

Approved 4-29-92
Date

MINUTES OF THE Special COMMITTEE ON Apportionment

The meeting was called to order by Representative Joan Adam at
Chairperson

12:40 a.m./p.m. on Friday, March 27, 1992 in room 514-S of the Capitol.

All members were present except:

Committee staff present:

Mary Galligan, Legislative Research Department
Raney Gilliland, Legislative Research Department
Mary Torrence, Revisor of Statutes' Office
Bob Coldsnow, Revisor of Statutes' Office
Ellie Luthye, Committee Secretary
Conferees appearing before the committee:

The Special Committee on Apportionment met on Friday, March 27th, 1992 in Room 514-S. The meeting was called to order by Representative Joan Adam, Chair, at 12:40 p.m.

The Chair called on Senator Vidricksen to give an up-date on the Senate map. He stated the map was not ready yet for a hearing in that the Wichita area was still unresolved.

Representative Adam stated the agenda for the meeting was to continue discussion on putting Reno County in the 4th and Douglas in the 3rd, leaving Franklin and Miami counties to be discussed later, and to present maps with this in mind.

Senator Vidricksen stated until it was decided if Riley and Geary counties would be in the 1st District or 2nd District he did not see how the rest of the map could be resolved. He further stated he preferred Riley and Geary counties be in the 1st District because of the population numbers involved and that all three of the Republicans on the committee agreed that either Riley, Geary or Reno would have to be in the 1st district and they were committed to keeping SE Kansas as whole as possible.

Representative Adam stated that the Democrats stood by their position that Riley and Geary counties should be in the 2nd district because of the community of interest question. She stated also, from reading and studying what other states had done, it was clear the courts would approve a wrap map, regardless of compactness, if the community of interest was maintained. She passed out the reports which addressed this issue which she had talked about at the last meeting. She read a statement concerning a map of North Carolina regarding the way its districts were drawn. (Attachment 1)

Representative Snowbarger stated the committee would have to get the Legislature to agree to a map which was not compact and he felt it would be difficult to justify in court because they could present to the courts more compact maps.

Senator Bond responded they want to maintain as much compactness as they can and a loop map, or wrap map, is not acceptable. He stated he also felt it was necessary for the committee to decide where Riley, Geary and Reno counties were going before a decision could be made on other issues.

Representative Reardon countered that going from the Nebraska to the Oklahoma borders was not exactly the most compact way to do the 1st district if compactness was the #1 priority. He stated it could be done more compactly by splitting the 3rd district and putting Wyandotte, Leavenworth and maybe Douglas in the 2nd and have Johnson County running into SE Kansas. However, he added the maps which had been presented concerning the Wyandotte/Johnson county area seemed to indicate that compactness wasn't as important as community of interests.

Senator Karr asked if the perception of what they identify as compactness would prevail over the community of interests they have identified or whether community of interests was something to challenge the committee on.

CONTINUATION SHEET

MINUTES OF THE Special COMMITTEE ON Apportionment,
room 514-S, Statehouse, at 12:40 a.m./p.m. on Friday, March 27, 1992.

Senator Bond responded the wrap map keeps what the Democrats perceive as community of interests in Reno, Riley and Geary counties but destroys the community of interests in SE Kansas or has major impact on this area.

There was committee discussion regarding various plans that could be submitted with various configurations, and how the population numbers would affect these suggestions and what was considered the core of the districts.

Representative Reardon stated if coming all the way from western Kansas to eastern Kansas, as proposed on a couple of the wrap maps, was unacceptable, then that criteria should also apply when it runs north to south from Nebraska to Oklahoma. He further stated a map could be drawn in which the 3rd and 2nd would be more compact. However, to do this, without drawing a strip map, a line would have to be drawn through Wyandotte and Johnson, and go upward from Wyandotte for the 2nd and down from Johnson county, keeping SE Kansas whole, for the 3rd. He added he would be happy to look at this scenario and bring maps to this effect back to the next meeting.

Representative Snowbarger stated he did not want to see the Kansas City metropolitan area split and splitting Johnson and Wyandotte counties, for whatever reason, was splitting cores of existing districts.

Representative Reardon remarked that at the last meeting the reasons for opposition for the wrap map was that it looked so bad, in trying to keep communities of interest together, that no court would ever accept the map and so the Democrats had come prepared with information regarding communities of interests and how the courts had ruled in other states. He stated, however, suddenly the objections were not about what the courts would say but about compactness and that was why he had suggested drawing a map which would split Wyandotte and Johnson counties.

Senator Vidricksen countered that all the guidelines should be addressed, i.e. compactness and community of interests.

Representative Adam adjourned the meeting at 1:30 p.m. until Monday, March 30th, 1992 at 5:00 p.m. She suggested that if a compromise could not be reached at this meeting the committee would be considered deadlocked. The rest of the committee concurred.

R E A P P O R T I O N M E N T M E M O R A N D U M

Re: Compactness as a Criteria for Apportionment

Date: 3/26/92

"Will a double wrap district pass judicial muster?" . And the answer is undeniably yes. Why?

1. Strange configurations have been approved in other states.

North Carolina

A map passed both houses of the legislature, and was approved by the U.S. Justice Department.

In that map the 11th District in North Carolina was designed for partisan reasons and is one of many districts in North Carolina shaped oddly. (See Attached Congressional Quarterly)

The plan was challenged in federal court. In their pleading the plaintiffs cited the strangely shaped overall configuration as a reason for the court to throw out the plan. (See attached pleading) When the three court federal panel dismissed the plan, they in essence approved the plan's strange configuration. Judge Rehnquist of the United States Supreme Court refused to stay the decision in an appeal to the Supreme Court.

North Carolina plans to conduct Congressional elections using this map.

Oklahoma

The Oklahoma plan passed both Houses of the legislature.

The Oklahoma plan creates at least two wrap districts, splits Oklahoma City into three parts, and yet has never been challenged in court.

The Oklahoma plan features the 2nd District that wraps around the 1st district in order to collect rural counties. (See attached Congressional Quarterly report). It also has three districts that split up Oklahoma City. Note in particular the odd goose neck configuration of District 6. District 6 contains both urban and rural territory. (See attached map)

Iowa

Iowa had to reduce its Congressional seats from 6 to 5. The Iowa plan passed both Houses of the legislature and was signed into law by the Governor. No one has challenged it in court.

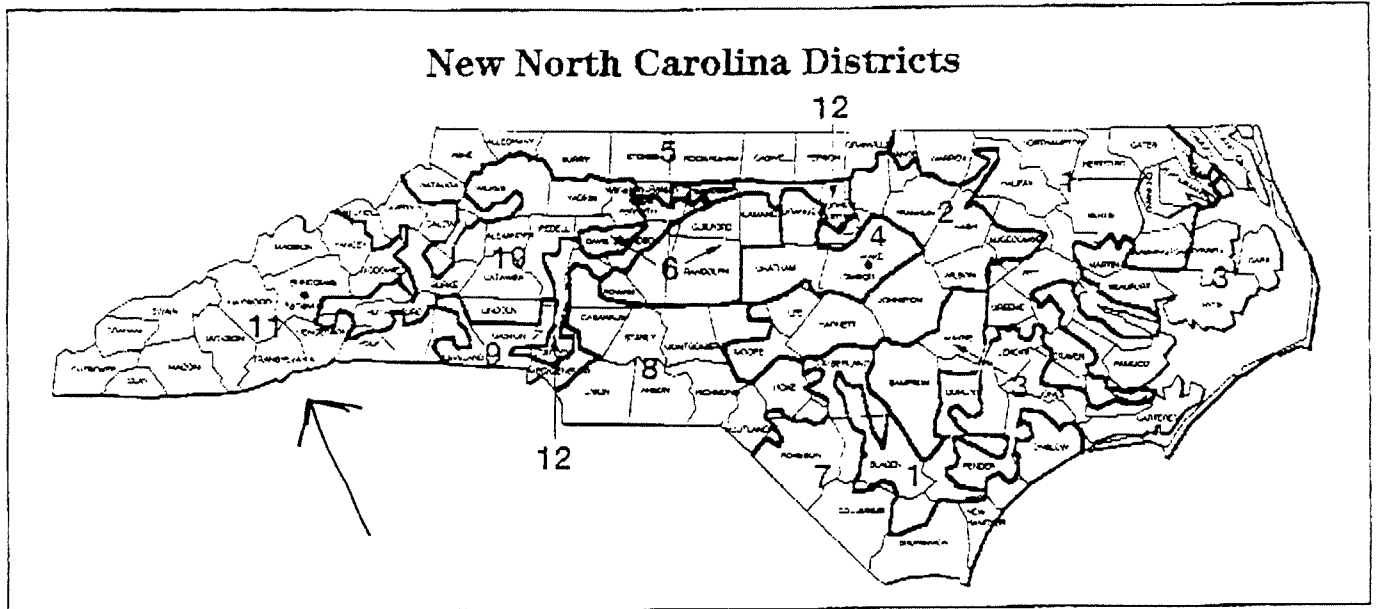
The new 3rd District in Iowa stretches across all of Southern Iowa but reaches up like coat hanger to take in Des Moines. It significantly shifts to the east the district the incumbent Congressman would represent. (See attached Congressional Quarterly article)

2. There is no statutory or constitutional codified requirement for compactness.

While we seek compact districts and put it in our guidelines, there is no federal statute or constitutional language that requires compactness as a requirement for reapportionment. (See footnote on attached Supreme Court Case Gaffney v. Cummings)

3. While partisan gerrymandering can account for non compactness in districts, and court cases have said gerrymandering is a judiciable issue, no court has dared to define a criteria upon which to judge partisan gerrymandering. It is, therefor, impossible for a court to throw a wrap map out on gerrymandering grounds until the criteria is defined. (See NCSL's Reapportionment Law: The 1990's excerpt attached)

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11

West —
Asheville;
Hendersonville



Taylor



Stevens

A former minority leader in the state House and state Senate, GOP Rep. Taylor got a dose of redistricting partisanship from his old Democratic adversaries in Raleigh. The new congressional map weakens Taylor's standing in the 11th, which is already politically marginal.

Even without the tinkering by Democratic mapmakers, Taylor was assured a strong 1992 challenge in the 11th, arguably the most competitive district in the nation.

Voters in western North Carolina tossed out their House incumbent in 1980, 1982, 1984, 1986 and 1990. Every contest since 1980 has been decided by fewer than 5,000 votes; Taylor lost by 1,529 votes in 1988 to Democratic Rep. James McClure Clarke; two years ago, he defeated Clarke by 2,673 votes.

Under the new map, the 11th loses Republican mountain counties such as Mitchell and Avery.

The Democrat hoping to move in on Taylor is former state Rep. Jack Stevens, 58, a prominent Asheville attorney and past president of the Asheville Chamber of Commerce. Stevens served for eight years as chairman of the Asheville Regional Airport Authority. Stevens' credentials led Democratic officials to approach him for statewide races in 1988 and 1990.

Taylor spent more than \$500,000 in each of his races against Clarke, and to pay off campaign debts, he has lent his committee at least \$350,000 since being elected; he entered 1992 with just \$13,000. Stevens' campaign raised \$79,000 in 1991.

12

The I-85 Corridor —
Parts of Durham;
Greensboro; Charlotte

The new 12th, the second black-majority district created in redistricting, is an aesthetic and political affront to North Carolina Republicans, who had expected the new district to be a GOP seat. In the initial House map passed by the legislature in 1991, the 12th took in predominantly Republican areas in the west-central part of the state. Prospective GOP candidates began lining up; one, an aide to Martin, resigned his position and raised almost \$70,000.

But when the Justice Department nixed the initial map, insisting on one with a second majority-minority district, legislators abandoned the idea of a Republican 12th and instead created a black-majority 12th, with a Democratic registration advantage of more than 4 to 1.

The 12th looks more like the result of a seismic spasm across the Piedmont plateau than a congressional district. It is a thin, serpentine creature winding generally along the path traced by I-85 as it runs the 150 miles from Durham to Charlotte. Where the new black majority 1st has a sizable rural component, the 12th is primarily urban: It selectively includes predominantly black areas from Durham, Greensboro, High Point, Winston-Salem, Charlotte and Gastonia, without taking in any whole counties.

The rest stops and fast food restaurants that dot I-85 will be crowded with advance people for the various campaigns. Democratic state Rep. H. M. Michaux, 61, jokes that he will hold political rallies at every exit ramp between Durham and Charlotte. Michaux has some congressional campaign experience: In 1982, he ran first in the 2nd District House primary but lost in the runoff to Valentine.

Greensboro City Councilman Earl Jones has announced that he will run in the 12th and is expected to be followed by a crowd of other entrants, including former state Sen. Mel Watt, campaign manager for 1990 Democratic Senate nominee Gantt; state Rep. Pete Cunningham, Mecklenburg County Commissioner Bob Walton, and educator Joyce Waddell.

Voting Rights Act of 1965, as amended, this legislation was unenforceable unless the Attorney General of the United States failed to object to the legislation within the statutory time frame.

66. Following its enactment, Chapter 601 was submitted by the State of North Carolina to the United States Department of Justice ("USDOJ") for preclearance.

67. On December 18, 1991, the USDOJ objected to the proposed congressional redistricting, noting that the state had failed to demonstrate that the failure to create a second minority district in the southeastern portion of North Carolina did not impermissibly submerge minority voting strength. The Department of Justice also noted that the unusually convoluted shape of the single minority district proposed by the state was not necessary to create a minority district. See Exhibit 2.

68. The General Assembly of North Carolina responded to this objection by enacting, in special session, Chapter 7 (1991 Extra Session) (hereinafter "Chapter 7"), which provides for the redistricting of congressional districts and an increase from eleven to twelve congressional districts. See Exhibits 3 and 4. On January 24, 1992, Chapter 7 was passed, on a party-line vote by overwhelming Democratic majorities in both houses of the State legislature, after only 1 day of deliberation. Other more reasonable and compact alternatives offered by either Republicans or non-partisan interested persons or groups were rejected by the Democratic majority in the General Assembly. This plan was submitted to the Department of Justice

on January 28, 1992. On February 6, 1992, the Department of Justice failed to object to Chapter 7. See Exhibit 5. Section 5 of the Voting Rights Act expressly provides that the failure of the Attorney General to object does not bar subsequent litigation to enjoin enforcement of Chapter 7.

69. Chapter 7 amends Chapter 163, article 17 of the North Carolina General Statutes. A copy of Chapter 7 and a map reflecting the Congressional Districts embodied therein are attached hereto as Exhibits 3 and 4.

70. Pursuant to N.C.Gen.Stat. § 163-22, the State Board of Elections has general supervisory power over the primaries and elections in the State, with authority to promulgate rules and regulations for the conduct of elections in North Carolina.

71. Pursuant to N.C.Gen.Stat. § 163-104, the State Board of Elections may, by rule, modify the election law time schedule.

72. Pursuant to N.C.Gen.Stat. § 163-106, as amended specifically for the 1992 election cycle, notices of candidacy for election to the United States House of Representatives must be filed with the State Board of Elections no later than March 2, 1992.

Tenth Congressional Districts, thereby conceding to the Republican Party the reelection of the Honorable Howard Coble and the Honorable Cass Ballenger to those seats. Republican voters were simultaneously gerrymandered from the Eleventh District, thereby jeopardizing the reelection chances of the Honorable Charles Taylor, the Republican incumbent for that district.

X 77. In order to achieve its goals, the General Assembly adopted Chapter 7 at the request of one or more incumbent Democratic Congressmen or their staff or agents. The districts established by Chapter 7 contain grossly contorted shapes with no logical explanation other than incumbency protection and the enhancement of Democratic partisan interests. Alternative configurations that would better protect the rights of all citizens of North Carolina, including but not limited to a plan prepared by the North Carolina League of Women Voters, were available to the General Assembly and were rejected. The plan adopted by the General Assembly ignores the directive of the USDOJ to create a minority district in the southeastern portion of North Carolina since any such district would jeopardize the reelection of the Honorable Charles Rose, the Democratic incumbent in the Seventh Congressional District.

78. An example of the grossly contorted districts is the proposed Twelfth Congressional District ("Twelfth District"), which serves as the linchpin to the General Assembly's redistricting plan. The Twelfth District is one of two districts in which the General Assembly intended that black voters would be able to elect a candidate of their choice since blacks comprise

81. In order to accomplish the blatantly partisan goals of the Democratic Party, the General Assembly even elected to split fifty (50) precincts along the I-85 corridor into at least two different Congressional Districts. In Iredell County, residents of the Chambersburg Precinct have been split into three different Congressional Districts (Eighth, Tenth, and Twelfth).

82. Other communities were split by the General Assembly as a result of its plan to protect Congressman Rose in the creation of the First Congressional District which purports to serve as the state's second minority district. Blacks comprise 57.26% of the total population in the First District. The lines of the First District split nineteen counties, four townships, and twenty-three precincts. Upon information and belief, portions of two precincts are included in the First District in which no people reside in order to purport to make the district contiguous.

X [83. The contorted shapes of the districts created by Chapter 7 limit, if not exclude, the opportunity for physical access of constituents to their Congressmen to obtain assistance on personal matters and to express their opinions on current issues and make it more difficult, if not impossible, for a Congressman to represent effectively a district with numerous, disparate and conflicting local and regional community interests.

84. The bizarre and irregular district configurations embodied in Chapter 7 have pernicious effects in and of themselves by causing voter confusion about the identity of their Congressmen and any challengers and resulting voter apathy. For

example, the Twelfth District encompasses the three most expensive media markets in the state, Charlotte, Greensboro, and Raleigh-Durham. Candidates in the Twelfth District, in order to achieve name recognition, will face the prohibitive expense of advertising in at least six major daily newspapers, numerous daily newspapers published in smaller communities, and three different television markets. The result will make it difficult, if not impossible, to recruit effective challengers to entrenched incumbents or for qualified candidates to mount effective campaigns.

X

85. The Twelfth District and other districts established by Chapter 7 were created with the specific intent of giving an enormous advantage to Democratic incumbents by increasing the difficulty and expense of campaigning, thereby enhancing the advantage enjoyed by certain incumbents who have the benefit of franking privileges, contributions from political action committees, public identification and ready access to news media.

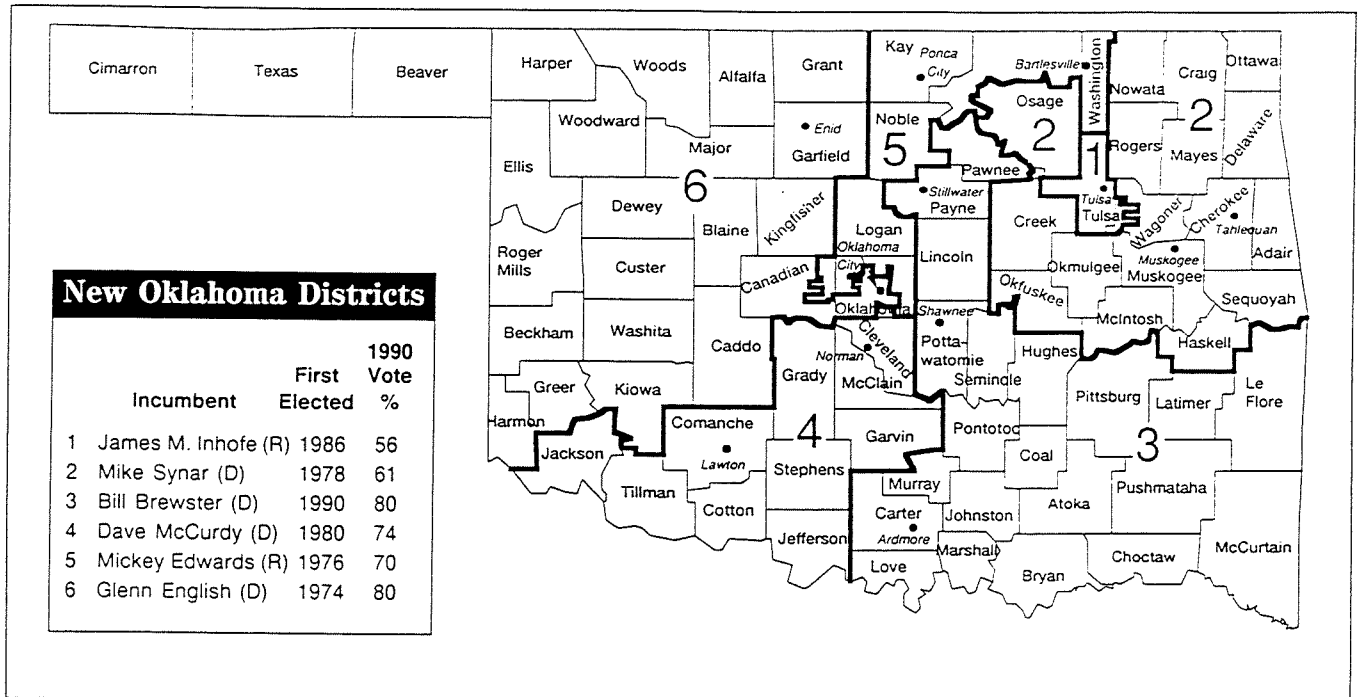
86. The Fourteenth Amendment's guarantee of fair and effective representation is arbitrarily denied by the challenged congressional redistricting scheme which fractures identifiable and cognizable communities of interest in North Carolina, thereby diluting their ability to achieve effective representation, participation in or the promotion of legislative objectives in their behalf.

87. The redistricting scheme embodied in Chapter 7 will abridge or dilute plaintiffs' ability to cast an effective

92. The Voting Rights Act was intended to protect existing and cohesive black communities from being submerged into larger white districts or fractured into different white districts. The Act was not intended to grant license to either political party to arbitrarily "invent" purported black communities that are separated by hundreds of miles in order to achieve partisan political advantage.

X [93. Given the convoluted districts established by Chapter 7 and their impact on the constitutional rights of all voters throughout the State of North Carolina, and in light of other reasonable alternatives available to fully protect the rights of minorities and minority communities under the Voting Rights Act, the Congressional Districts established by Chapter 7 are not authorized or required by the Voting Rights Act and deprive plaintiffs of their rights under the equal protection and due process clauses of the Fourteenth Amendment.

94. Plaintiffs' constitutional rights will be irreparably harmed absent preliminary and permanent injunctive relief preventing the enforcement of Chapter 7 and requiring the creation of constitutionally acceptable Congressional Districts. The relief sought by plaintiff does not conflict with any legitimate state goal or interest. North Carolina's congressional districts can be re-drawn easily and quickly to comport with one person, one vote requirements and to provide an equal or greater level of minority representation than exists under Chapter 7, while at the same time providing for fair and



In 1990, the service sector was the largest component of the state's economy, making up nearly one-fourth of the state's wage and salary employment, according to the Commerce Department. Health care and business services are the two biggest factors in that growth; tourism and recreation also play a greater role.

The state's industrial mix also has undergone changes. The non-electrical machinery industry, which includes oil field equipment, is declining. But the transportation equipment and electronics industries have made significant gains; a growing number of high-tech companies — particularly in the field of aviation equipment — have either settled or expanded in Oklahoma.

All this economic ferment has helped generate political restlessness, as seen not only in the battle over the education measure but also in another arena with national implications — the term-limitation debate.

In 1990, Oklahomans approved a ballot measure limiting lawmakers' terms, making the state the first of three to enact term-limit legislation. The same year, voters nominated two candidates for governor who had never held elective office. In winning the Democratic nomination, businessman David Walters defeated the Speaker of the state House and a seven-term U.S. House member.

Political Impact of the New Map

While Oklahomans have argued heatedly over issues such as education and term limits, congressional redistricting was not a point of controversy. The Legislature stood aside and let the Democrats in the state's congressional delegation draw a new map; it is quite similar to its 1980s predecessor, with only a few counties moving districts.

GOP Rep. James M. Inhofe's 1st District gained Republican south Tulsa as Tulsa County was unified and placed entirely in the 1st. None of Inhofe's House campaigns has been easy since he first was elected in 1986.

Synar's 2nd District has the most imaginative shape. It still starts in the "Green Country" of northeast Oklahoma, but after curling underneath Tulsa County, the 2nd

squirms through a gap between the 1st and 3rd districts to collect a large portion of rural, Democratic Osage County. Synar has struggled of late in Democratic primaries; he was held to 56 percent in the 1990 primary and may face a tough challenge in 1992 from Muskogee County District Attorney Drew Edmondson, the son of former 2nd District Democratic Rep. Ed Edmondson (1953-73).

Freshman Democratic Rep. Bill Brewster's 3rd District needed to gain population. It picked up most of Pawnee County and the Pottawatomie County town of McCloud (population 2,500) from the 4th District.

Democratic Rep. Dave McCurdy's 4th District remains largely intact; whether he plans to run in it is an open question. McCurdy has expressed interest in seeking the 1992 Democratic presidential nomination. The chairman of the House Select Intelligence Committee, a member of the Armed Services Committee and a leader in the moderate-to-conservative Democratic Leadership Council. McCurdy presents a moderate, strong-defense profile that contrasts with the type of candidate who usually finds favor in the Democratic presidential nominating process. He will only face a dilemma over running for his House seat, however, if he appears to be in line for a spot on the national ticket: Oklahoma's filing deadline for 1992 congressional candidates is July 8.

The 5th District, home of Oklahoma's other Republican House member, Mickey Edwards, lost several majority-black precincts in Oklahoma County, enhancing the district's already considerable Republican bent.

Democratic Rep. Glenn English has relied on Democratic precincts in Oklahoma City to offset the heavy Republican tilt in much of his 6th District. English was given the black neighborhoods that Edwards had represented. That prompted Oklahoma City's three black state legislators to complain that Edwards was more attentive to their concerns than English would be. But their objections attracted little grass-roots support.

Following are descriptions of Oklahoma's newly drawn congressional districts, which will be in force for the 1992 elections.

5 North Central; Part of Oklahoma City

The new 5th bears a close resemblance to the old 5th in both shape and intent: As it sweeps from Oklahoma City north to the Kansas border, it collects Republican-minded voters all along the way. Democrats may still have a registration edge in the 5th, but this is unmistakably GOP terrain. Most of the counties in the 5th gave Bush more than 60 percent of the vote in 1988. Only the portion of Osage County in the district can be described as Democratic territory.

Oklahoma City enjoyed modest population growth of about 10 percent in the 1980s; much of this increase came in the city's more affluent northwest section, which remains in the new 5th. The district takes in such well-to-do suburbs as Nichols Hills, as well as medium-income suburbs such as Bethany. Remappers shifted the poorer black neighborhoods that had been in the 5th over to the 6th District.

Oklahoma City's growth did not stop at the city limits. It spread north to Edmond and west — along the North-west Expressway — into Canadian County. Edmond's population expanded by more than 50 percent in the 1980s; with 52,300 people, it is now the sixth-largest city in Oklahoma. Canadian County experienced similarly rapid growth. Its population rose by 32 percent in the last decade, faster than any other county's.

Since the discovery of a large oil pool underneath Okla-

homa City in the 1930s, much of the city's economy has revolved around the oil industry. But the sharp drop in oil prices from the early to the mid-1980s forced "O.K. City" (as locals call it) to diversify. The aviation industry is now a significant area employer, with the Federal Aviation Administration's training facility at the airport (in the 6th). The military has a prominent presence as well, with Tinker Air Force Base on the outskirts of the city (in the 4th).

Others work in state government, trucking and meatpacking.

The district's northeastern anchor is Bartlesville (Washington County), the home of Phillips Petroleum. Oil has been of paramount importance to the local economy since 1897. Now, Bartlesville is a genteel community of 34,000, boasting modern architecture — including an office and apartment building designed by Frank Lloyd Wright — a symphony orchestra, ballet and an annual Mozart festival.

Energy and agriculture are key components of the 5th's economy. District farmers grow wheat and soybeans and raise beef cattle. Phillips, Kerr-McGee and Conoco have refineries in the district. Conoco has a large refinery in Ponca City (Kay County).

Guthrie (Logan County) was Oklahoma's first capital. The town, which is renovating its Victorian-era buildings, is being restored to the early 20th century. To the north in Noble County, Perry's annual Cherokee Strip Celebration commemorates the 1893 land run that led to its founding. The Cherokee Strip is a 12,000-square-mile area that makes up much of what is now north-central Oklahoma.



Edwards

6 West and Panhandle; Part of Oklahoma City

In terms of economy, occupation, personality and politics, the 6th spans a wider range than any other district. From inner-city black neighborhoods and booming suburbs in and around Oklahoma City to the wild frontier of the Panhandle, the 6th encompasses all aspects of Oklahoma. It is massive: Covering more than 25,000 square miles, the 6th District is larger than 10 states.

Western Oklahoma is traditionally the state's most conservative region. Residents share an aversion to most government activity other than military expenditures and agricultural subsidies. Part of the Dust Bowl, western Oklahoma was devastated in the 1930s and 1940s. It made great strides in the two postwar decades, becoming a region of massive wheat farms and cattle ranches. But the double shock in the 1980s of falling energy prices and the farm credit crisis dealt the district another economic setback. Most counties in the 6th lost population then, many by over 10 percent.

The historical origins of Oklahoma's settlers indicate the voting patterns of the state. Northern Oklahoma's settlers came from Kansas and Nebraska, importing their Republican voting habits. The northern tier of the 6th is the most solid GOP territory in the state. Many of these counties gave Bush more than 70 percent of the vote in 1988. Two Panhandle counties, Texas and Beaver, were the only counties won by 1990 GOP gubernatorial nominee Bill Price.

Texans settled the southwestern part of Oklahoma. Like the area they left, the southern part of the district is dominated by conservative, "yellow dog" Democrats. The unsuccessful 1986 Democratic nominees for governor and Senate won the six southernmost counties in the district. In 1988, Dukakis carried Harmon, Greer, Kiowa and Caddo counties.

Agriculture and energy are the mainstays of the 6th's economy. Hard red winter wheat is grown across the district, especially in the north and northwest. Garfield and Grant are among the top 25 wheat-harvesting counties in the country; Texas and Alfalfa counties are in the top 50. Beef cattle are also raised in the 6th. In the south, cotton and peanuts are key commodities. Caddo County ranks second in the nation in peanuts harvested. Much of the energy production in the 6th is in the Panhandle, where there are huge gas fields.

About 40 percent of the district's population lives in Oklahoma County (Oklahoma City).

While the rest of the district lost population during the 1980s, Oklahoma and adjacent Canadian County grew; Canadian boomed by 32 percent, the most in the state.

Oklahoma City is split among three districts. The 6th's portion includes the most famous symbols of the state's oil wealth: working wells on the grounds of the state Capitol and the lawn of the governor's residence. Only the wells on the Capitol grounds continue to be productive, however. Also included in the 6th are most of the city's 71,000 blacks. Many district residents work at Tinker Air Force Base. General Motors and the Federal Aviation Administration's training center at Will Rogers World Airport.



English

REDISTRICTING

Iowa Remapping Goes Smoothly As Six Districts Become Five

*Nagle and Nussle would face each other for the 2nd;
Smith and Lightfoot may also suffer*

Redistricting battles are now in full swing in many parts of the country. But in Iowa the process is nearly complete, and hardly a drop of political blood has been spilled.

By overwhelming majorities, both houses of the Democratic-controlled Iowa legislature earlier this month approved a new congressional district map submitted by the state's nonpartisan Legislative Service Bureau that would reduce six House districts to five. Republican Gov. Terry E. Branstad has not objected to the plan and is expected to act on it before the end of the month.

Criticism of the map has come from Republican Rep. Jim Ross Lightfoot, whose southwest Iowa district would be relocated across the state's southern tier. It looks "like a camel with a cancer on its hump," he told the Omaha World-Herald in mid-April. "It would be a monster to try and service."

But Lightfoot has not asked Branstad to veto the plan and has already begun visiting the portion of southeastern Iowa that would be in his new district.

The legislature's decisive endorsement also puts pressure on Branstad to give his approval. The plan passed the state Senate by a vote of 39-10 on May 10 and the state House by a vote of 93-7 on May 11.

Several reasons are given for its quick approval by the legislature. With control of the state government split, neither party was in a position to dominate the redistricting process anyway. The legislature had already gone through a rancorous session of budget-cutting, and many state lawmakers seemed eager to embellish Iowa's "good government" reputation.

Iowans don't play politics "with a baseball bat to the kidney as some

By Rhodes Cook

Once critical of the new map, Republican Jim Ross Lightfoot is getting to know voters in his reconfigured southern Iowa district.



states do," says Joe Pinder, press secretary for GOP Rep. Jim Leach.

Misery Gets Company

But the most compelling reason seems to be that the new map tends to spread the political suffering among Democrats and Republicans almost evenly. "You can do better. You can do worse," says Democratic Rep. Dave Nagle. But "it's a fair plan."

If any incumbent might be expected to complain, it would be Nagle. With a population loss in the 1980s second only to West Virginia, Iowa loses one of its House seats. As a result, the new map throws Nagle and Republican Rep. Jim Nussle together into a redrawn 2nd District that roughly covers Iowa's north-east quadrant.

But Democratic Rep. Neal Smith and Lightfoot are also significantly affected. Lightfoot's 5th District, which covers Iowa's southwest quadrant, would be gutted. His hometown of Shenandoah would lie just within a new 3rd District that would extend more than 200 miles eastward to the Mississippi River.

Meanwhile, Smith's Des Moines-based 4th District, which comprises a half-dozen counties in central Iowa, would head westward from the state capital more than 120 miles to the Missouri River.

Republican Reps. Leach and Fred Grandy would be less affected. Leach's 1st District, which covers most of southeast Iowa, would shrink to a more compact area around his home base of Davenport on the Mississippi River.

Grandy's district in the largely Republican northwest corner of Iowa would hardly change at all. Formerly Iowa's 6th District, it would become the 5th.

Competition Grows

The new map would almost certainly produce more competition for Iowa's House seats next year than existed in 1990. Then, Leach, Nagle and Smith were re-elected without opposition, while Lightfoot and Grandy rolled up more than two-thirds of the vote against little-known and under-financed challengers. Only Nussle had a close race, defeating Democrat Eric Tabor by less than 2,000 votes for the seat that was being vacated by GOP Senate aspirant Tom Tauke.

A Nussle-Nagle matchup would almost certainly be Iowa's premier House race next year. Nagle has not made a final decision to run but says it is likely that he will.

Nagle, 48, a third-term congressman and former Democratic state chairman, would have the edge in political experience over Nussle, 30, a House freshman.

And Nagle would bring a slightly larger share of his constituents into a new 2nd District than would Nussle. Nagle's home base, Black Hawk County (Waterloo, Cedar Falls), would anchor the new 2nd. The first- and third-largest counties in Nussle's old district, Linn (Cedar Rapids) and Clinton, would both be moved into Leach's district.

But Nussle should gain by subtraction. All four counties he would lose in redistricting voted for Tabor in 1990. Meanwhile, Nagle would lose three

counties — Johnson, Marshall and Poweshiek — that provided him with roughly 10,000 of his 14,000-vote margin of victory when he was first elected to Congress in 1986.

Johnson County would be Nagle's biggest loss. Home to the University of Iowa at Iowa City, it is the most liberal county in the state as well as one of the most Democratic, with more than two registered Democrats for every registered Republican. Johnson County would return to Leach, who represented it during his first three terms in Congress, from 1977 to 1983.

Democratic Dubuque County, represented by Nussle, would become part of a new 2nd District, but that would not necessarily be an asset for Nagle. The county is heavily Catholic, and Nussle was able to carry it narrowly in 1990 by emphasizing his opposition to legalized abortion.

The outcome of a Nagle-Nussle race could ultimately hinge on which candidate would run best in the one county that neither has run in before: Cerro Gordo (Mason City). It is in the district's northwest corner adjacent to territory that Nagle has represented, but its 27,000 registered voters are almost evenly divided between Democrats, Republicans and independents.

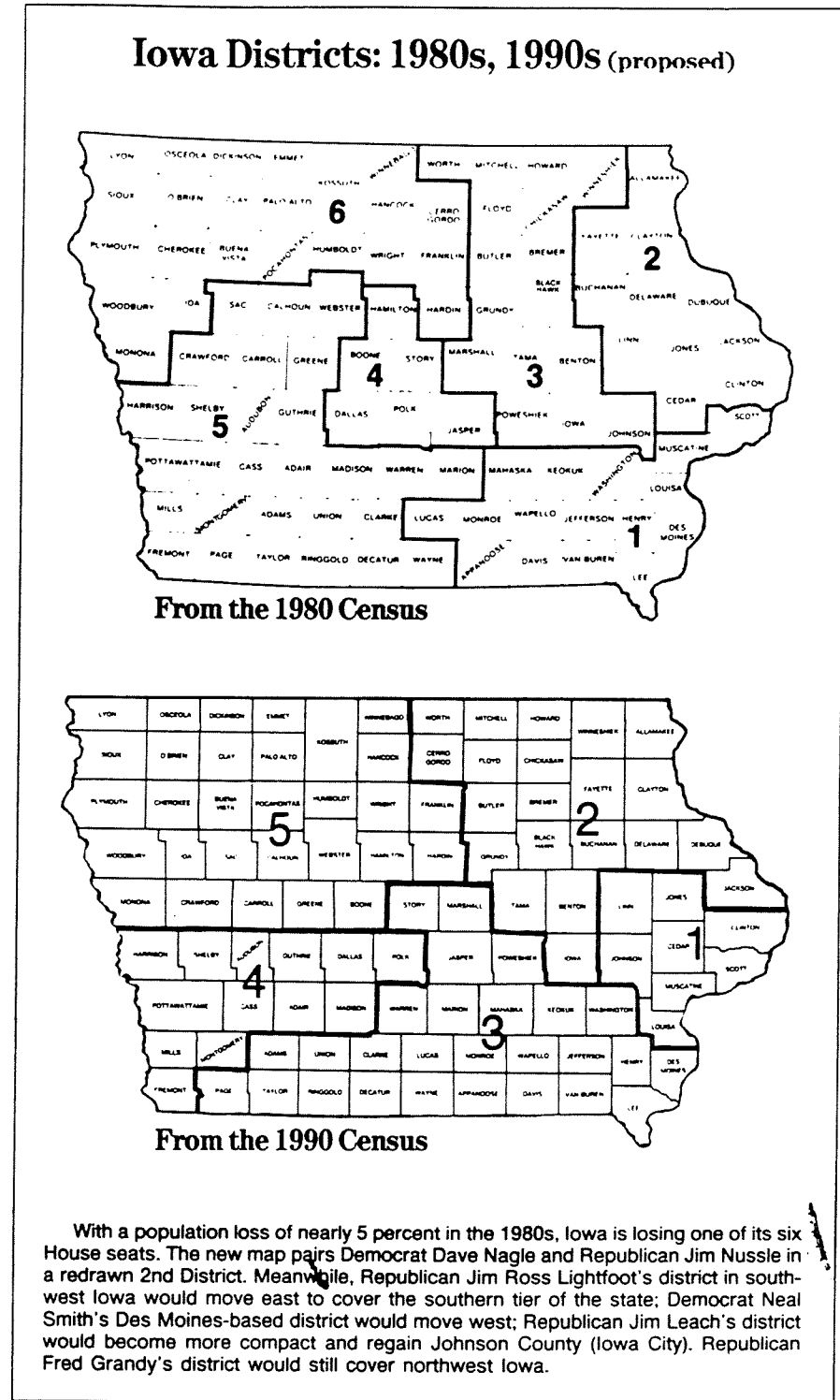
Lightfoot, Smith Vulnerable

Neither Lightfoot nor Smith is paired with another incumbent, but each could be vulnerable to a serious challenge. Lightfoot's district would include only 10 counties from his present district, while picking up 17 new ones, most of them with a Democratic registration advantage.

In addition, Lightfoot would lose the largest population center in his current district, Republican-oriented Pottawattamie County (Council Bluffs), while adding three population centers where Democratic candidates usually run well — Lee (Fort Madison), Story (Ames) and Wapello (Otumwa) counties. All three counties voted for Democratic presidential candidate Michael S. Dukakis in 1988; Lee and Wapello also voted for Walter F. Mondale in 1984.

After his early criticism of the redrawn lines, Lightfoot seems ready to run in his new district, and his staff views it as winnable. Most of the counties that Lightfoot would pick up are used to voting Republican for Congress; more than a dozen were represented by Leach in the 1980s.

As well, Lightfoot's office sees the concerns of southeastern Iowa being



similar to those of the southwest part of the state; both areas are concerned about water policy and economic development. And Lightfoot's new seat on the House Appropriations Committee, replacing the late Silvio O. Conte, R-Mass., should help him make plenty of friends among the new constituents. Smith's district would not change

quite as dramatically. It is anchored by his home base, Democratic Polk County, which would comprise nearly 60 percent of the district's population. But Smith, 71, would pick up 10 counties in southwest Iowa, including Pottawattamie, that he has never represented before in 33 years in Congress. If anti-incumbent sentiment is still

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[1, 15] The point is, that such involvements should never begin. We have repeatedly recognized that state reapportionment is the task of local legislatures or of those organs of state government selected to perform it. Their work should not be invalidated under the Equal Protection Clause when only minor population variations among districts are proved. Here, the proof at trial demonstrated that the House districts under the State Apportionment Board's plan varied in population from one another by a *maximum* of only about 8% and that the average deviation from the ideal House district was only about 2%. The Senate districts had even less variations. On such a showing, we are quite sure that a prima facie case of invidious discrimination under the Fourteenth Amendment was not made out.

III

[2, 16-18] State legislative districts may be equal or substantially equal in population and still be vulnerable under the Fourteenth Amendment. A districting statute otherwise acceptable, may be invalid because it fences out a racial group so as to deprive them of their pre-existing municipal vote. Gomillion v Lightfoot, 364 US 339, 5 L Ed 2d 110, 81 S Ct 125 (1960). A districting plan may create multimember districts perfectly acceptable under equal population standards, but invidiously discriminatory because they are employed "to mini-

mize or cancel out the voting strength of racial or political elements of the voting population." Fortson v Dorsey, 379 US 433, 439, 13 L Ed 2d 401, 85 S Ct 498 (1965). See White v Regester, 412 US 755, 37 L Ed 2d 314, 93 S Ct 2332; Whitcomb v Chavis, 403 US 124, 29 L Ed 2d 363, 91 S Ct 1858 (1971); Abate v Mundt, 403 US, at 184 n 2, 29 L Ed 2d 399; Burns v Richardson, 384 US, at 88-89, 16 L Ed 2d 376. We must, therefore, respond to appellees' claims in this case

[412 US 752]

that even if acceptable populationwise, the Apportionment Board's plan was invidiously discriminatory because a "political fairness principle" was followed in making up the districts in both the House and Senate.

[19] The record abounds with evidence, and it is frankly admitted by those who prepared the plan, that virtually every Senate and House district line was drawn with the conscious intent to create a districting plan that would achieve a rough approximation of the statewide political strengths of the Democratic and Republican Parties, the only two parties in the State large enough to elect legislators from discernible geographic areas. Appellant insists that the spirit of "political fairness" underlying this plan is not only permissible, but a desirable consideration in laying out districts that otherwise satisfy the population standard of the reapportionment cases. Appellees, on the other hand, label the plan as nothing less than a gigantic political gerrymander, invidiously discriminatory under the Fourteenth Amendment.¹⁸

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[19] 18. Appellees also maintain that the shapes of the districts would not have been so "indecent" had the Board not attempted to "wiggle and joggle" boundary

lines to ferret out pockets of each party's strength. That may well be true, although any plan that attempts to follow Connecticut's "oddly shaped" town lines (App

[20] We are quite unconvinced that the reapportionment plan offered by the three-member Board violated the Fourteenth Amendment because it attempted to reflect the relative strength of the parties in locating and defining election districts. It would be idle, we think, to contend that any political consideration taken into account in fashioning a reapportionment plan is sufficient to invalidate it. Our cases indicate quite the contrary.

[412 US 753]

See *White v Regester*, supra; *Burns v Richardson*, supra; *Whitcomb v Chavis*, supra; *Abate v Mundt*, supra. The very essence of districting is to produce a different—a more “politically fair”—result than would be reached with elections at large, in which the winning party would take 100% of the legislative seats. Politics and political considerations are inseparable from districting and apportionment. The political profile of a State, its party registration, and voting records are available precinct by precinct, ward by ward. These subdivisions may not be identical with census tracts, but, when overlaid on a census map, it requires no special genius to recognize the political consequences of drawing a district line along one street rather than another. It is not only obvious, but absolutely unavoidable, that the location and shape of districts may well determine the political complexion of the area. District lines are rarely neutral phenomena. They can well determine what district will be predominantly Democratic or predominantly Republican, or make a close race likely. Redistricting may pit incumbents against one another or make very

difficult the election of the most experienced legislator. The reality is that districting inevitably has and is intended to have substantial political consequences.

It may be suggested that those who redistrict and reapportion should work with census, not political, data and achieve population equality without regard for political impact. But this politically mindless approach may produce, whether intended or not, the most grossly gerrymandered results; and, in any event, it is most unlikely that the political impact of such a plan would remain undiscovered by the time it was proposed or adopted, in which event the results would be both known and, if not changed, intended.

It is much more plausible to assume that those who redistrict and reapportion work with both political and

[412 US 754]

census data. Within the limits of the population equality standards of the Equal Protection Clause, they seek, through compromise or otherwise, to achieve the political or other ends of the State, its constituents, and its office-holders. What is done in so arranging for elections, or to achieve political ends or allocate political power, is not wholly exempt from judicial scrutiny under the Fourteenth Amendment. As we have indicated, for example, multi-member districts may be vulnerable, if racial or political groups have been fenced out of the political process and their voting strength invidiously minimized. See *White v Regester*, supra; *Whitcomb v Chavis*, supra. See also *Gomillion v*

98) is bound to contain some irregularly shaped districts. But compactness or attractiveness has never been held to constitute an independent federal constitutional requirement for state legislative

districts. Cf. *White v Weiser*, 412 US 783, 37 L Ed 2d 335, 93 S Ct 2348; *Wright v Rockefeller* 376 US 52, 54, 11 L Ed 2d 512, 84 S Ct 603 (1964), and id., at 59-61, 11 L Ed 2d 512 (Douglas, J., dissenting).

It should be noted that such a summary affirmance without opinion does not bind other lower courts to follow the majority opinion's reasoning in Badham.

CONCLUSION

Partisan gerrymandering may be held unconstitutional, but just what is sufficient for that determination is still unclear. However, the Supreme Court has said that drawing lines that minimize contests between incumbents is not unconstitutional in and of itself and that drawing lines to create proportional representation of the political parties in a legislative body is not unconstitutional.