when regularly done, reapportionment will be easier. Difficulties too great to be met in regular session would soon be resolved by a special session concentrating only on this problem. Several, though not all, conferces insist that the lack of compensation during the special session will be a "big stick."

What are the weaknesses of this enforcement by special session? First, neither the League, nor political scientists adept in this field, nor the ten states which have enforced reapportionment, has suggested that the reapportioning power is sacred or even peculiar to the legislature. We have previously pointed out that the legislature may be no more capable of impartial reapportionment than a judge could be of rendering a detached decision in a suit to which he would be party. The Legislature pleads that it knows the facts best; so could the judge.

These ten states with enforcement machinery have had no fear of turning over a job which they could not do to administrative commissioners or to bipartisan citizen committees; indeed, in four states the legislature does no reapportioning at all in one or both houses. Nor does Congress do its own reapportioning.

A second objection: if a special session is to be called, shouldn't it be limited as to time? In Florida, where the governor is specifically empowered to call a special session for reapportionment, the legislature met from April to June, 1956, without action, then recessed for a year.

A third objection: legislators should be paid for honest work done and time expended. One representative charged during final debate that lack of compensation during the special session would make it possible for metropolitan legislators, especially if they were on retainer, to outsit rural members, who would be under pressure of greater living costs and of waiting work. Certainly, special moneyed interests would have a golden opportunity to finance friendly legislators.

A possible objection: if a special session is necessary for such matters as taxes and appropriations, these urgent problems will have to wait until reapportionment is settled.

A final objection: not only does this amendment confine the reapportionment powers clearly to the legislature, but removes one point of executive influence—the power of veto.

Second Criterion: Size of the Legislature
When the League asked that the legislature be lim-

ited in its present size, the Senate had 67 members, the House 131.

By the effective date of this amendment, the Senate will still have 67, but the House will have 135 members. Doubtless to oppose the amendment on this particular ground would be straining at a gnat.

#### Third Criterion: Guaranteed Population

Provisions of amendment 2 for reapportionment in the House are simplicity itself: "equality according to population." Immediately we ask ourselves, is this phrase more likely to achieve equal representation for Minnesota's citizens than the words in our Constitution-"equality throughout the different sections of the state

in proportion to the population thereof??

More likely. This is not because of improved wording, but because reapportionment is almost certain to be done every ten years. This will certainly mean increasing momentum toward the goal of true equality. Most of the conferees felt that when rural overrepresentation is assured in one house, legislators will combine to see that population is truly recognized in the other. Some of us may feel, however, that Thomas Paine was wise when he said, almost 200 years ago, "When we are planning for posterity, we ought to remember that virtue is not hereditary."

Here and in other states, too, the mere presence of the word "population" in a constitution has not meant equality of representation. By 1970 over half of Minnesota's counties will probably be too small to deserve a separate representative. If by that date 60% of the state's population is to be in the metropolitan area, 21 house members will have to move from outstate into these five counties. This would affect 42 incumbents and require wholesale statesmanship, indeed, for while there will be some legislators willing to run against another incumbent to satisfy constitutional requirements, there will be many others who will be unwilling because of wishing to give priority to the interests of their districts, their constituents, possibly their own political inheritances.

Admittedly, it is difficult to guarantee population in the House and easy to do so in the Senate. The constitutional amendment passed this session by the House (the County Representation Plan) and heartily endorsed by the League, provides three distinct guarantees: 1) the metropolitan area discriminated against in one chamber was to receive its full mathematical share in the other; 2) districts in the rest of the state were not to vary by more than 20%, and 3) immediate judicial review was provided.

Fourth Criterion: Fair, Specific Flexible Area Factor Before using the word "area" again, let's agree that it is a misnomer, since it doesn't mean square miles to anyone. However, "area" is a very convenient way of saying "over-representation of the less populous section of the state." Therefore, with this understanding, we'll continue to join others in using it.

Translating the concepts "area" and "population" into action presents two quite different problems. "Population" means only one thing. The constitution need not interpret it, but the constitution must insure it. "Area," on the other hand, could mean a thousand things and needs very specific definition.

Amendment 2 is specific in one point—the 35% limit on the five county metropolitan areas in the Senate. For the rest, "representation in the Senate shall be apportioned in a manner which will be fair representation to all parts of the state," No one who votes for this amendment can possibly know what he is voting for. The Supreme Court would doubtless uphold anything the Legislature did. Members of the conference committee have, in private conversations, said the result would be 1) permanent Senate districts, 2) spot reapportioning with shifts within regions, and 3) an accelerated move toward true population outstate.

This complete flexibility at the expense of any concrete standards was quite intentional; it can even be defined as necessary, since area is difficult of definition in the Senate. This is well illustrated by area provisions for the Senate in other states; ordinarily, where there are so many counties that each one cannot be assigned a senator, senate districts are frozen in the constitution. In the majority of states with a large number of counties and an area factor in one chamber, the House is the area body. As a result, more states have population in the Senate then population in the House.

In spite of admitted impediments, "flexible" and "specific" could be married off and live quite compatibly in the Senate. Either a ratio or a limit on deviations would allow a wide range of discretion in combining counties in the Senate, yet insure against preservation of several Senate districts, which, even in 1963, will be smaller than some House districts. In the five-county metropolitan area, deviations of 15% would seem sufficient, with exceptions to avoid crossing of municipal or party lines if desired.

#### Some Final Considerations

- ... Does Amendment 2 fulfill League criteria? The answer is obviously, no.
- ... Should the League overlook the deficiencies and support Amendment 2? That is, are our criteria too rigid? Or do we still consider these principles essential to

a good reapportionment solution?

. . . Have we an alternative? Could the League do a Voters Service job, neither supporting nor opposing the amendment, but merely supplying information? The League will find itself at sharp variance with many of its legislative friends if it takes either definite position. Yet, responsibility and decision are the very essence of League leadership, and to whom will the citizens turn for an informed, detached opinion if not to the League? ... What will happen if this amendment is defeated? For one thing, we must be prepared to continue educating and lobbying. Since statutory reapportionment does not take effect until 1963, the next statutory reapportionment will probably be dated after 1970. Thus five more opportunities to frame and submit reapportionment amendments will present themselves. The highway amendment offers a real analogy here; this controversial and technical matter was submitted three times and in three different forms before acceptance. Certainly, the coming debate on Amendment 2 will do much to crystallize public thinking and inform the legislature what the citizen wants and does not want.

... Did the League at any time commit itself to support this amendment? No. Our position was made plain to the members of both houses—in a press release, through committee testimony, and in personal contacts. Even as late as the special session, our criteria were repeated to the conferces. It is now your decision as to whether we should modify our criteria to support this amendment, which was the best compromise that could be reached by the ten conferces at this session, or whether we should continue the process of community education and legislative persuasion which we hope would result in a better amendment.

- Mrs. Slanley Kano

#### THE LEGISLATURE: REFLECTIONS AND PROJECTIONS

It should be fairly non-controversial to say that the last legislative session was unusual. Beyond that one would certainly encounter diverse and strong opinions. But while we may disagree from the broader viewpoints of individual citizens, as Leaguers we have to judge the 1999 session an overwhelming success. Of course, it was not without its failures, and, unfortunately, they were major ones.

#### Failure: PARTY DESIGNATION

The defeat of party designation was expected, but in the Senate committee, not on the House floor where it had passed by a comfortable margin in 1957. The House action was a scrious setback to the years of campaigning for party designation and revealed that much work needs to be done, not only with the conservative Senate but also with the liberal House.

The future of party designation, however, looks bright. Although legislation may not be passed for a session or two, endorsement of candidates and the use of sample ballots by both political parties is putting election on the basis of party, legislators like it or not.

#### Failure: CONSTITUTIONAL REVISION

The defeat of the constitutional convention bill, also expected, was more embarrassing than that of party designation because this major legislation was allowed to expire with so little protest. Hardly anyone, outside the LWV, had the interest or courtesy to attend the

funeral. The combination of public indifference and legislative resistance blacken the prospects for a constitutional convention referendum as early as 1962. But increased League work can bring increased public awareness of the need and value of a convention. And continued pressure for a convention will bring us closer to the goal we seek, revision of the constitution, even though the revision is the less desirable patchwork of amendments.

#### EEDC

Neither a defeat nor a victory, the LWV and the legislature took no action on the many proposals to amend the Fair Employment Practice law. The League did not act because the proposed amendments did not affect the employment field, which is the only area in which we have a stand.

Althought the convention delegates were unwilling to remove this issue from the 1959-61 program, there was no interest in extending the League's responsibility beyond its present status.

#### Success No. 1-HOME RULE

Legislative improvement of Minnesota's local government laws was anticipated after the passage of Amendment No. 1 in the 1958 General Election. Special legislation now is legal and the community concerned is named in the law. All special laws must be approved by either the governing body or the electorate of the community affected; an attempt to eliminate the local consent requirement may be repeated next session. Home rule charters should be easier to adopt and amend with the new vote requirement of 55% of those voting on the question.

Much remains to be done in this field and recommendations undoubtedly will come in 1961 from two newly established legislative interim commissions (one on laws relating to Cities, Villages and Urban Towns, and the other on Organization, Function and Structure of Country and Township Governments).

#### Success No. 2-ELECTION LAWS

Relatively little disagreement preceded this session's acceptance of the 1957 Election Laws Commission's recommendations. Largely an attempt to clarify language and remove obsoleteness and contradictions, the commission's bill was considered non-controversial. Some of the major changes effected by the bill's passage are 1) all municipalities with population of 10,000 or more must provide for woter registration, 2) filing fees are increased for some candidates, 3) local councils are given greater authority over some election procedures, and 4) the secretary of state is allowed to distribute instructive literature to voters and election officials.

The task of the 1959 interim commission will be more complicated than that of its predecessors. Faced with the revision of the corrupt practice section of the law, the commission can hardly avoid controversy this time. Disagreement will certainly arise over any proposed inclusion in the election laws of either a code of ethics for legislators or a lobby registration procedure. Commission reaction to both would give the League a preview of 1951 legislative reaction to our new Current Agenda.

#### Success No. 3-ELECTION AMENDMENT

A totally unexpected success was the passage of a proposed constitutional amendment which will permit the legislature to specify where a person may vote if he moves thirty days prior to an election. One of the needed changes agreed upon by Leaguers in the election laws consensus of last winter, this amendment will also remove the obsolete provision regarding the Indian's right to vote.

In addition to the 1960 campaign in favor of this amendment, the League's responsibility will continue into the 1961 session of follow-up legislation.

#### Success No. 4-REAPPORTIONMENT STATUTE

There were six good reasons why statutory reapportionment passed the 1959 legislature: 1) the impending federal court suit, 2) the imminence of the 1960 census, 3) the longer session, 4) better informed legislators, 5) respected, experienced legislators led the legislative hattle, and 6) the League of Women Voters had worked six years for passage. In spite of these reasons, this success is still unbelievable.

The Bergerud-Popovich bill which finally passed (we hope you clipped district maps from the papers) was not as good as the one which was introduced. But it was better than some versions which appeared between the introduction and the passage, and certainly it is better than the present apportionment. We can be especially pleased that the enactment of the statute was not made contingent on the passage of the amendment.

Repeal or drastic revision of the statute in 1961 is unlikely for two reasons 1) by then the 1960 census figures will show rural legislators the great measure of compromise already given by urban representatives, and 2) any governor would undoubtedly veto such a measure.

#### Success ?-REAPPORTIONMENT AMENDMENT

Whether the reapportionment amendment should be placed on the side of our successes is a matter to be resolved by Leaguers. (See article beginning on page 1.)

The League decision, for or against, will set the stage for an election campaign that, win or lose, will give Minnesota citizens an excellent education in the problems of reapportionment. Passage of the amendment probably would put an end to reapportionment discussion until 1970; failure would mean submission of another amendment proposal in 1962.

#### CONSTITUTIONAL REVISION

Minnesota will find four constitutional amendments on the 1960 ballot.

Amendment No. 1 is a revision of last year's Amendment No. 3. This year's does not include the provision to which the League objected, i.e., giving constitutional sanction to legislators who serve as attorneys to municipalities and school districts. Like its predecessor, Amendment 1 will allow a legislator to be a candidate for any office for which he is qualified (now he cannot hold a

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Entered as second class matter at the Post Office at Minneapolis, Minnesota, under the act of March 3, 1879 SUBSCRIPTION PRICE ONE DOLLAR A YEAR state office which was created or whose salary was increased during his term, until one year after the expiration of his legislative office).

In addition, Amendment 1 will allow each immediately preceding legislative session to extend the next for a maximum of 30 days. It also provides for legislative, rather than executive, control of bills introduced after the 70th legislative day.

Amendments 2 and 4, dealing with reapportionment and voting requirements, have been discussed above.

The third amendment continues the present provision for successorship to the governorship, first by the licutenant governor and then by the president pro tem of the Senate. In addition, the amendment gives the legislature the power to make provision for further succession and for the continuity of government in time of an enemy attack.

League decisions are still to be made on three constitutional proposals: support or opposition will mean a campaign. In addition, we can count on a large part of our voters service time and money being spent on distribution of simple explanation of the amendments.

#### INTERIM COMMISSIONS

The 1959 Legislature established 18 interim commissions to study certain governmental problems. Each commission will be composed of five members from each house and is required to report to the 1961 legislature.

In addition to the three mentioned above in connection with our state program there will be commissions dealing with the Scaway Port Authority; Upper Mississippi Reservoir and Minnesota River Valley development; mentally retarded, handicapped and gifted children; Capitol improvements; juvenile and other crime; Indian affairs; Civil War and Sioux Indian Uprising centennials; public employees retirement; iron ore taxation; forest resources; agricultural problems; education; public employee-employer relations; Duluth-Superior

#### INTRA-LEAGUE SUCCESSES

During the 1959 session, four innovations in the League of Women Voters' legislative program were made. Perhaps the most important was a change in lob-bying technique from a large staff lobbying the whole legislature to a small crew working only with the legislative leaders. Everyone concerned was confident that this change effected a big improvement in League-Legislature relations. In fact, the use of only seven lobbyists and a chairman may have been the chief reason for the many successes of the session.

A second successful innovation was the Legislative Observer's School. Sixty-two Leaguers signed up for this training course in state government. Among them the State Board hopes to find willing and trained workers for other state work, as well as future lobbyists. Leaguers who attended found great value in each meeting, and will be receiving soon information about attending meetings of the interim commissions in which they are most interested. If you were not enrolled in this session's Observer's School give serious consideration to attending the next one.

A third venture was a legislative news report, the Capitol Letter. The 1093 subscriptions, more than to any similar publication among many state Leagues, showed members were anxious for this information. If you would like a legislative report that has detail, names legislators and records votes, you will want to be among next session's subscribers. Next session we hope to increase both the number of subscribers and issues.

The fourth innovation was a legislative news release, sent bi-weekly to some 400 newspapers through MEA. While some newspapers used all releases and some only one or two, it is estimated that 88,000 families were "exposed" to one or more releases.

#### 1959-1961

In looking back to the 61st and ahead to the 62nd Legislature, we find our responsibilities will not diminish during the interim. They are, in fact, continuing, even in the areas of our successes.

The 1960 election will mean service to the voters on the four constitutional amendments. Service to voters on legislative candidates may be even more of a challenge than usual. Because of widespread dissatisfaction with the 61st session as a whole, the tendency to vote for any legislative incumbent may be replaced by a tendency not to vote for any incumbent.

Either course is repugnant to Leaguers. And we may have to work especially hard before November, 1900, to see that incumbents and their challengers are evaluated on their records or their stands on issues, so that the participation of citizens in government at election time will be informed, and, we hope, active.

- Mrs. E. H. Naustrom

MRS. RALPH EBBOTT 411 OTTER LAKE RD. WHITE BEAR LAKE ST. PAUL 10, MINN.

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#### LEAGUE OF WOMEN VOTERS OF MINNESOTA

15th and Washington Avenue S.E. Minneapolis 14, Minnesota

Federal 8-8791 February 9, 1959

#### STATEMENT OF THE LWV ON REAPPORTIONMENT

Today the League of Women Voters of Minnesota, representing 5500 women throughout the state, announced that it will support a Constitutional Amendment on Reapportionment, and at the same time reaffirmed its position that, until changed, the Constitutional provisions on Reapportionment be carried out.

The 56 local Leagues, including 26 Leagues outside the metropolitan area, 27 suburban Leagues, and 5 Leagues in the major cities, have just gone through an intensive discussion period on this vital question and reported their members' attitudes toward reapportionment in Minnesota as of 1959. This climaxes five years of study and action on this problem.

Acting on these reports the State Board of the League of Women Voters of Minnesota approved the following stand as representing a consensus of its members:

- I. The LWV of Minnesota will support a Constitutional Amendment on Reapportionment which will do the following things:
  - a. provide enforcement machinery which will insure reapportionment promptly after each federal census;
  - b. provide that population be the sole basis for representation in one house, but modify the population requirement in the other house in favor of the less populous counties;
  - c. limit the legislature to its present size.
- II. The LWV of Minnesota reaffirms its position that, until changed, the Constitutional provisions on Reapportionment be carried out.

#### Explanation of League Stand

There is a strong minority opinion, especially from Leagues in grossly underrepresented districts, not only in Hennepin and Ramsey, but elsewhere in the state, which opposes changing the constitutional provisions on resportionment.

However, the League in Minnesota as a whole is willing to support such a constitutional amendment because we believe it to be a necessary and workable compromise. It will not only improve the present situation, but it will, through enforcement machinery, provide a longterm solution by providing regular legislative reapportionment.

#### Specific Recommendations on Amendments

To date (Pebruary 9), 5 amendments to provide statewide reapportionment have been introduced in the Senate and 6 such amendments have been introduced in the House.

AH-listed with the League of Women Voters of the U.S. Statement of the IWV on Reapportionment, rage 2

An amendment popularly known as the County Representation Plan, embodying recommendations of the Citizen-Legislator Commission on Resportionment, has been introduced into the House of Representatives as #.P.30 (Iverson) and H.P.50 (Luther). The League supports this plan because it fulfills the above criteria and is a compromise which we believe will be acceptable to voters throughout the state.

The other amendments in the House and the amendments so far introduced in the Senate either (1) fail to provide adequate enforcement machinery; (2) do not guarantee population in one chamber; (3) fail to specify the means of providing area in the other chamber; or (4) provide a completely inflexible area factor.

We realize that any factor which favors the less populated counties will necessarily mean underrepresentation of large centers of population. This we are prepared to accept. We do not, however, feel that the disproportions throughout the rest of the state should be preserved by the device of frozen districts, as was recommended in the Senste last session.

#### Specific Recommendations on a Statute

The League must urge that, until changed, our present constitutional provisions on reapportionment be implemented. We therefore reaffirm our approval of the statute which passed the House in 1955 and 1957 and which has been reintruduced this session, with some modifications (S.F.261, Bergerud) H.F.262.Fopovich)

We also support the statute introduced into the House by Repl Klaus (H.F.251).

### LEAGUE OF WOMEN VOTERS OF MINNESOTA

## State Program 1957-1959

"The Program consists of state governmental measures on which the League of Women Voters of Minnesota may take action. The Current Agenda and Continuing Responsibilities . . . constitute the Program."—State By-Laws

#### CURRENT AGENDA

The Current Agenda is limited to such current state governmental issues as the state Convention chooses for concerted action. Action includes: 1. providing information; 2. building public opinion; and 3. supporting legislation.

- I. Constitutional Revision-support and work for:
  - A. The calling of a constitutional convention;
  - B. A constitutional amendment providing for periodic submission to the people of the question of calling a constitutional convention;
  - C. A constitutional amendment providing for fair and enforceable apportionment of the Legislature.
- II. The League of Women Voters of Minnesota will evaluate election laws and procedures of the State of Minnesota and will work for changes if needed.

#### CONTINUING RESPONSIBILITIES

Continuing Responsibilities are those positions on state governmental issues to which the League of Women Voters of Minnesota has given sustained attention, and on which it may continue to act, as determined by the state Convention.

- I. Support revision of constitutional provisions for:
  - A. A workable amending process;
  - B. Clearly fixed executive responsibilities;
  - C. Adequate time for consideration of legislation by the Legislature;
  - D. A post-auditor appointed by and responsible to the Legislature;
  - E. Increased home rule for local government.
- II. Reapportionment by statute.
- III. Fair Employment Practices Commission
- IV. Party designation for legislators.

#### The New Delegate

(Continued from page 1, column 1)

Two non-recommended items were also introduced. Delegates voted 83 to 139 not to give consideration to the proposal, "The LWV of Minnesota will study the tax problems of Minnesota." Upon a motion to reconsider, the proposal again lost, 84 to 138.

The second item was, "The LWV of Minnesota will evaluate the election laws and procedures of the State of Minnesota and work for changes if needed." This item was voted consideration, 123 to 104.

Although the delegate had earned an evening's relaxation, after dinner she rushed to a caucus to root for her favorite program items. Here, in the light of other Leagues' problems and attitudes, she saw the proposals more clearly.

Following much lively debate pro and con, the final score on Friday was: Conservation, lost by a vote of 54 to 204; Constitutional Revision, won by votce vote; Financing Public Education, lost by a vote of 72 to 171; Election Laws, won by almost unanimous voice vote, to become the "new look." The recommended Continuing Responsibilities were approved without any changes.

What the state Board does on the first and second days of a Convention was never more clearly illustrated than this year. In presenting its proposed program on the opening day, the Board gives the best "pitch" it can to those items it recommends. The second day, the delegates must carry the debate. A state Board that fought possessively for "its" items on the second day would deserve just what it might get—a two-year "fet-the-Board-do-it" program! The best measure of the membership's interest in the program and willingness to work on it is the delegates' debate and vote.

Who controlled the Convention? The delegate—and no doubt about it! She took home the program she wanted.

#### Book Review in Brief

The 1957 Legislative Report is witty, exciting. Obtain for 50c at State Office.

League of Women Voters of Minnesota, 555 Wabasha, St. Paul, Minnesota 55102

STATEMENT OF POSITION ON REAPPORTIONMENT
TO

SUBCOMMITTEE ON LEGISLATIVE AND CONGRESSIONAL REAPPORTIONMENT OF THE HOUSE ON ELECTIONS AND REAPPORTIONMENT September 25, 1970

I am Mrs. Harold Nash, vice president, of the League of Women Voters of Minnesota, representing 5,700 League members in 68 communities throughout the State. As you are probably aware, the League has had a strong long-term standing in the subject of reapportionment. We are pleased to have this opportunity to express to you the views of our members.

We strongly support regular and equitable reapportionment. When we talk about regular reapportionment we are mindful of the long interludes in Minnesota history when legislatures failed their constitutional responsibility in this regard. We are anxious that that not happen again. Although primary responsibility for reapportionment rests with the legislature, we believe definite procedures should be established in case the legislature fails to act. It is hard to justify the present remedy for legislative failure - a citizen's court case, leading to delay, uncertainity and considerable expense for the citizens.

Our reference to equitable reapportionment is based on our firm belief in the one man-one vote doctrine. We believe the 1965 Minnesota Resolution calling for a Convention to amend the Federal Constitution to permit an area factor in the apportionment of one House of state legislatures should be rescinded.

Redistricting should also be as fair as possible to both political parties. It would be difficult to deny that reapportioning is a political maneuver. I am sure you will not be surprised to learn that the League is concerned that a non party designated body will perform a highly political task.

The League also believes a smaller legislature is desirable. We strongly oppose any increase in size.

Perhaps you would like to take a new look at the question of who should reapportion. Is the legislature the most appropriate body for this task? How can the interest of <u>all</u> the people, including the various minorities, be treated most equitably?

Gentlemen, for the first time since 1913, you will be undertaking simultaneous reapportionment of both Legislative and Congressional districts for the well being of both our state and our nation. You must perform this assignment in an exemplary fashion. Although the task of redistricting is never easy, we will be watching and will be happy to assist you any way we can, as you promptly and equitably do the superior kind of job of which we know you are capable.

Thank you for this opportunity to be heard.

M TO: Mildred LEAGUE OF WOMEN VOTERS OF MINNESOTA · E. FROM: Marlone 555 WABASHA ST. PAUL, MINNESOTA 55102 PHONE: 994-5445 O SUBJECT enclosed statement DATE Monday -Just held on to this. When we penalize the statement I will call you with corrections so you can num of for simultee distribution.

I am \_\_\_\_\_\_ of the League of Women Voters of Minnesota. We are of course pleased that you are interested in hearing our views on reapportionment. On you are probably aware that the League has had a strong interest in the subject of reapportionment. I was are certain you regard the task of reapportioning as seriously as we do. T

The Bureau of the Census will report the results of the 1970 census to the President/in December, 1970. As most legislatures meet in 1971, they will be faced with reapportioning legislative and congressional districts on the basis of population shifts. Perhaps it is not suprising to discover there are already hints of difficulties that will take place. In Massachusetts for example, the problem of reapportioning state senate and executive council seats for the next election resulted in passage of a measure vetoed by the Governor. He is quoted as saying that it was "unworthy, blatantly political, totall, unacceptable." At the close of the 1970 session the Oklahoma legislature passed an amendment to remove from the constitution (if voters approve) a provision for a commission to reapportion should the legislature fail to do so in the first 60 days of the first session following the federal census.

We are not suggesting that these two situations portend implicitly or explicitly what oculd happen in Minnesota. They do, however, apply to some convictions the League of Women Voters holds in regard to reapportionment. When we talk about regular reapportionment we are miniful of the hang interludes in Minnesota history when legislatures failed constitutional responsibility regarding reductions. We are anxious that that not happen again and we think a change is needed in the Minnesota Constitution; namely, that definite procedures should be established for affecting reapportionment in the event the legislature fails to act. It is hard to justify the present remedy for legislature failure - a citizen's court case, our reference to equitable reapportionment is based on our firm belief in the one-man-one vote doctrine. When the League says

equitable it also means the absence of political mal-apportionment. We realize this is a problem that (1) is more subtle than numerical mal-apportionment, (2) manifests itself in saving seats for incumbents and in efforts to keep districts safe, (3) is less-likely to arouse the ire of citizens and (4) is not likely to provide grist for a successful court case. The League believes a smaller legislature is desirable. We strongly oppose any increase in size in the nation's largest Senate and the 13th largest House.

Gentlemen, for the first time since 1913, you will be undertaking simultaneous reapportionment of legislative and congressional districts. It would be difficult to deny that reapportioning is a political maneuver. I'm sure you will not be surprised to learn that the league is concerned that a non-party designated body will perform a highly political task. In addition to that biennial interest, we would like to pose some questions for your consideration.

- # Are you convinced that the Logislature is the proper body to do redistricting?
- \* Should a body which represents the dominant majority in our society be doing reapportionment?
- \* What will you do about newly elected legislators who will have to grapple with apportionment decisions without knowledge of the political questions involved?

The League of Women Voters of Minnesota will look carefully and hopefully at your efforts to be equitable and prompt.