

THE PROBLEM OF LEGISLATIVE
APPORTIONMENT IN OREGON

by

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CHAPTER I

INTRODUCTION

Section 6 of Article IV of the Oregon Constitution provides for an apportionment of the Legislative Assembly on the basis of "white population." This apportionment

. . . shall, at the session next following an enumeration of the inhabitants by the United States or this state, be fixed by law, and apportioned among the several counties according to the number of white population in each.

Since 1910 there has been no major reapportionment in accordance with this provision. As a result six counties, Clackamas, Clatsop, Coos, Lane, Marion and Multnomah are underrepresented while six counties, Hood River, Lincoln, Tillamook, Umatilla, Wallowa and Wasco are overrepresented.

Apportionment inequalities have produced a situation where the single county of Wallowa with a population in 1940 of 7,623 has one representative, whereas Multnomah County with 355,099 inhabitants has thirteen representatives. Some indication of the inequalities in representation resulting from this fact may be gained if the population of Multnomah County is divided by the population of Wallowa County. In other words, if Multnomah County

received representation on the same population basis as Wallowa County, it would have at least forty-seven representatives. (If a fraction of the ratio exceeding a half were considered, then it would have forty-eight representatives.)

The 1946 referendum proposal of the legislature to increase the senate membership by adding an additional senator, through constitutional amendment, resulted in a general discussion of the entire apportionment problem by the Oregon electorate and public-spirited organizations. Mr. Richard L. Neuberger's suit in Multnomah County in the same year, intended to compel the legislature to perform its constitutional duty to reapportion, further increased public interest in apportionment. Finally, the appropriation of \$1,000.00 by the state legislature in 1945 for an interim committee to study the reapportionment law and report its findings to the 1947 session of the legislature emphasized the need for a thorough understanding of the problem.

Since Section 4, Article IV of the Constitution of the United States guarantees every state a republican form of government the problem of representation in a legislative assembly is not unique to Oregon. In compliance with this provision of the federal constitution, for example, every state has provided for some form of representation

of the electorate in a legislature. Therefore, reapportionment was found to be more than a topic of current interest to Oregonians, for a study of the problem revealed its existence in several states. The solutions to the problem that were made in other states consequently, were considered important because the experience of these states might be helpful to Oregonians in their reapportionment difficulty.

Every state constitution contains a clause or clauses on apportionment of legislatures, that is, the method of determining representation in the states' legislative assembly. Furthermore, a majority of states, of which Oregon is one, provide for reapportionment which involves changing representation at periodic intervals as a result of changes within the state.

As a result of these constitutional provisions for reapportionment, an apportionment problem has arisen. Simply stated, the apportionment problem is how to make state legislatures reapportion when (1) there is an indication that a special interest group exists which is antagonistic to legislative compliance with a constitutional mandate to reapportion periodically; or (2) there is evidence of an intention on the part of the legislature to employ a "silent gerrymander" for the advantage of a given political party by failing to apportion; or (3) there is

evidence of an intent to reapportion but the method of apportioning is faulty.

This problem generally arises as a result of reapportionment provisions based on a political-territorial unit, such as a town or county, or a provision for representation on the basis of population as in Oregon. Therefore, in considering the methods of apportioning the Oregon Legislative Assembly and the problems arising from inadequate reapportionment it was deemed necessary to examine provisions of other states for reapportioning in order to compare, as nearly as possible, the similarities and dissimilarities between Oregon's method and that of other states.

Any study of the apportionment problem by the comparative state method is handicapped, however, by the physical impossibility of keeping abreast of constitutional and statutory changes. Nevertheless, this technique is frequently employed by individuals and committees interested in legislative reapportionment because certain conclusions may be reached after a consideration of the cultural and mechanical factors influencing apportionment. These conclusions arise partly from the implications inherent in a theory of rural-urban conflict as a cause of faulty representation, and partly from judicial recognition of a legislative duty to reapportion in accordance with constitutional

Instructions.

The final recommendations, offered at the conclusion of the thesis as a possible solution to the apportionment problem in Oregon, are the result of a comparative study of methods of apportionment in other states and in the National House of Representatives. These recommendations are deemed applicable and best suited to Oregon because they provide for reapportionment in accordance with existing constitutional provisions and propose a substitute for legislative inertia.

CHAPTER II

FREQUENCY AND AGENCY OF APPORTIONMENT

Mechanical factors affecting apportionment are those matters concerned with the mechanics of apportioning or the actual processes involved. These require a decision as to frequency, agency and method to be used.

Consideration of a financial and equitable nature normally prevent apportionment in each legislative session. The need for some degree of certainty in estimating annual or biennial state budgets and the cost of frequent census taking are financial matters preventing too frequent apportionment. Equitable considerations arise from the evil effects of providing representation for only a temporary population change. A gold rush, "fountain of youth" pilgrimage, or land boom, for example, might swell the population of a given section for a few years at the expense of other sections of the state. If this increase in population is only for the duration of the boom, then the permanent inhabitants of the state might be placed in jeopardy by an apportionment favoring the speculators.

Apportionment may be provided for at yearly intervals,

at the pleasure of the legislature or, where no provision exists for apportionment, by constitutional amendment. Thirty-five states provide for an apportionment of both houses at the expiration of a number of years, usually at the end of a federal or state census, although the latter is rarely taken as illustrated by the experience in Oregon where no state census has ever been taken. Of these thirty-five states twenty-three provide for an apportionment of both houses every ten years, Indiana provides for a change of both branches every six years and ten states provide for an apportionment of both chambers every five years. North Dakota provides for a five year apportionment of both senate and house or at any regular session of the legislature, while Delaware would require a constitutional amendment since no provision is made for apportionment and because senate and house representation is specifically prescribed by districts in the constitution. The following table summarizes the various provisions among the states for frequency of apportionment.

Table 1.Frequency of Apportionment
In the States*1. Apportionment of Both Houses Every Ten Years

Alabama	Massachusetts	Oklahoma
Arkansas	Michigan	Pennsylvania
California	Mississippi	Tennessee
Florida	Missouri	Texas
Georgia	New Mexico	Virginia
Illinois	New York	West Virginia
Kentucky	North Carolina	Wisconsin
Louisiana	Ohio	

2. Apportionment of Both Houses Every Six Years

Indiana

3. Apportionment of Both Houses Every Five Years

Colorado	Nevada	Washington
Iowa	Oregon	Wyoming
Kansas	South Dakota	
Minnesota	Utah	

4. Apportionment of Both Houses Every Five Years or Less

North Dakota - 5 years or at any regular session

5. No Apportionment Provision

Delaware

6. Special Provisions for Apportionment of One or Both Houses

<u>State</u>	<u>Senate</u>	<u>House</u>
Arizona	No provision	Every two years
Connecticut	Every ten years	Town representation
Idaho	No provision	Every two years
Maine	Every ten years	Every five or ten years

<u>State</u>	<u>Senate</u>	<u>House</u>
Maryland	No provision	Every ten years unless legislature authorizes a state census.
Montana	No provision	Every five years
Nebraska	(Unicameral legislature)	Not oftener than once every ten years.
New Hampshire	From time to time	No provision
New Jersey	No provision	Every ten years
Rhode Island	Optional after any Presidential Election	Optional every five years
South Carolina	No provision	Every ten years
Vermont	Every ten years	No provision

*Source: Report of Special Committee of the Board of Wayne County Supervisors Advocating Reapportionment, "The Michigan Plan," (Detroit, Michigan, November, 1931), Part IV - Appendix C.

Where apportionment is provided for at yearly intervals it is contingent upon the taking of a census. After the compilation of the census data provision is then made for an apportioning agency.

An overwhelming majority of states provide for apportionment by the legislature. This is a traditional practice and may be attributed to the belief that

membership in the legislature is a political matter to be handled by the assembly itself. The more recent pattern, however, has been to provide for some means of automatic apportionment to begin immediately upon compilation of a census or upon the legislature's failure to apportion. By June, 1946 ten states (Arizona, Arkansas, Maryland, Missouri, Ohio, California, South Dakota, Washington, Maine and Florida) had provided for either automatic apportionment or employment of some device in the advent of the legislature's failing to apportion. Maryland and Ohio probably have the oldest automatic apportioning devices, while those of Arizona, Arkansas, California and South Dakota are of recent origin. Because provisions for automatic or alternative apportionment agencies offer a possible solution to inefficient apportioning or permit an apportionment in the event of legislative failure to apportion some consideration should be given to the type of agency that has been established.

Three states have provided for automatic apportioning agencies completely independent of the legislature. Two of these states (Arkansas and Ohio) provide for an apportioning board which shall make an apportionment immediately after a federal census. Members of this apportioning board in both states are the governor and

secretary of state plus the attorney general in Arkansas and the auditor in Ohio. The third state, Maryland, instructs the governor to apportion the house immediately after a state or federal census.

Missouri has an automatic apportioning system all its own which has been summarized by the Wisconsin Legislative Reference Library as follows:

This system is complicated and possibly has serious shortcomings otherwise. The constitution establishes for the house a ratio of representation, which is the whole number of inhabitants of the state divided by 200. Each county with one ratio or less elects one representative. Each county with two and a half ratios elects two, and so on. After each federal census the secretary of state certifies to the county courts (county boards) and the appropriate agency in St. Louis the number of representatives due the county or city. When a county is entitled to more than one representative the county board divides the county into districts.

The senate apportionment is somewhat similar in procedure, except that a senatorial reapportionment commission of ten, appointed by the governor from lists submitted by only the two major political parties, is set up instead of the county boards. The population of no district shall vary from the quotient of population more than one-fourth, and the commission's report must be approved by seven of the ten members.¹

California and South Dakota provide for an apportioning board only if the legislature fails to apportion.

¹Legislative and Congressional Reapportionment: Automatic and Alternative Methods (Prepared by Wisconsin Legislative Reference Library, June, 1946), pp. 3-4. (Carbon copy).

California's board of five members includes the lieutenant governor, attorney general, state controller, secretary of state and the superintendent of public instruction. South Dakota also provides for a board of five members who are the governor, secretary of state, presiding justice of the state supreme court, attorney general and the superintendent of public instruction. California provides for this commission if the legislature fails to apportion at the first regular session after a federal census. South Dakota has the same provision but specifically instructs the board to meet within thirty days after the legislature adjourns.

Arizona and Maine have apportioning devices that are peculiar to these states only. The former permits the board of supervisors of a county to participate in apportioning representatives from a county when more than one representative is from a county. This is accomplished by dividing the county into representative districts. Maine permits a town automatically to send an additional representative from a town in the advent of an increase in population. Should a town's population decrease the town automatically loses a representative.

New York permits its supreme court to review an apportionment if one of its citizens brings a suit challenging an apportionment. Such a suit has priority over

pending judicial matters.

Florida provides for the calling of a special session of the legislature in the advent of failure to apportion. This provision was adopted at a general election in 1924 and is so drastic that there is no escaping the legislative duty to reapportion. The provision for the special session reads as follows:

In the event the Legislature shall fail to reapportion the representation in the Legislature as required by this amendment, the Governor shall (within thirty days after the adjournment of the regular session), call the Legislature together in extra-ordinary session to consider the question of reapportionment and such extraordinary session of the Legislature is hereby mandatorily required to reapportion the representation as required by this amendment before its adjournment (and such extraordinary session so called for reapportionment shall not be limited to expire at the end of twenty days or at all, until reapportionment is affected, and shall consider no business other than such reapportionment).¹

It should be noted, however, that in spite of this provision no senatorial reapportionment was made until 1945 when the legislature was called in special session by Governor Caldwell and thereby forced to apportion. The house presented no problem because representation in this branch is automatic.

¹Florida Constitution, Art. VII, Sec. 3.

Finally, four states (Arkansas, California, Colorado and Washington) have used the initiative as an apportioning agency after the legislature had failed to reapportion. Such a practice has the advantage of focusing public attention on an apportionment problem. The great disadvantage, however, is that a genuine provision for a solution to the problem of who should apportion and with what frequency may not be made. For example, the state of Washington reapportioned in 1930 through the initiative. In 1946 another reapportionment was up for initiative vote. Again Colorado apportioned through initiative vote in 1932. Since then no apportionment has been made although a letter to the author in 1946 from the state's Legislative Reference Office contained the information that urban areas are underrepresented.¹ Not only is this patch-work method of submitting each reapportionment to a vote of the people expensive, conducive to the use of political pressure, and dependent upon some group initiating an apportionment measure, it relieves the legislature of its responsibility to apportion and in no way insures an equitable apportionment.

¹Letter from Clair T. Sippel, Secretary, State of Colorado, Department of Law, Legislative Reference Office, December 17, 1946.

Arkansas and California, on the other hand, used the initiative to good effect by providing in the first state for an automatic apportionment board. This state removed apportionment from the legislature entirely and provided that the state supreme court could mandamus or otherwise compel the members of the board to apportion. California's initiative measures of 1926 were not so drastic as Arkansas; however, both reapportionment measures provided for automatic apportioning commissions in the event one of the two proposals should pass and future legislatures should again become negligent. The "Federal Plan"--a plan whereby population is the basis for house representation but senatorial districts the basis for senate representation--was adopted in California in 1926. Since, as stated above, this provided for an automatic apportioning agency in event of the legislature's failure to apportion, the problem of reapportionment was apparently settled.

Having considered the agencies other than the legislature which might apportion, what are their advantages and disadvantages? Obviously the primary advantage of these "miniature legislatures" rests in the fact that when they are divorced from the legislature they relieve that body of a troublesome problem every ten years, reduce "politicking," and place apportionment in what is intended to be an impartial administrative agency. On the other

hand the appellation "miniature legislatures" indicates the weakness of these agencies which are given a legislative function and at the same time, legislative immunity in the advent of failure to perform the agency's duty. Thus it was noted above that the Florida Constitution specifically instructs the governor to call a special session of the state legislature upon failure of that body to apportion after a census. This provision was adopted in 1924, yet twenty years elapsed without an apportionment. For this reason the Arkansas provision that members of the apportioning board may be mandamused or otherwise compelled by the state supreme court is very desirable. Such a provision forces action on the individual or individuals given authority to apportion or convene an apportioning agency and subjects their acts to judicial review, thus insuring some degree of justice and fair play.

As a result of this examination of state provisions for automatic apportioning agencies it appears that any provision for such a commission should include the following safeguards:

1. Members of the agency should be subject to mandamus. This automatically excludes these officials who, by the nature of their positions, are not subject to mandamus and will minimize any possible

attempt to appoint individuals who are more interested in political bargaining rather than in apportioning equitably.

2. Apportionment by the commission should be mandatory immediately following a state or federal census.

3. The apportionment should be made subject to judicial review.

CHAPTER III

METHODS OF APPORTIONMENT

Having once agreed upon the frequency of apportionment and the apportioning agency, the problem then arises as to what method of apportionment may be used. The various methods employed by the federal and state apportioning agencies may be classified under the headings of mathematical and political. The former is accurate, efficient, and equitable, whereas the latter is just the opposite.

Before either the mathematical or political methods of apportioning may be employed, however, the apportioning agency will be faced with certain constitutional limitations and instructions. These will vary with the constitution under which the agency is operating. They may consist of definite restrictions as to the size of the legislature, may prohibit the division of counties, provide for adding one county to an adjacent county for joint representation, may establish a rather vague ratio or formula or may specifically state what type of people shall be considered in an apportionment. An analysis of certain provisions of the Oregon Constitution is presented in the

following paragraphs to illustrate some of the constitutional limitations - often archaic - under which any apportioning agency in Oregon would be forced to operate.

The first constitutional restriction on the method of apportioning in Oregon is the provision of Article IV, Section 2, prescribing the maximum number of senators as thirty and of representatives as sixty. When the constitution was adopted in 1857 this provision was of little importance since the first part of the section established sixteen senators and thirty-four representatives but with the provision that membership in both chambers could be increased after 1860. Tables I and II in Appendix A of this thesis reveal an almost continuous growth of both houses between the years 1860-1876. By the year 1874 the senate had reached its maximum of thirty members and the house followed close on its heels, by reaching its limit of sixty, two years later. The following table indicates the quick growth of the Oregon Legislative Assembly between 1860 and 1876.

Table 2Growth of the Oregon Legislative
Assembly, 1860-1876*

<u>Senate</u>		<u>House</u>	
<u>Year</u>	<u>Number of Members</u>	<u>Year</u>	<u>Number of Members</u>
1860	16	1860	34
1864	18	1864	38
1866	25	1866	47
1868	22	1868	43
1874	30	1870	47
1876	29	1872	49
1878	30	1874	57
		1876	60

*Source: Appendix A, Tables I and II.

Regardless of the reasons that might be speculatively ascribed to this rapid growth of the legislature, it is evident that within fourteen years the senate had reached the maximum figure of thirty while within sixteen years the house had its maximum of sixty. Thereafter apportioning agencies had to consider these maximum figures in every apportionment, whereas, before, apportioning agencies might add a member or two in either branch. The alternative after

the thirty-sixty figures had been reached was to provide for an increase in membership by amending the constitution - a device which has consistently failed when tried.

Oregon's maximum restriction as to size of the legislature is not peculiar to this state for fourteen others set a numerical limitation on both houses. Still others set a numerical minimum or maximum on one or both houses. Several states prescribe a fractional ratio between the houses, such as Iowa which provides that the senate shall be not less than one-third or more than one-half of the number of members of the house. Colorado and Nevada provide that the aggregate of both houses shall not exceed a given figure, while Idaho, Illinois, Minnesota, and Ohio set no limit. The ease with which constitutional limitations as to size may be overcome is indicated by the provisions in state constitutions, such as Montana's, that "The legislative assembly of this state, until otherwise provided by law, shall consist of" ¹ "Until otherwise provided by law" would permit an increase in size without an amendment if it were considered necessary. Table 3 summarizes the constitutional restrictions as to size and indicates how closely such provisions were adhered to in 1947.

¹Montana Constitution, Art. V, Sec. 4.

References to constitutional provisions are to thirty-eight state constitutions collected by the author in 1946 in reply to letters sent to all the Secretaries of State. Secondary sources were used for the ten remaining constitutions. Where a constitutional maximum is exceeded, the difference may be attributed to inability to obtain the latest provisions as to size.

Table 3

Size of State Legislative Assemblies

<u>State</u>	<u>Constitutional Reference^a</u>	<u>Maximum</u>		<u>Number of Members in 1947^b</u>	
		<u>Senate</u>	<u>House</u>	<u>Senate</u>	<u>House</u>
Alabama	Art. IV, Sec. 50	35	105 plus one from each new county	35	106
Arizona*	Art. IV, Sec. 1	19	-	19	58
Arkansas	Art. V, Sec. 3 (Senate) Art. VIII, Sec. 1 (House)	-	Not less than 73 nor more than 100	35	100
California	Art. IV, Sec. 6	40	80	40	80
Colorado	Art. V, Sec. 46	Aggregate shall never exceed 100		35	65
Connecticut	Art. XXXI of Amendments Sec. 1 (Senate)	Not less than 24 nor more than 36	-	36	272
Delaware	Art. II, Sec. 2	17	35	17	35

Table 3 (Continued)

Size of State Legislative Assemblies

<u>State</u>	<u>Constitutional Reference^a</u>	<u>Maximum</u>		<u>Number of Members in 1947^b</u>	
		<u>Senate</u>	<u>House</u>	<u>Senate</u>	<u>House</u>
Florida	Art. VII, Sec. 3	38	-	38	95
Georgia	Art. III, Sec. 2 (Senate) Art. III, Sec. 3 (House)	54	-	52	205
Idaho*	Art. III, Sec. 2	-	-	44	49
Illinois*	Art. IV, Sec. 6, 7, and 8	-	-	51	153
Indiana	Art. IV, Sec. 2	50	100	50	100
Iowa	Art. III, Sec. 6	Not less than 1/3 or more than 1/2 of number of members of house.		50	108
Kansas*	Art. II, Sec. 2	40	125	40	125
Kentucky*	Sec. 35	38	100	38	100
Louisiana*	Art. III, Sec. 2 and 3	39	101	39	100

Table 3 (Continued)

Size of State Legislative Assemblies

<u>State</u>	<u>Constitutional Reference^a</u>	<u>Maximum</u>		<u>Number of Members in 1947^b</u>	
		<u>Senate</u>	<u>House</u>	<u>Senate</u>	<u>House</u>
Maine	Art. IV - Part I, Sec. 2 (House) Amendment LIII (Senate)	-	151	33	151
Maryland	Art. III	-	-	29	123
Massachusetts	Part II, Ch. I, Sec. II, Art. I (Senate) Amendment, Art. XXI (House)	40	240	40	240
Michigan	Art. V, Sec. 2 and 3	32	Not less than 64 nor more than 100	32	100
Minnesota	Art. IV, Sec. 2	-	-	67	131
Mississippi*	Art. XIII, Sec. 254 and 255	49	133	49	140
Missouri	Art. III, Sec. 5 (Senate) (Amending statute not available)	34	-	34	150
Montana	Art. V, Sec. 4 (Amending statute not available)	16	55	56	90

Table 3 (Continued)

Size of State Legislative Assemblies

<u>State</u>	<u>Constitutional Reference</u> ^a	<u>Maximum</u>		<u>Number of Members</u> <u>in 1947</u> ^b	
		<u>Senate</u>	<u>House</u>	<u>Senate</u>	<u>House</u>
Nebraska	Art. III, Sec. 6	Unicameral Not more than 50 nor less than 30		Unicameral 43	
Nevada	Art. IV, Sec. 5 (Senate)	Not less than $\frac{1}{3}$ nor more than $\frac{1}{2}$ number of members of as- sembly	Aggre- gate num- ber of both houses shall never ex- ceed 75	17	40
New Hampshire	Part Second, Art. 9 (House) Part Second, Art. 25 (Senate)	24	Not less than 375 or more than 400	24	399
New Jersey	Art. IV, Sec. II, No. 1 (Senate) Art. IV, Sec. III, No. 1 (House)	-	60	21	60
New Mexico	Art. IV, Sec. 3	24	49	24	49

Table 3 (Continued)

Size of State Legislative Assemblies

<u>State</u>	<u>Constitutional Reference^a</u>	<u>Maximum</u>		<u>Number of Members in 1947^b</u>	
		<u>Senate</u>	<u>House</u>	<u>Senate</u>	<u>House</u>
New York	Art. III, Sec. 2 (Amending statute not available)	50	150	56	150
North Carolina	Art. II, Sec. 3 and 5	50	120	50	120
North Dakota ^{**}	Art. II, Sec. 26 and 32 (Amending statute not available)	Not less than 30 nor more than 50	Not less than 60 nor more than 140	49	113
Ohio	Art. II and XI	-	-	33	136
Oklahoma [*]	Art. V, Sec. 9 and 10 (Amending statute not available)	44	109	44	120
Oregon	Art. IV, Sec. 2	30	60	30	60
Pennsylvania	Art. II, Sec. 16 and 17	50	-	50	208
Rhode Island	Amendment XIII (House) Amendment XIX (Senate)	-	100	44	100
South Carolina	Art. III, Sec. 3 and 6	One from each county	124	46	124

Table 3 (Continued)

Size of State Legislative Assemblies

<u>State</u>	<u>Constitutional Reference^a</u>	<u>Maximum</u>		<u>Number of Members in 1947^b</u>	
		<u>Senate</u>	<u>House</u>	<u>Senate</u>	<u>House</u>
South Dakota	Art. III, Sec. 2	Not less than 25 nor more than 35	Not less than 50 nor more than 75	35	75
Tennessee	Art. II, Sec. 5 and 6	-	75 until population reaches 1½ million, after which 99	33	99
Texas	Art. III, Sec. 2	31	150	31	150
Utah	Art. IX, Sec. 3	30	Never less than twice nor greater than three times the number of senators	23	60
Vermont	Chapter II, Sec. 13 and 18	30	-	30	246

Table 3 (Continued)

Size of State Legislative Assemblies

<u>State</u>	<u>Constitutional Reference</u> ^a	<u>Maximum</u>		<u>Number of Members</u> <u>in 1947</u> ^b	
		<u>Senate</u>	<u>House</u>	<u>Senate</u>	<u>House</u>
Virginia	Art. IV, Sec. 41 and 42	Not more than 40 nor less than 33	Not more than 100 nor less than 90	40	100
Washington	Art. II, Sec. 2	Not more than $\frac{1}{2}$ nor less than $\frac{1}{3}$ number of members of house	Not less than 63 nor more than 99	46	99
West Virginia	Art. VI, Sec. 2 (Amending statute not available)	24	65	32	94
Wisconsin ^c	Art. IV, Sec. 2	Not more than $\frac{1}{3}$ nor less than $\frac{1}{4}$ number of members of house	Not less than 54 nor more than 100	33	100

Table 3 (Continued)

Size of State Legislative Assemblies

<u>State</u>	<u>Constitutional Reference^a</u>	<u>Maximum</u>		<u>Number of Members</u>	
		<u>Senate</u>	<u>House</u>	<u>in 1947^b</u>	<u>House</u>
Wyoming	Art. III, Sec. 3	At least one senator from each county	At least one representative from each county.	27	56

House shall not be "less than twice nor greater than three times the number of members of the senate."

^aState Constitutions.

^bCouncil of State Governments, The Book of the States 1945-1946 (Chicago: The Council of State Governments, 1945), Vol. VI, p. 106.

*Report of Special Committee of the Board of Wayne County Advocating Apportionment, "The Michigan Plan," (Detroit, Michigan, November 1931), Part IV, Appendix B.

Whether those states providing a maximum limitation on the size of one or both branches reached their limit as quickly as Oregon was not determined. Table 3 above, however, indicates that out of forty-four states prescribing a maximum, only five states - Georgia, Louisiana, Nebraska, Nevada, and Utah - apparently had not reached their limit.

After considering restrictions on the size of the legislature, the apportioning agency must then consider provisions regarding counties. These may permit or prohibit a county being divided or may provide for one county sharing a senator or representative jointly with an adjacent county.

Oregon provides that ". . . . no county shall be divided in creating senatorial districts."¹ The constitution further provides

And in case any county shall not have the requisite population to entitle such county to a member, then such county shall be attached to some adjoining county for senatorial or representative purposes.²

Constitutional provisions for apportionment ratios vary from state to state. Some are vague, as in Art. IV, Sec. 6 of the Oregon Constitution, which reads:

¹Oregon Constitution, Art. IV, Sec. 7.

²Ibid, Art. IV, Sec. 6.

The number of senators and representatives shall, at the session next following an enumeration of the inhabitants by the United States or this state, be fixed by law, and apportioned among the several counties according to the number of white population in each. And the ratio of senators and representatives shall be determined by dividing the whole number of white population of such county or district, by such respective ratio; and when a fraction shall result from such division, which shall exceed one-half of said ratio, such county or district shall be entitled to a member for such fraction.

Having first suggested that "registered voters" replace the words "white population" the Interim Apportionment Committee for the forty-fourth Legislative Assembly suggested that the Oregon apportioning formula be changed as follows:

We would suggest changing the formula so that in determining apportionment the total registered voters would be divided by 30 or 60 depending upon whether you were apportioning the Senate or the House, and we would make only a total figure of that amount count for each senator or representative, as the case might be. Then there would be no discrepancy in the formula. We would recommend the senatorial districts be not less than one county nor more than three and that the maximum allowed to any one district would be one senator with combinations of smaller counties to make up the necessary quota for one senatorial district.¹

Ratios in other states are frequently specific as in the case of Pennsylvania, which has a constitutional provision that: "The senatorial ratio shall be ascertained by dividing the whole population of the State by the number fifty"² (fifty being the number of senatorial districts

¹Report of Joint Interim Committee of the House and Senate, "Study of Reapportionment Law," (State Legislature, Salem, Oregon, 1947).

²Pennsylvania Constitution, Art. II, Sec. 16.

provided for in the constitution).

A final constitutional limitation on apportionment may be found in provisions as to who shall be considered in apportioning. Thus Indiana considers male inhabitants over twenty-one years of age in apportioning both houses; Massachusetts considers legal voters; New Hampshire, direct taxes paid when it apportions the senate; Rhode Island, qualified voters in the senate; Tennessee, qualified voters in both houses; and Oregon considers "white population" as a basis for apportioning both houses. What constitutes "white population" in Oregon is a mystery and the Interim Apportionment Committee for the forty-fourth Legislative Assembly attacked this provision in no uncertain terms, declaring:

Basing our reapportionment upon white population means very definitely that this apportionment is being based on a formula which does not include many of our citizens of other than the white races and does include every white foreigner and alien residing within our boundaries. This obviously is not the American way of doing things.¹

Constitutionally, then, an Oregon apportioning agency must take cognizance of the following factors:

1. State or federal census (apportionment to be made after each).

¹"Study of Reapportionment Law," op. cit.

2. A limited senate of thirty and a house of sixty.
3. Attachment of sparsely populated counties to adjoining counties.
4. Fractional ratios.
5. "White population" for both chambers.

Whether constitutional limitations and instructions are helpful or a hindrance cannot be ascertained by delving into history, for it is practically impossible to determine what fears and apprehensions beset the makers of the Oregon Constitution in 1857 who were, to begin with, native to at least sixteen different states and two foreign countries. Whatever conclusions are reached concerning these men will be in the nature of broad generalities, especially since the minutes and accounts of the Oregon Constitutional Convention of 1857 are scant and inadequate. Neither can one determine beforehand the effect of removing or the desirability of removing certain constitutional limitations on apportionment which apparently have their roots in our very concept of representative government. Unanimity might easily be reached on removing the word "white" from the Oregon Constitution. Whether "registered voters," however, is more desirable than "population" in apportionment considerations requires a reappraisal of our fundamental concept of representative government. One fact is apparent from the above consideration of constitutional limitations,

that is, that Oregon, in keeping with the practice in other states and in the national Constitution, follows the American practice of prescribing administrative limitations - in this instance on apportioning agencies - within a constitution, thereby automatically limiting the scope of an agency's activities.

Once the apportioning agency has taken proper notice of its constitutional limitations, it may then proceed to apportion the state. This may be accomplished by one of two methods, namely, mathematical or political.

Mathematical methods of apportioning representatives may employ major fractions, equal proportions, harmonic means, smallest divisors, and greatest divisors. All of these are based on the preparation of a priority list derived from a division or equation of the population of a given state or county by means of an arithmetic or geometric formula.¹

Of the five mathematical methods, three of them - harmonic means, the smallest divisors, and the greatest divisors - are still in a theoretical stage. They have never been used to the author's knowledge; consequently, they are not discussed in this thesis. The equal

¹For a discussion of each method see: Laurence F. Schmeckebier, Congressional Apportionment (Washington, D. C.: The Brookings Institute, 1941).

proportions method, devised by Professor Edward V. Huntington in 1920, has not been used in a federal apportionment although it may be employed under existing statutory provisions.

The system of major fractions invented by Professor Walter F. Wilcox is now used, in compliance with a federal statute, to apportion Congressional representatives upon the completion of a decennial census. According to a careful study of the subject, it produced the same results in 1930 as would have been achieved had the method of equal proportions been resorted to in the Congressional apportionment of that year.¹

Application of the major fractions method on the state level would be easy, efficient, and equitable. Furthermore, in a state providing for representation entirely on a population basis, as in Oregon, it would meet the provisions of the state constitution.

In order to demonstrate the possibilities of the major fractions at the state level the author compiled a priority list for the Oregon House of Representatives using the major fractions table of multipliers found in Laurence F. Schmeckebier's book, Congressional Apportionment, and listed in Table 4 below. (The same process would be used for the

¹Ibid, p. 22.

Senate because it too is based on population. Here, however, the priority list would stop at thirty - the maximum number of senators permissible under the constitution.) The process used in compiling the priority list was as follows:

1. Use the following table of multipliers:

Table 4

Multipliers for Priority List for
Method of Major Fractions*

(K = successive numbers of representatives)

<u>K</u>	<u>Multiplier</u>	<u>K</u>	<u>Multiplier</u>	<u>K</u>	<u>Multiplier</u>	<u>K</u>	<u>Multiplier</u>
2	0.66666667	16	0.06451613	30	0.03389831	44	0.02298851
3	.40000000	17	.06060606	31	.03278689	45	.02247191
4	.28571429	18	.05714286	32	.03174603	46	.02197802
5	.22222222	19	.05405405	33	.03076923	47	.02150538
6	.18181818	20	.05128205	34	.02985075	48	.02103263
7	.15384615	21	.04878049	35	.02898551	49	.02061856
8	.13333333	22	.04651163	36	.02816901	50	.02020202
9	.11764706	23	.04444444	37	.02739726	51	.01980198
10	.10526316	24	.04255319	38	.02666667	52	.01941748
11	.09523810	25	.04081633	39	.02597403		
12	.08695652	26	.03921569	40	.02531646		
13	.08000000	27	.03773585	41	.02469136		
14	.07407407	28	.03636364	42	.02409639		
15	.06896552	29	.03508772	43	.02352941		

*Source: Laurence F. Schmeckebier, Congressional Apportionment (Washington, D. C.: The Brookings Institute, 1941), p. 15.

2. Determine the priority of counties, on the basis of the 1940 population, until sixty

representatives are reached, this figure being the maximum house membership permitted by the constitution. To determine a county's priority number, the following process was employed:

a. The total population of a county was used as the basis for its first representation.

b. The total population of a county multiplied by the successive number of representatives multiplier was used for succeeding representatives. To illustrate the procedure, the following example of Marion County is cited:

First priority	=	75,246 (1940 census)	=	75,246
Second priority	=	75,246 x .66666667	=	50,164
Third priority	=	75,246 x .40000000	=	30,098
Fourth priority	=	75,246 x .28571429	=	21,499
Fifth priority	=	75,246 x .22222222	=	16,721

Table 5

Oregon Counties' Priority List,
Method of Major Fractions,
Census of 1940

<u>Total Number of Represent- atives from All Counties</u>	<u>Priority Numbers</u>	<u>County</u>	<u>Cumulative To- tal of Repre- sentatives from Each County</u>
1	355,099	Multnomah	1
2	236,733	Multnomah	2
3	142,040	Multnomah	3
4	101,457	Multnomah	4
5	78,911	Multnomah	5
6	75,246	Marion	1
7	69,096	Lane	1
8	64,563	Multnomah	6
9	57,130	Clackamas	1
10	54,631	Multnomah	7
11	50,164	Marion	2
12	47,347	Multnomah	8
13	46,064	Lane	2
14	41,776	Multnomah	9
15	40,497	Klamath	1
16	39,194	Washington	1
17	38,087	Clackamas	2
18	37,379	Multnomah	10
19	36,213	Jackson	1
20	33,819	Multnomah	11
21	32,466	Coos	1
22	30,878	Multnomah	12
23	30,485	Linn	1
24	30,098	Marion	3
25	28,408	Multnomah	13
26	27,638	Lane	3
27	26,998	Klamath	2
28	26,336	Yamhill	1
29	26,304	Multnomah	14
30	26,129	Washington	2

Table 5 (Continued)

<u>Total Number of Represent- atives from All Counties</u>	<u>Priority Numbers</u>	<u>County</u>	<u>Cumulative To- tal of Repre- sentatives from Each County</u>
31	26,030	Umatilla	1
32	25,728	Douglas	1
33	24,697	Clatsop	1
34	24,490	Multnomah	15
35	24,142	Jackson	2
36	22,910	Multnomah	16
37	22,852	Clackamas	3
38	21,644	Coos	2
39	21,521	Multnomah	17
40	21,499	Marion	4
41	20,971	Columbia	1
42	20,323	Linn	2
43	20,291	Multnomah	18
44	19,989	Polk	1
45	19,767	Malheur	1
46	19,741	Lane	4
47	19,194	Multnomah	19
48	18,631	Deschutes	1
49	18,629	Benton	1
50	18,297	Baker	1
51	18,210	Multnomah	20
52	17,557	Yamhill	2
53	17,399	Union	1
54	17,322	Multnomah	21
55	17,152	Douglas	2
56	16,721	Marion	5
57	16,516	Multnomah	22
58	16,465	Clatsop	2
59	16,323	Clackamas	4
60	16,301	Josephine	1

If such a method had been adopted by Oregon after the 1940 decennial census, the composition of the house would have altered as follows:

1. There would have been no change in representation for fourteen counties, namely,

Baker - 1	Klamath - 2
Benton - 1	Linn - 2
Columbia - 1	Malheur - 1
Deschutes - 1	Polk - 1
Douglas - 2	Union - 1
Jackson - 2	Washington - 2
Josephine - 1	Yamhill - 2

These counties would have the same representation that they have in 1947.

2. Six counties would have gained representatives as follows:

Table 6

Possible Gains in Representation By Use
of Major Fractions in 1940

<u>County</u>	<u>Number of Representatives in 1941</u>	<u>Number of Representatives Possible By Use of Major Fractions</u>
Clackamas	3	4
Clatsop	1	2
Coos	1	2
Lane	3	4
Marion	4	5
Multnomah	13	22

3. Six counties would have lost representatives as follows:

Table 7

Possible Losses in Representation By
Use of Major Fractions in 1940

<u>County</u>	<u>Number of Representatives in 1941</u>	<u>Number of Representatives Possible by Use of Major Fractions</u>
Hood River	1	0
Lincoln	1	0
Tillamook	1	0
Umatilla	2	1
Wallowa	1	0
Wasco	1	0

4. Had a priority list been made for county combinations which were in existence in 1941, the following result would have been obtained:

Table 8

Priority List of 1941 County Combinations*

<u>County Combination</u>	<u>Unrepresented Population</u>	<u>Priority Numbers</u>
Clatsop and Columbia	24,697 x .66 = 16,465	30,446
	20,971 x .66 = 13,981	
	<u>30,446</u>	
Clackamas and Multnomah	57,130 x .22 = 12,696	28,462
	355,099 x .0444 = 15,766	
	<u>28,462</u>	
Deschutes and Lake	18,631 x .66 = 12,421	18,714
	6,293 = 6,293	
	<u>18,714</u>	

Table 8 (Continued)

<u>County Combination</u>	<u>Unrepresented Population</u>	<u>Priority Numbers</u>
Coos and Curry	32,466 x .4 = 12,986 4,301 = 4,301 <u>17,287</u>	17,287
Gilliam, Morrow, Sherman and Wheeler	2,844 4,337 2,321 2,974 <u>12,476</u>	12,476
Grant and Harney	6,380 5,374 <u>11,754</u>	11,754
Crook and Jefferson	5,533 2,042 <u>7,575</u>	7,575

*Source of Population Figures: State of Oregon, Oregon Blue Book 1945-1946 (Salem: State Printing Department, 1945), p. 289.

The joint-county combination priority list above was compiled by adding the population of the counties as they would have appeared on the priority list in Table 5 for the next representative had the list exceeded sixty, thereby making additional representatives possible. Clackamas County, for example, does not have a fifth priority number large enough to come within the first sixty, for its fifth priority number is $57,130 \times .2222$ or 12,696. The figure 12,696 is the number of people not securing representation in Clackamas. According to Article IV, Section 6 of the

No

Oregon Constitution, however

. . . . when a fraction shall result from such division, which shall exceed one-half of said ratio, such county or district shall be entitled to a member for such fraction.

Had the number of representatives to the house been greater than sixty the priority list in Table 5 would have been continued. Constitutionally, however, the house cannot exceed sixty,¹ consequently, those people falling below the sixty line in a priority list will be unrepresented. The only possible mathematical method of representing these people, therefore, is to make use of the constitutional provision that counties may be attached to adjoining counties for purposes of representation. Obviously, since the state legislature has already attached Clackamas to Multnomah it must, at some time, have recognized a residual population even by using its own ratio.

An analysis of Multnomah County's representation on the priority list in Table 5 reveals that $355,099 \times .0444$ or 15,766 people are unrepresented in this county as a result of the list stopping at sixty, thereby preventing Multnomah from receiving its twenty-third representative. This residual population, therefore, is the portion of Multnomah County that will be attached to Clackamas,

¹Oregon Constitution, Art. IV, Sec. 2.

resulting in a collective population total for both county's unrepresented people of 28,462. This places the joint county second on the priority list in Table 8.

Could the priority list for joint-counties be included in Table 5? Obviously it could since the constitution provides for fractional representation. Under existing county combinations, however, this could only be done by denying representation to counties already within the sixty limit. To illustrate, Clatsop and Columbia jointly enter the 30,446 priority group. This places them well within the sixty limit but forces Josephine's first representative out. Thus, placing existing county combinations in the priority list in Table 5 forces entire large-populated counties to lose representatives and increases rather than decreases non-representation.

Furthermore, it should be noted that with or without inclusion of joint-county combinations in the priority list of Table 5, certain counties or county combinations will be unable, because of a sparse population, to appear on any priority list which ends at sixty. This is true of such counties as Gilliam, Morrow, Sherman and Wheeler which individually have populations between 2,300 and 4,300 and collectively have a total of 12,476. The only possible way to give these counties representation would be to continue Table 5 beyond sixty, which, as was noted above, is

constitutionally impossible.

Is the major fraction method of apportioning a failure because it apparently cannot solve the problems of what to do with fractional populations and how to represent sparsely-settled areas?

The analysis above indicates that fractional representation might easily nullify a priority list such as that of Table 5 unless it can continue far enough to include those counties which would be forced from their normal position on the list by inclusion of joint counties. It would seem that there is no possible way of providing for fractional representation - short of increasing house membership - without committing a great injustice to counties entitled to representation prior to fractional considerations.

A similar conclusion was reached, using the arbitrary method of dividing the total state population by sixty and assigning representatives for whole and fractional parts, by the 1945-1947 Interim Apportionment Committee. In 1940 the state population, for example, was 1,089,684. Divide this by sixty and the result is 18,161. Divide the last figure by two and the result is 9,080.5. Each county is then assigned one representative for every 18,161 inhabitants or every fraction thereof above 9,080.5. The Interim Apportionment Committee of 1945-1947 concluded:

The formula itself is not correct in that if you would start with Multnomah County you would not have anything left in the way of representation for the last several counties. On the other hand, if you would start with any upstate county under this formula, when you came to Multnomah County there would be nothing left.†

No

There is evidence, however, that the constitution does not intend that fractional representation should have priority. This may be demonstrated by the fact that the ratio for apportioning is restricted by a senate and house limited to thirty and sixty. Had the framers of the constitution intended to represent every whole and fractional part of the ratio this provision would have been antiquated at the outset. This may be demonstrated by an analysis of the following table.

†"Study of Reapportionment Law," op. cit.

Table 9

Partial Apportionment of House in 1870
By Use of Whole Ratio Plus a Half*
(Ratio: 1,510. Half ratio: 755)

<u>County</u>	<u>Popula- tion</u>	<u>Popula- tion Minus Ratio</u>	<u>Remainder</u>	<u>Greater Than One Half</u>	<u>Less Than One Half</u>	<u>No. of Rep- resentatives Assigned in 1870</u>	<u>No. of Rep- resenta- tives Pos- sible By Use of Fractions</u>
Baker	2,804 ^{3/4}	- 1,510 =	1,294	X		1	2
Benton	4,584	- 4,530 =	54		X	2	3
Clackamas	5,993	- 4,530 =	1,463	X		3	4
Clatsop	1,255	- =	1,255	X		1	1
Columbia	863	- =	863	X		0	1
Douglas	6,066	- 6,040 =	26		X	3	4
Grant	2,251	- 1,510 =	741		X	2	1
Jackson	4,778	- 4,530 =	248		X	3	3
Josephine	1,204	- =	1,204	X		1	1
Lane	6,426	- 6,040 =	386		X	3	4
Linn	8,717	- 7,550 =	1,167	X		5	6
Marion	9,965	- 9,060 =	905	X		5	7
Multnomah	11,510	- 10,570 =	940	X		4	8
Polk	4,701	- 4,530 =	171		X	3	3
Umatilla	2,916	- 1,510 =	1,406	X		2	2
Union	2,552	- 1,510 =	1,042	X		1	2
Wasco	2,509	- 1,510 =	999	X		2	2

Table 9 (Continued)

<u>County</u>	<u>Popula- tion</u>	<u>Popula- tion Minus Ratio</u>	<u>Remainder</u>	<u>Greater Than One Half</u>	<u>Less Than One Half</u>	<u>No. of Rep- resentatives Assigned in 1870</u>	<u>No. of Rep- resenta- tives Pos- sible By Use of Fractions</u>
Washington	4,261	- 3,020 =	1,241	X		2	3
Yamhill	5,012	- 4,530 =	482			2	3
Total						45	60

*Joint counties were not considered.
 **Source: Appendix A, Table II.

The year 1870 is the first year after 1860 for which there is any population figure. In this year the apportionment ratio for the house was 1,510,¹ which had been established in 1864 and which was in effect until 1874, when it was increased to 1,515. This last figure remained until 1889. From 1864-1889, therefore, the ratio used in apportioning the house varied by five. Using the 1870 census figure as a base and dividing each separate county by this ratio the result in Table 9 was obtained. This table reveals that before any joint-county combinations could be considered in an apportionment using the whole ratio plus one half the sixty limit for the house would be reached. (A similar result could be obtained for each succeeding apportionment.) It should be observed, however, that in actual practice the house in 1870 had only reached a membership of forty-five before considering joint counties. Furthermore, only two joint counties, Baker-Union and Coos-Curry, existed in 1870, and they accounted for one representative apiece, bringing the total house membership to forty-seven, which was much smaller than the ratio plus a fraction would have permitted. In reality the employment of the ratio plus one-half could never be used extensively in Oregon because of the constitutional limitation on the

¹All figures are based on Appendix A, Table II.

size of the house and senate.

Table 9 does indicate, however, that fractional representation has often been used as a result of using the political method of apportioning. For example, in 1870 Grant County was entitled to one representative according to Table 9, whereas actually it received two. In other words, fractional representation might be considered a device to be employed when a county feels it is powerful enough to demand maximum representation.

There seems to be evidence also that the constitution does not intend that fractional representation should have priority over whole-ratio representation. Article IV, Section 6 of the Oregon Constitution provides that the apportionment ratio shall be used as follows:

1. Establish a ratio.
2. Divide ". . . . the whole number. . . ." of a county's population by the ratio.
3. When a fraction results after this division which is greater than one-half this ratio, a county is "entitled" to an additional member. This title, however, would seem to be a secondary title, first title going to those counties meeting the ratio in and of their own right as a result of having the requisite population. For example, Josephine's claim to a representative in Table 5 is based on its entire

population and not a fraction thereof. Why it should yield to the fractional claim of Clatsop and Columbia, especially if Clatsop and Columbia already have representatives given to them on a whole-ratio basis, seems unexplainable, arbitrary and undemocratic.

The answer to the question, "Is the major fraction method of apportioning a failure because it apparently cannot solve the problem of fractional populations?" would seem to be "No," because fractional representation has generally been employed as a result of using the political method of apportioning. Furthermore, the Oregon Constitution does not require fractional priority and, if it did, the method of major fractions could easily be used theoretically by extending the priority list.

As to whether the major fractions method of apportioning would solve the problem of representing sparsely-populated areas, the answer is "No" if apportionment is to be strictly on a population basis, because no county in Oregon appearing below sixty in a priority list will ever have a representative. A similar situation exists in the national House of Representatives, where a membership of 435 deprives Delaware, Nevada, Vermont, and Wyoming of more than one representative.¹

¹Schmeckebier, op. cit., p. 221.

Where both houses of the Oregon Legislature are based on population, however, it would seem that an easy solution to the problem of representing sparsely-settled areas would be available by using the method of major fractions. [The solution would be to agree to stop the priority list short of sixty and permit a joint-county priority list to be used from the stopping figure to sixty. This joint-county priority list should be made up only of counties not having any representation within the county priority list.] Thus, of those joint-counties appearing in Table 8, the counties of Curry, Crook, Jefferson, Lake, Gilliam, Morrow, Sherman, Wheeler, Grant and Harney have no representatives on the priority list in Table 5. Hood River, Lincoln, Tillamook, Wallowa, and Wasco also do not appear in the priority list in Table 5. Therefore, in any priority list of unrepresented counties these would be included, plus any county deprived of its one representative by stopping the list short of sixty. For example, in Table 10, below, the priority list was stopped at fifty-four, thus forcing Josephine County off the county priority list and into the unrepresented joint-county group. Table 10 was compiled by the author as illustrative of those counties that could be joined for inclusion on a priority list which intended to include sparsely-settled counties. The list was stopped at fifty-four because of the constitutional mandate to join

adjacent counties which automatically prohibits joining the single unrepresented northeastern county of Wallowa with Morrow or Grant which, although in the same region and unrepresented, are not adjacent to Wallowa. An attempt was also made to adhere to the practice in several states of distributing county population as equally as possible in apportioning. Finally, Wallowa was added to Union because this adjacent county was lower on the priority list than other adjoining counties. Adding Wallowa to a county high on the list upsets any attempt to keep representation on a fairly equal population basis.

No

Table 10

Proposed Joint-County Combinations
For Inclusion on a House Priority
List Ending at 54

<u>County Combination</u>	<u>Total Population Unrepresented</u>	<u>Priority Number</u>
Lincoln and Tillamook	14,549 ^a 12,263 <u>26,812</u>	26,812
Hood River and Wasco	11,580 13,069 <u>24,659</u>	24,659
Jefferson	2,042	
Gilliam	2,844	
Grant	6,380	
Morrow	4,337	
Sherman and Wheeler	2,321 2,974 <u>20,898</u>	20,898

Table 10 (Continued)

<u>County Combination</u>	<u>Total Population Unrepresented</u>	<u>Priority Number</u>
Curry and Josephine	4,301 <u>16,301</u> 20,602	20,602
Union and Wallowa	17,399 x .66** = 11,599 <u>7,623</u> 19,222	19,222
Harney Lake and Crook	5,374 6,293 <u>5,533</u> 17,200	17,200

*Source of Population Figures: State of Oregon, Oregon Blue Book 1945-1946 (Salem: State Printing Department, 1945), p. 289.

**Priority number for a second representative.

Stopping the priority list at fifty-four would be a compromise measure insuring sparsely-settled areas representation while, at the same time, populous counties would be insured representation by virtue of the fact that such thickly-populated counties as Clackamas, Clatsop, Douglas, Marion, and Multnomah would almost reach their peak representation at fifty-four. In 1940 Clackamas, Clatsop, Douglas, Josephine, Marion and Multnomah would have each lost one potential representative by stopping the priority list at fifty-four. Yet, as a result of using the existing political method of apportioning, which is employed in Oregon, only two of these counties (Douglas and Josephine)

would have lost existing representatives in 1941 by inclusion of the sparsely-settled joint-county priority list in a major fractions priority list. One of these counties, Josephine, however, would have regained its lost representative by virtue of the fact that it appears on the sparsely-settled joint-county priority list. Douglas County, therefore, would have been the only county to lose an existing representative in 1941. The counties of Clackamas, Clatsop, Marion and Multnomah would have only lost potential representatives. For example, Clackamas would have lost its fourth representative, while actually it only had three representatives in 1941; Clatsop would have lost its second representative - in reality it only had one in 1941; Marion would have lost its fifth representative - in 1941 it only had four; and Multnomah would have lost its twenty-second representative - since 1923 it has never had more than thirteen representatives. Therefore, stopping the list at fifty-four in 1941 would have deprived one county of an existing representative and would have prevented certain counties from obtaining maximum representation. On the other hand, sparsely-settled areas would not have been given over-representation, for of the six joint-counties in Table 10 none has a population of less than 17,200. This places all but one of these joint counties in a category with existing counties in the first fifty-four and

provides a more equal population distribution among the representatives than that in existence today. Now a representative may represent as few people as 7,575 (Crook and Jefferson) and this in a joint-county district.

That certain elements of the population will be unrepresented is inherent in any mathematical or political method of apportioning. It is believed, however, that in an impartial mathematical apportionment, such as is provided for the National House of Representatives, the inequalities will be reduced to a minimum. This belief has been summarized in the statement that "The Constitution [federal] contemplates equality, but as it is impossible to attain absolute mathematical equality, the apportionment must be such as to reduce inequality to a minimum."¹

Several references have been made, in the discussion of mathematical methods of apportioning, to political apportionment. This is the method most frequently employed in state legislatures and is a prime factor in over-under representation. The method consists of "log rolling" and political bargains in apportioning rather than careful study and impartial assignment of senators and representatives.

Political maneuvering for representation may occur

¹Ibid., p. 72.

either in committee meetings or on the floor of the legislature. In the latter event, local newspapers may view the debates as in the nature of a war and attempt to elicit community support for their respective warriors. For example, one Portland newspaper reported in 1907:

They fought to the last ditch for full representation, but were beaten by the vote of 18 to 11. Multnomah County's senators proved themselves valiant fighters, and for two hours made the hottest battle that has occurred in halls of the capitol building during the present session.¹

On occasion even political bargains may reach the newspapers. In such instances these bargains will be picturesquely described as was done by the Oregon Daily Journal in 1907 when, commenting on the apportionment in process, it stated:

The delegation from Multnomah County was not the only one whipped into line by the combination which backed the Hart reapportionment bill. The Marion County delegation in the house failed to be good, as goodness is measured by friends of the reapportionment bill, but they were successfully brought into camp in a few hours by the Hart combination yesterday afternoon through the medium of the bill appropriating \$20,000 for new buildings at the state fair grounds.

The account further reads:

New buildings at the fair grounds had been asked in a house bill which was in the senate. This was at once marked for slaughter by the combination and the Marion County members were informed that until the reapportionment bill was taken off the table and passed

¹Oregon Daily Journal, February 16, 1907, p. 7.

by the house there would be no new buildings for the fair grounds.¹

Suffice it to say that both the reapportionment and the fair ground bills were passed.

Such a method of apportioning may provide some measure of amusement to those individuals not particularly concerned with the maintenance of representative government. It should not be tolerated by those interested in continuing a government representative of the people, however, for a government which perpetuates gross inequalities, particularly in representation which is fundamental to representative government, ceases to be representative of all but a minority of power-hungry individuals.

¹ibid., February 22, 1907, p. 2.

CHAPTER IV

THE PROBLEM OF RURAL-URBAN INTERESTS

There is a theory that rural-urban interests are antagonistic. Proponents of this theory, assuming that certain psychological and economic factors of rural-urban life are so divergent that they will clash if brought face-to-face in a common legislative assembly, believe that, in a legislature composed of rural-urban elements, one of the two interests will be unable to secure adequate representation until it obtains a clear majority. Then the victorious interest may impose its will on the vanquished. Ample evidence exists indicating that such a theory is not only erroneous but the fabrication of political opportunists and misinformed editors. Furthermore, in Oregon, there is evidence that the apportionment problem, because of its state-wide nature, is a result, not of basic fears or conflicting interests, but of legislative inertia and inefficiency.

A recent magazine article pictorially presented one reason for the individual psychological differences

affecting a person's desire to live in the city or the country.¹ This is concerned with the mode of living in the two places. In this article two popular authors gave their reasons for preferring the rural or the urban type of life. One preferred the city because it afforded a greater degree of anonymity, sophisticated company, more conveniences and a larger variety of entertainment. The other preferred country life because it provided friendly and helpful neighbors, "cracker-barrel company," greater living space and more informal entertainment.

A few decades ago an author propounded a theory and what he believed constituted a natural law supporting a second individual psychological factor affecting the choice of city or country life, namely, the moral code of the rural and urban communities. This author maintained that city life was inherently evil because individuals in large communities are more impressed by the material world about them than by the beauties of nature. Material elements of life being mostly man-made, city dwellers would be less godly than country dwellers, for the latter are in constant communication with the handiworks of God. Furthermore, he maintained that there is a natural

¹"City vs. Country," Life, Vol. XXII, No. 11 (March 17, 1947), pp. 95-98.

law, applicable to both inanimate objects and man, to the effect that, ". . . the impressions of one body upon another are inversely as the distance that separates them."¹ On the basis of this natural law he concluded that the more persons are placed in association with one another the more their vices are accentuated instead of their virtues.

That individual hereditary and environmental factors will cause one person to prefer city life and another country is indisputable. When ethical standards are erected to prove that one group is more moral than the other, however, only an abstract philosophical discussion as to what constitutes morals can result. Historically, the beginnings of democracy may be traced to Greek city-states; consequently, if close association with human beings emphasizes human vices, one might logically conclude that democracy, a product of close association, is evil. The futility of the argument is apparent; suffice it to note that certain people prefer city life while others prefer country life.

Group psychological fears and apprehensions have been presented by politicians and writers as indicative

¹John W. Bookwalter, Rural versus Urban, (New York: The Knickerbocker Press, 1910), p. 65.

of a rural-urban conflict. It is insisted that rural elements fear urban dominance or vice versa. A similar domination contention is that, in those states having a single large city, the remainder of the state is in constant danger of being dominated by the large city. As a result of this domination complex underrepresentation or overrepresentation of either rural or urban areas has been justified on the grounds that one section must not dominate the other. This can only be accomplished, it is maintained, by one region gaining control of the legislature and continuing that control.

The rural-urban domination complex is based on the premise that at any given time a city or a country population will have a homogenous body politic which will unite on basic issues and defeat the interests of the opposing group. This belief assumes a basic harmony of interest among city or country dwellers. It is also maintained that the rural group is placed at a disadvantage when its interests are challenged because the rural electorate is scattered and poorly organized. In this vein an author maintained in 1910 that the reason for city domination could be attributed to the ease with which urban dwellers could organize and express their desires.

The solution of this [urban domination] is to be found in the fact, that in the more compact state of the electorate of the city there lies a more constant and intimate intercourse, and thus a higher capacity to organize its political forces into a homogenous body such as will possess the greatest vital energy, under united and common interests to be directed in definite directions and for specific objects,--only too often of a selfish nature.¹

The fundamental weakness of this homogenous interest argument may be illustrated by citing the experience of two cities. Economic, political and social interests are so divergent in New York City that provision has been made for proportional representation in its city council. While in Portland, Oregon Mr. Richard L. Neuberger recently emphasized the attitude of civic-minded Portlanders toward state problems when he vigorously attacked the statement of the Portland School Board that taxes collected in Portland should be spent in Portland. Mr. Neuberger claimed such an attitude was selfish and declared that it placed the city in the following position:

Our school board says we want money collected in Portland spent in Portland. We don't want it used in Eastern Oregon, where little children are using outdoor privies in sub-zero weather.²

Several states have a single large city containing anywhere from a third to a half or more of the state's

¹Ibid., pp. 67-68.

²The Oregonian, March 15, 1947, p. 6.

total population. Examples are the states of Colorado, Illinois, Michigan, New York and Oregon. Each has a single large city in Denver, Chicago, Detroit, New York City and Portland. In these states the domination complex manifests itself in assuming that the state as a whole must unite against the usurpation of the state's economic and political power by the large city. Traces of the rural-urban conflict and homogenous interest theories may be discerned in this belief. Totally disregarding the democratic theory that governments exist by the consent of the governed, the believers in the large city menace maintain that they do not intend to let the big city "get out of hand."

A group of Oregonians have frequently alleged that Portland and Multnomah County would dominate the state if the legislature were apportioned in accordance with the constitutional mandate to apportion on the basis of population. This group insists that Multnomah and a few satellite areas could work in cohorts to pass, block or defeat any measure they desired. Judging from the fact that the constitutional mandate to apportion the state legislature on the basis of population has been in existence for eighty-eight years and the fact that the constitution has been subject to amendment by initiative vote since 1902, it would seem that at least a majority

of the electorate has not felt the danger of Portland domination. Furthermore, the state legislature has recognized the need for apportionment on the basis of population by providing for apportionment committees after each recent decennial federal census. These committees have been instructed to study population changes as shown by the latest enumeration and make recommendations for changes in representation as a result of population changes. It would seem then that at least a majority of the Oregon electorate and their representatives are not acutely aware or even apprehensive about the possibility of Portland dominating the state. The inference might also be drawn that this same electorate and representative majority are willing to risk the danger of domination in preference to abandoning (the democratic principle that governments exist by the consent of the governed.)

The vocal minority opposed to this democratic principle, however, is so vociferous and militant that they are frequently able to becloud the apportionment issue. Politicians in this group who virtuously champion the cause of freedom or, as in this case, freedom from large city oppression, are a menace to democracy because, once in office, they prevent the operation of representative government by refusing to abide by constitutional provisions for change. An editorial in the "National

"Municipal Review" described them as follows:

Legislatures have failed more often than they have succeeded in carrying out the constitutional mandate to readjust legislative districts fairly after each census.

It has been a pretty cold-blooded proposition, and the reasons for this nonfeasance are quite well known. They include the reluctance of a dominant party to risk a diminution of its control, the desire of rural regions to keep the majorities they held long ago before the growth of cities, and the inherent fear of change held by politicians who have been successful under an existing arrangement.

Strictly on the basis of democratic theory and ideals, these reasons are without merit.¹

An Oregon writer has summed up the attitude of the members of the large city domination sect by stating,

The individuals perpetuating this rotten-borough are those who pay greatest lipservice to the ideals of the state's originators. Perhaps this is what Oswald Garrison Villard meant when he wrote that 'reactionaries are those who worship dead liberals.'²

Closely allied to and often connected with the individual and collective rural-urban psychological conflict theory is the belief in rural-urban economic conflict. The gist of this economic theory is that rural-urban economic interests are so divergent that there can be no harmony between the two groups. In support of this contention an array of logic and economic data is presented as proof.

¹Editorial entitled: "Hobgoblin of the Politicians Nightmare" in National Municipal Review, Vol. XXX, No. 2 (February, 1941), p. 71.

²Richard L. Neuberger, "Last Stand of Rotten Boroughs," The Progressive, Vol. X, No. 23 (June 10, 1946), p. 9

One writer maintained that the primary object of mankind is to sustain life. This can only be accomplished by using the soil for subsistence. At any given time, however, the means of subsistence may not be adequate to support the population of a given area. This, according to the author of the doctrine, is the source of the rural-urban conflict and it will remain, ". . . . so long as the soil is the one only source from whence man can draw those elements essential to maintain human life."¹ The continuance of this rural-urban conflict, according to the author, results from one class acquiring more than its share of the natural supply of sustenance goods. By acquiring an excess a diversion of effort from essential production results. "From this it would appear that a general state of excess or luxury is incompatible with the first necessity of existence, as well as its perpetuity."² Although this luxurious condition is possible in village or town life it exists most frequently in urban life for here people are often engaged in occupations not connected with the soil. Since these non-agrarian activities have no connection with maintaining life, they are secondary in importance. The author

¹Bookwalter, op. cit., p. 50.

²Ibid., p. 51

concludes that, as a matter of fact, there is no form of urban activity necessary to maintaining life which did not exist previously in an agricultural environment. In short, without the country the city would cease to exist, consequently, the latter is subordinate to the former.

The weakness of this entire economic theory of the primacy of agriculture is found in the same author's division of society into two specialized groups. It is his belief that the mere process of tilling the soil most effectively is a full time occupation, consequently, a class of people will arise in any agrarian society who will earn a livelihood furnishing the farmer with needed articles which, conceivably, he could make himself, but which can be made by specialists more efficiently and will not result in loss of valuable tilling time. In 1947 the average farmer in the United States not only wants but often secures any number of items and services which his predecessor a century ago would have considered a luxury. Today, however, these items and services are considered essential to farming. Therefore, if we use the theorists' idea that only those things connected with agricultural pursuits are of prime importance we have liberated every American city from its supposed subordinate position for American agriculture is as dependent upon urban products today as it was several centuries ago. This economic

dependency of rural-urban interests may be illustrated by an analysis of two major economic pursuits in Oregon closely connected with the soil.

The dominant economic interests of Oregon are agriculture and lumbering. More than half of the state's income is derived from these two sources. Furthermore, Portland has based its shipping and manufacturing industries on transporting and finishing many of these agricultural and timber products. Similar to Chicago and New York, Portland has developed as an outlet for the products grown or cut in the interior of Oregon and the "Inland empire." Were an enemy nation to seize Portland, Oregon's agricultural and timber interests would disintegrate for lack of a convenient and easy market. Conversely, were Portland to attempt an existence on its own, the city would cease to grow and develop. Portland is the funnel for the entire state and a funnel requires both a mouth and a stem. This interdependence of the state and its single large city has been further strengthened by the lumber industry which, in order to exist, is dependent upon sparsely settled forested areas and dependent on rivers to float logs down to the saw mills. Far from encouraging independent rural-urban growth, the lumbering industry, by its very nature, requires interdependent rural-urban areas.

It is true that agricultural activities may develop independently of urban areas and if, as in the case of Michigan, a single large city develops not around agricultural products but around a specialized industry, the two sections might develop different interests. Again, however, it must be remembered that Portland's early and continued growth has been largely a result of its geographical location, that is, its situation on the Columbia and Willamette Rivers. Portland is not synonymous with a specialized industry such as Detroit and autos or Cedar Rapids and furniture; rather it is synonymous with shipping just as one associates Boston and New York with the latter activity. An even stronger case of rural-urban interdependence may be cited in the location of the remainder of the urban areas in Oregon for each is located in the center of an agricultural or lumbering section such, for example, as Salem and agricultural products, Eugene and lumbering, and Klamath Falls and potatoes and lumbering.

The following table showing the occupational distribution of the gainfully employed in Oregon in 1930 reveals that more than seventy-one per cent of those employed in the state were working in some industry associated with producing and supplying food, clothing and shelter while only twenty-nine per cent were engaged in professional,

service or miscellaneous activities. This would seem to indicate a great degree of interdependency of essential economic activity in Oregon.

Table 11

Occupational Distribution of the Gainfully
Employed of Oregon (1930)*

<u>Occupation</u>	<u>Per Cent</u>
Agriculture	20.0
Forestry	4.7
Fishing	.5
Extraction of Minerals	.6
Manufacturing and Mechanical Industries:	
Saw and planing mills and other woodworking and furniture industries	7.2
Building industries	5.0
Food industries	2.2
Iron and steel industries	2.0
Textile and clothing industries	1.3
Paper and allied industries	0.8
All other manufacturing and mechanical industries	<u>5.8</u> 24.3
Transportation	10.9
Trade	16.6
Professional service	8.4
Domestic and personal service	9.0

*Oregon State Board of Higher Education, Physical and Economic Geography of Oregon (1940), p. 141.

Miscellaneous	<u>5.0</u>
Total	100.0

Another aspect of the economic activities of the state tending to refute a division into rural-urban conflicting interests is an analysis of the state's population on the basis of incorporated places. Here the defects of rural-urban classification are apparent, for it is necessary to decide what constitutes an urban or a rural population. One writer has presented the problem as follows:

The parsimonious instinct of the human mind impels it to classify everything as either this or that. Thus, in the United States Census the entire population is by residence either 'urban' or 'rural.' This classification ignores the little town and obscures its significance. True the Census has had an uneasy conscience on this point, shifting the boundary between city and country now from eight-thousand population to four-thousand, and from four-thousand to twenty-five hundred; and all along confessing (in small type) that there is a third something not justly dealt with in its divisions. Nevertheless this general usage prevails. The whole of America is either country or city; and the little town, in thought, is divided between the two or temporarily attached now to the one, now to the other.¹

Using the minimum census figure of 2,500 and the maximum of 8,000, an analysis of the Oregon population for 1940 shows 175 incorporated places with a population

¹Harlan P. Douglass, The Little Town (New York: The Macmillan Company, 1919), pp. 4-5.

of one to 2,500; twenty-four "little towns" having from 2,500 to 8,000 inhabitants; and ten urban centers ranging in population from 8,000 to 305,000. A further breakdown of the population shows that although the number of rural incorporated places exceeds the urban by 165 and the little towns by 151. The total population of these 175 rural areas is only 105,503. The following table shows the population distribution of the rural, littletown and urban incorporated places:

Table 12

Incorporated Places, 1940 Census*

<u>Interest Classification</u>	<u>Population Group</u>	<u>No. of Incorporated Places</u>	<u>Total Population</u>
Rural	1 - 2,500	175	105,503
Littletown	2,500 - 8,000	24	205,269
Urban	8,000 - 305,000	<u>10</u>	<u>778,912</u>
Totals		209	1,089,684

*Source: State of Oregon, Blue Book (Salem, 1945), pp. 289-290.

If these littletowns are classified as rural then the rural population of the state is 310,772 or approximately a third of the total state population. Similarly, if they are classified as urban the urban population of

the state rises to 984,181 or roughly nine times as great as the rural population.

Adherents to the large-city domination complex have maintained that the large city is able to influence state policy by reason of satellite areas or "pick-ups." The assumption is that through chicanery or some sinister means large cities are able to exercise power over places that should be working for rural interests and not urban. This belief may be attributed to classifying littletowns as rural or urban when in reality they may be neither. For example, a littletown's interests may center around the reasons for its creation which may be, among others,

1. An overflow of a large city's population.

These towns will be located in the suburbs of the large city and may be either residential, manufacturing, resort or amusement in nature.

2. Development or use of a natural resource such as mining or lumbering towns.

3. Manufacturing interests.

4. Railroad interests.

5. Seats of county governments.

6. Mixture of industrial and agricultural interests.

7. Centers of learning such as "prep" school or college towns.

8. Irrigation centers.

These littletowns will reflect, not a rural or urban outlook, but that of a townsman. "The littletown is distinguished not so much by the number of its population as by an attitude toward immediate environment and life in general which may be called the townsman's consciousness."¹

A recent front page headline in a littletown (McMinnville, Oregon) newspaper read:

Dirt Farmers Plowed Under in Legislative Fields By Three Lawyers Who Served Before²

Apparently the editor lamented the passing of his town from what he believed to be the role of protector of rural interests.

Another editor, also in Yamhill County, viewed the town of Sherwood, Oregon as a growing metropolis where commercial and industrial activities could be undertaken. This was indicated by the following editorial comment on Sherwood's organization of a city planning commission:

¹Douglas, op. cit., p. 11.

²The News Reporter, May 23, 1946.

Sherwood is a small place and fortunately can grow up with the plan. She may have mistakes of her past municipal life to correct, but they are proportionately few and adoption of the zoning plan will permit her to carry on to her goal of a city designed for a better living and a more efficient conduct of commercial and industrial enterprises.¹

These two newspaper comments are illustrations of the errors possible when communities are classified as rural or urban. Both of these towns would normally be called rural centers. The first editor, however, viewed his town, which had a population in 1940 of 3,706, as rural, while the second considered a town, which had a population of 447 in 1940, as a center for "commercial and industrial enterprises." Which editor is accurate cannot be determined, for it is possible that the first community is essentially agricultural in outlook and the second industrial. What is significant is that two leaders in the same county who are in constant touch with the county's interests do not classify the activities of its towns as strictly rural or urban.

The importance of the littletown in Oregon may be illustrated by an analysis of the addresses of the members of the house in the 1945 legislature, presented in Table 13 below. (This session was chosen because it is

¹Newberg Graphic, May 23, 1946.

the most recent one included in the Oregon Blue Book and is current enough to be indicative of present legislatures.) Only the house was considered because this is the most numerous branch, is the chamber having the greatest turnover and represents a larger section of the population.

Table 13

Addresses of Oregon Representatives
1945 Legislative Session

<u>City, Town or Rural Route</u>	<u>Population Category</u>		
	<u>Rural</u> <u>0 - 2,500</u>	<u>Littletown</u> <u>2,501 - 8,000</u>	<u>Urban</u> <u>8,001-305,000</u>
Ashland		4,744	
Astoria			10,389
Baker			9,342
Bandon	1,004		
Bend			10,021
Brownsville	784		
Clatskanie, Rt. 2	708		
Corvallis			8,392
Cushman	--		
Dallas - 2 representatives		3,579	
Days Creek	--		
Dayton	506		
Eugene			20,838

Table 13 (Continued)

City, Town or Rural Route	Population Category		
	Rural 0 - 2,500	Littletown 2,501 - 8,000	Urban 8,001-305,000
Eugene, Rt. 2			20,838
Garibaldi	--		
Gold Beach	--		
Grants Pass		6,028	
Hillsboro, Rt. 2		3,747	
Hood River, Rt. 1		3,280	
Ione	262		
Joseph	593		
Klamath Falls			16,497
Klamath Falls, Rt. 2			16,497
La Grande		7,747	
Lakeview	2,466		
McMinnville		3,706	
Medford			11,281
Memme	--		
Milwaukie, Rt. 10	1,871		
Milwaukie, Rt. 17	1,871		
Molalla	907		
Moro	309		
Newport	2,019		
Ontario		3,551	

Table 13 (Continued)

City, Town or Rural Route	Population Category		
	Rural 0 - 2,500	Littletown 2,501 - 8,000	Urban 8,001-305,000
Pendleton - 2 representatives			8,847
Portland - 13 representatives			305,394
Portland, Rt. 6			305,394
Prairie City	647		
Prineville	2,358		
Roseburg		4,924	
Salem - 3 representatives			30,908
Salem, Rt. 4			30,908
Sweet Home	1,090		
Warren, Rt. 1	--		
Total Number of Representatives	21	10	29

*Source: State of Oregon, Blue Book (Salem, 1945), pp. 84, 289-290.

In 1945 twenty-nine of the representatives, as indicated by Table 13, were from urban areas, ten from littletowns, and twenty-one from rural communities. Assuming that littletown representatives represent rural interests, the division of the house would then be thirty-one rural representatives and twenty-nine urban. The fallacy of this assumption may be indicated by a glance at the Journal of the House for the 1945 session. Here one is amazed at the number of measures which passed, not by a small margin, but by a large majority. If the assumption is further made that rural interests will vote as a unit or urban interests will do likewise, one might also conclude that littletowns will vote as a unit. This would only account for part of the majorities on certain measures, however, for every time the littletowns cast their vote with the urban centers the rural areas would be overwhelmed by a vote of thirty-nine to twenty-one. It would not, however, explain a large majority on measures which might be considered of a purely rural nature, for casting the ten votes of the littletowns with the rural areas, only gives the rural interests a majority of two. It was indicated above, however, that littletowns may have several different interests depending upon the reason for their existence. This would tend to refute a solid littletown vote and would

*Produced by
the House
Committee
on 7-5-57*

seem to explain why strictly rural or urban interests often feel that they were "sold out" on a measure by the littletowns. The assumption that rural or urban representatives will vote only for their respective interests, however, would only be an argument in favor of the littletowns voting not rural or urban but in the direction in which their several interests existed.

An analysis of the addresses of house members might not be an adequate indication of their economic interests. For example, a representative's economic interests could center around Portland but his home could be in a rural or littletown community, particularly since a representative need only live in the county he represents. The opposite might also be true, that is, a person might reside in a rural community but have a post office address in a littletown or urban center. This latter fact was pointed out in a recent study of residences of members of the Iowa Legislature. In this study the author stated,

In determining the residence of individual members, only one difficulty presented itself. All members who gave their occupations as farming, gave as their residence the city or town which was their post office address. Yet it was clearly apparent that these men were not living in the city at all-- they might be living ten or fifteen miles away from it, and to classify them, on the basis of their post-office addresses, as urban residents would be

a serious error.¹

This weakness, inherent in a not too careful study of the economic interests of members of a legislature based on addresses, would not necessarily invalidate the findings of such a study for, as a general rule, people tend to live as close to their place of work as is convenient.

It has been noted that many theorists assume that man's economic interests motivates his entire thinking. If this assumption has validity then the findings in Table 13 would place the economic interests of the state representatives in three groups, namely, rural, little-town and urban. In the preceding paragraph it was observed, however, that Table 13, based on addresses might have a fundamental weakness thereby. Therefore, in order to correct this margin of error and determine as accurately as possible the economic interests of the state, as reflected in its legislatures Table 14 was compiled by the author. An entirely different legislature, though still recent, was also chosen to offset the possibility of the 1946 legislature not being indicative of the usual legislative assembly.

¹Dorothy Schaffter, The Bicameral System in Practice (Iowa City Iowa: The State Historical Society of Iowa, 1929), p. 46.

see P. 78

Table 14

Occupations of Members of the 1943
Oregon Legislative Assembly

I. Senate

<u>Occupation</u>	<u>Number En- gaged in</u>	<u>Counties Represented</u>
Farmer*	3	Clackamas; Lane; Yamhill.
Physician and Surgeon**	3	Linn; Lincoln and Tillamook; Umatilla.
Attorney**	4	Marion (2); Clackamas, Columbia and Multnomah; Coos and Curry.
Publisher**	1	Clatsop.
Gasoline and Auto- motive Distributor+	1	Crook, Deschutes, Jefferson, Klamath and Lake.
Life Insurance+	2	Multnomah; Morrow, Umatilla and Union.
Horseradish Grower*	1	Washington.
Automotive+	1	Lane and Linn.
Livestock Farming*	1	Grant, Harney and Malheur.
Lawyer**	4	Multnomah (3); Baker.
Broker+	1	Multnomah.
Fruit Grower-Packer*	1	Jackson.
Retail Food Store+	1	Douglas.
Property Manager in a Bank+	1	Multnomah.
Manufacturer+	1	Hood River and Wasco.
Stockman, Farmer*	1	Gilliam, Sherman and Wheeler.
Hop Grower*	1	Benton and Polk.
Retired Electrical Contractor+	1	Josephine.
Insurance and Merchant+	1	Union and Wallowa.
Total	30	

Summary of Economic Interests Represented

*Agriculture	=	8
**Professions	=	12
+Business	=	<u>10</u>
Total		30

Table 14 (Continued)

II. <u>House</u>	Number En- gaged in	<u>Counties Represented</u>
Farmer*	5	Linn; Lane; Clackamas; Washington; Marion.
Physician and Surgeon**	1	Multnomah.
Attorney*	6	Klamath; Clackamas and Multnomah; Multnomah; Wasco; Yamhill; Jackson.
Lawyer**	7	Multnomah (4); Marion; Jackson; Yamhill.
Broker+	1	Multnomah.
Life Insurance+	1	Deschutes and Lake.
Labor-Union Official+	1	Multnomah.
Railroad Man+	1	Union.
Hotel Proprietor+	1	Marion
Ice Cream Manufacturing+	1	Coos and Curry.
Consulting Mechanical Engineer**	1	Multnomah.
Insurance Engineer+	1	Multnomah.
Housewife, former teacher (A)	1	Tillamook
Wheat Grower*	2	Umatilla; Gilliam, Morrow, Sherman and Wheeler.
Merchant+	3	Polk; Clackamas; Lane.
Editor**	1	Gilliam, Morrow, Sherman and Wheeler.
Insurance+	2	Baker; Multnomah.
Property Owner+	1	Multnomah.
Fruit Packer, Wholesaler+	1	Douglas.
Druggist+	1	Clatsop.
School Principal**	1	Douglas.
Dairyman, Farmer*	1	Wallowa.
Stockman	1	Grant and Harney.
Real Estate and Insurance+	3	Washington; Linn; Malheur.
Fruit Grower*	1	Hood River.
Auto-Camp Owner+	1	Umatilla.
General Insurance+	1	Josephine.
Lumber Manufacturer+	2	Coos; Lane.
Ex-Lumber Dealer and Contractor+	1	Clackamas.
Motor Stage Operator, Manufacturer+	1	Deschutes.

Table 14 (Continued)

<u>Occupation</u>	<u>Number En- gaged in</u>	<u>Counties Represented</u>
Automobile Insurance ⁺	1	Multnomah.
Railroad Worker ⁺	1	Columbia.
Owner Bottling Works and Cold Storage Plant ⁺	1	Marion.
Retired Merchant ⁺	1	Benton.
Potato Grower ⁺	1	Klamath.
Banker ⁺	1	Crook and Jefferson.
Auditor ⁺	1	Lincoln.
Sawmill Worker ⁺	1	Clatsop and Columbia.

Total 60

Summary of Economic Interests Represented

*Agriculture	=	11
**Professions	=	17
+ Business	=	31
(A) Unclassified	=	<u>1</u>

Total 60

Note: 1. Only one joint occupation was found to be divergent - housewife and former school teacher - consequently, it was listed as unclassified.

2. Retirement was not considered since the person was deemed to have a background in his former occupation and might, therefore, still be viewed as having an interest therein.

3. Occupations are those listed in the Oregon Voter and have been left unchanged.

4. The special representative for Gilliam, Morrow and Wheeler was counted.

5. Representative Frank J. Van Dyke, on leave for military service, was counted because his substitute had not been named at the time the Oregon Voter went to press.

Table 14 (Continued)

6. Senators Allen G. Carson and Douglas McKay were not counted because they were on leave.

Source: "Who's Who In The Senate," Oregon Voter, Vol. CIII, No. 1, (January 2, 1943), pp. 20-41.
"Who's Who In The House," Ibid., pp.44-85.

Table 14 reveals that the economic interests of the members of the 1943 Oregon Legislative Assembly could be divided into three major groups, namely, agriculture, professions, and business. The significance of the table, however, lies in the fact that supposedly rural areas have representatives representing several different economic interests. For example, Crook and Jefferson Counties were represented by a banker. If these areas were primarily concerned with agriculture, a person engaged in that activity would seem a more logical choice.

or were?

It has been indicated that psychologically individuals may prefer either a rural or urban type of existence, depending upon a combination of personal circumstances. Also the possibility of a group domination complex has been explored and found attributable largely to a minority who either fear a loss of present lucrative positions as a result of an apportionment in accordance with the constitution or who are apprehensive of the ability of the common

man to govern himself. Furthermore, this domination fear has not manifested itself with a majority of the Oregon electorate which has not only been satisfied, over a period of ninety years, to base apportionment on the basis of population but has also indicated a strong faith in the common man by pioneering in the use of the initiative, referendum and recall.

The possibility of conflicting economic interests in Oregon has also been briefly investigated with the conclusion that there is every indication that a preponderance of evidence shows an economic interdependency. One indication of several related economic interests instead of two hostile ones was an examination of the state's two major industries; a second was a presentation of the distribution of the gainfully employed in Oregon; a third was a division of the state's population into rural, littletown and urban centers; a fourth was an analysis of economic interests of members of the house in the 1945 legislature on the basis of residence; and a fifth was a breakdown of the interests represented, by occupation, in both the senate and the house of the 1943 legislative assembly. In each case a fundamental interdependency of interests was evident.

Therefore, if there is every indication that the rural-urban psychological fears of some people are largely individual in nature or a fabrication and that the economic

interests of Oregon are not dualistic but multifarious - not conflicting but cooperative - wherein does the explanation lie for the long standing apportionment problem in this state? The answer is to be found in the legislature itself and not in a demagogic doctrine of rural-urban conflict, for there is evidence that the apportionment problem in Oregon may be attributed directly to legislative inertia and inaccuracies. 127?

Legislative inertia in apportioning may be illustrated by an analysis of apportionment ratio statutes both for the senate and the house.

The first senate apportionment ratio was prescribed by the Oregon Constitution and existed until the ratio of 3,021 was established in 1863. Nine years later, 1872, this ratio was increased to 3,025 and remained in effect until 1887, when a statute was passed changing the ratio to 6,592. By an act of 1899 the ratio was changed to 12,083, where it remained until 1907. Then a statute increased the ratio to 15,162, where it has remained to this date - 1947.¹ Over a period of eighty-seven years (1860-1947) the senatorial apportionment ratio has changed five times, or on an average of once every 17.4 years. This means that instead of the ratio changing every ten years as prescribed by the

¹See: Appendix A, Table I.

constitution, it has changed every 17.4 years. In other words, it takes the Oregon legislative assembly 17.4 years to do a job which should be done in ten years. If we analyze the apportionment ratio statutes for the senate even further, we notice that all of these five changes occurred between 1863 and 1907, or within a forty-four year period. The remaining forty year period (1907-1947) has witnessed no change in the ratio whatsoever.

It will be claimed in rebuttal that, instead of passing apportionment ratio statutes since 1907, the senate has been apportioned by dividing the state population by the constitutional limit of thirty senators. This contention might be valid were it not for the fact that Table 15 reveals that none of the thirteen counties claiming a senator in 1947 were apportioned after 1909. Therefore, senatorial apportionment has been limited to joint counties. This is significant, first because the apportionment changes in these single counties prior to 1909 were largely a result of prescribing statutory apportionment ratios. Second, if the counties in Table 15 had been apportioned in accordance with the constitution it would have been necessary, as the earlier legislatures recognized, to prescribe the number of senatorial changes by law in accordance with Section 6, Article IV of the Oregon Constitution which instructs the apportioning agency to fix the number of senators according

to law.

Table 15*

Counties Having Separate Senate Representation
in 1947 and the Number of Senatorial
Apportionment Changes for These
Counties from 1864-1947

<u>Counties</u>	<u>Change in Senate Representation For Years Indicated</u>	<u>Total Num- ber of Changes</u>
Baker	1866, 1868, 1891, 1893, 1895, and 1909	6
Clackamas	1864, 1866, 1868, 1874, and 1889	5
Clatsop	1891	1
Douglas	1868, 1870, 1872, 1874, 1876, and 1889	6
Jackson	Has had one senator from 1860-1947	0
Josephine	1909	1
Lane	1901	1
Linn	1866, 1868, 1874, 1889, and 1901	5
Marion	1874 and 1891	2
Multnomah	1866, 1874, 1889, and 1909	4
Umatilla	1866, 1887, and 1891	3
Washington	1874	1
Yamhill	1874 and 1889	2
	Total	37

*Source: Appendix A, Table I.

Note - If a county had a senator and was later obliged to share its senatorial representative jointly, thereby losing its senator, the change was included.

A further analysis of senatorial change for the thirteen counties in Table 15 that were represented in the 1947 senate as separate counties and not jointly reveals that

changes in senate representation occurred as often as six times for two counties prior to 1909, five times for two counties, and four times for two other counties. Only one county had no change. This is the reverse of the picture after 1909 for thereafter no change occurred. Table 16 below summarizes the changes in senatorial representation prior to and after 1909.

Table 16*

Number of Single County Apportionment
Changes in Senators, 1864-1947

I. Number of Changes, 1864-1909**

<u>Number of Counties</u>	<u>Number of Changes</u>
1	0
4	1
2	2
1	3
1	4
2	5
<u>2</u>	<u>6</u>
Total 13	37

II. Number of Changes, 1910-1947

<u>Number of Counties</u>	<u>Number of Changes</u>
13	0

*Source: Table 15.

**1909 was selected since it is the year the last Senate ratio statute became effective. See: Appendix A, Table I.

The significance of Tables 15 and 16 is that even if the statutory method of providing an apportionment ratio has been abandoned, there has been no change in county senatorial representation since 1909 as compared with thirty-seven changes prior to and including 1909. In short, the apportionment of the Oregon senate ceased in 1907 - the year of the last reapportionment ratio statute - for all of the single counties having senatorial representation in 1947. Furthermore, an examination of Appendix A, Table I, reveals that even changes in joint-county senatorial representation have not occurred since 1937.

Since members of the Oregon senate hold office for four-year terms, it might be insisted that apportionment would not be expected to occur as frequently as in the house, where members hold two-year terms. Consequently, Tables 15 and 16 might not be indicative of legislative inertia, especially, if it could be demonstrated that reapportionment was much more frequent in the house. For this reason the analysis of change was continued to include the house. Again only counties having separate representatives in 1947 were chosen. Tables 17 and 18, following, summarize the findings of apportionment changes in the house from 1864-1947.

Table 17*

Counties Having Separate House Representation
in 1947 and the Number of Representative
Apportionment Changes for these
Counties from 1862-1947

<u>Counties</u>	<u>Change in House Representation</u> <u>For Years Indicated</u>	<u>Total Num-</u> <u>ber of</u> <u>Changes</u>
Baker	1864, 1866, 1874, and 1889	4
Benton	1868, 1870, 1874, 1889, and 1895	5
Clackamas	1868, 1870, 1874, and 1889	4
Clatsop	1870, 1874, 1889, and 1933	4
Columbia	1872	1
Coos	1874	1
Deschutes	1933	1
Douglas	1864, 1874, 1889, and 1901	4
Hood River	1923	1
Jackson	1876, 1889, and 1901	3
Josephine	No change since 1860	0
Klamath	1933	1
Lane	1874 and 1889	2
Lincoln	1933	1
Linn	1866, 1874, 1889, and 1923	4
Malheur	1889, 1901, and 1923	3
Marion	1866, 1874, 1889, and 1923	4
Multnomah	1864, 1866, 1868, 1870, 1874, 1876, 1889, 1901, and 1923	9
Polk	1866, 1889, and 1901	3
Tillamook	1878, 1880, and 1923	3
Umatilla	1864, 1868, 1870, 1874, 1876, 1887, 1889, and 1901	8
Union	1866, 1874, and 1901	3
Wallowa	1889, 1901, and 1933	3
Wasco	1864, 1866, 1882, 1885, 1889, 1891, 1905, 1909, and 1923	9
Washington	1862, 1864, 1874, 1876, and 1933	5
Yamhill	1874 and 1889	2
	Total	88

*Source: Appendix A, Table II.

Table 18^a

Number of County Apportionment
Changes in House, 1862-1947

I. Number of Changes, 1862-1901^{aa}

<u>Number of Counties</u>	<u>Number of Changes</u>
1	0
3	1
5	2
6	3
4	4
1	5
1	6
0	7
2	8
<u> </u>	<u> </u>
Total 23	73

II. Number of Changes, 1902-1947

<u>Number of Counties</u>	<u>Number of Changes</u>
13	0
12	1
0	2
1	3
<u> </u>	<u> </u>
Total 26	16

^aSource: Table 17.

^{aa}1901 was selected since it is the year the last House ratio statute became effective. See: Appendix A, Table II.

It will be observed from Tables 17 and 18 that there have been fifteen apportionment changes in county representation since 1901. Of these fifteen, four (Deschutes, Hood River, Klamath, and Lincoln) were a result of creating

new counties or separating counties having joint representation. Prior to and including 1901, on the other hand, there were seventy-three apportionment changes in the Oregon House of Representatives. Out of a total of twenty-six counties having separate representation in 1947, thirteen had no change in representation after 1901, twelve had one change and only one county changed thrice. This means that since 1901 apportionment in the house has ceased for half of these twenty-six counties. Since 1933 no county has had an apportionment change in the house. Furthermore, Appendix A, Table II, reveals that there has been no apportionment change for joint-county representation in the house since 1933.

Stated briefly, apportionment of the Oregon Legislative Assembly has had the history indicated in Table 19 below.

Table 19^a

Frequency of Apportionment of
Oregon Legislative Assembly,
1862-1947

I. Apportionment of Senators

A. Separate Counties

1864 - 1909	=	37 changes
1910 - 1947	=	0 changes

B. Last Joint-County Apportionment 1937

Table 19 (Continued)II. Apportionment of Representatives

A. Separate Counties

1862 - 1901	=	73 changes
1902 - 1947	=	15 changes

B. Last Joint-County Apportionment 1933

*Source: Tables 16 and 18.

Since inertia is generally defined as inaction or lifelessness, it will be noted from the above analysis of Oregon legislative apportionment that reapportionment of senators for the counties studied ceased thirty years ago and for representatives fourteen. Apportionment of senators for joint counties ceased ten years ago and for representatives fourteen. In short, apportionment for both houses has not occurred for so long that apportioning in the Oregon legislature can not be classified as a "live" issue in the sense of growing and developing, but rather as a "dead" issue.

In 1940 a study was made of the inefficiency of apportionment for both houses.¹ The years 1910, 1921, and 1931

¹Waldo Schumacher, "Legislative Reapportionment in Oregon," The Commonwealth Review, Vol. XXII, No. 3, (November 1940), pp. 151-158.

were selected. The results of this study revealed that in each one of these three years cases of over-representation and under-representation existed for both counties and joint-counties and in both the senate and the house. Contrary to popular belief, over-representation and under-representation, although found most frequently in urban centers, is not restricted to a given area but exists throughout the state. To illustrate, Jackson was under-represented in the Senate in 1910; and Klamath-Lake-Deschutes-Crook-Jefferson in 1921 and 1931. In the house, Baker was under-represented in 1910 and 1921. Over- and under-representation can be shown to be characteristic of the entire state.

Between the years 1910-1937 the only apportionment of any type in the senate was concerned with joint-county representation. Table 20, below, shows the accuracy of senatorial apportionment when it is undertaken. Similarly, Table 21 shows the accuracy of joint-county apportionment when it is attempted for the house.

Table 20*

Accuracy of Senate Apportionment
of Joint-Counties, 1910-1931

<u>Years</u>	<u>Number of Joint- Counties</u>	<u>Number of Joint-Counties with</u>		<u>Percentage of Inaccuracy</u>
		<u>Over- representation</u>	<u>Under- representation</u>	
1910**	11	3	1	36.4%
1921	11	2	2	36.4%
1931	11	3	2	45.5%

*Source: 1. Waldo Schumacher, "Legislative Reapportionment in Oregon," The Commonwealth Review, Vol. XXII, No. 3, (November 1940), pp. 151-158.

2. Appendix A, Table I.

**Session of 1909 used.

Table 21*

Accuracy of House Apportionment
of Joint-Counties, 1910-1931

<u>Years</u>	<u>Number of Joint- Counties</u>	<u>Number of Joint-Counties with</u>		<u>Percentage of Inaccuracy</u>
		<u>Over- representation</u>	<u>Under- representation</u>	
1910**	11	2	2	36.4%
1921	11	2	1	27.4%
1931	8	3	1	50%

*Source: 1. Waldo Schumacher, "Legislative Reapportionment in Oregon," The Commonwealth Review, Vol. XXII, No. 3, (November 1940), pp. 151-158.

2. Appendix A, Table II.

**Session of 1909 used.

The assumption that a rural-urban conflict is the reason for not apportioning has been an easy cloak for legislative apportionment inertia and inaccuracy. It is a catch-all argument, a proposition which may explain any dereliction of duty. One is glibly told to solve the conflict situation and you have solved the apportionment problem. Refuse to accept this conflict theory, however, and you are forced to face the fact that the Oregon Legislature has reapportioned inadequately because of an apportionment inefficiency as high as 50%.

Judicial decisions, as will be shown in the next chapter, have placed the responsibility for apportionment squarely with the state legislatures or, in the final analysis, with the electorate.

In personal conversations with members of the 1947 legislature from Multnomah, the author was informed that the apportionment problem in Oregon was peculiar to this state alone or that the under-representation of Multnomah was not too distasteful because the "better" legislators frequently came from other counties.

Arkansas, California, Colorado, and Washington electors forced the state legislature to apportion. The same will be done in Oregon when the electorate or their legislators want a reapportionment. Then the ghost of rural-urban conflict will disappear for at least one apportionment as in Colorado

and Washington or for an indefinite future if the proposed solution is as sound as that of Arkansas and California.

CHAPTER V

JUDICIAL INTERPRETATION OF APPORTIONMENT

RESPONSIBILITY

Judicial recognition of the apportionment problem has resulted from suits brought by either a government official, such as the attorney general, or by individuals. Such cases either invoke specific or general constitutional provisions or may be an attempt to overcome legislative apportionment inertia by challenging the validity of the acts of a legislature which has not been properly apportioned.

Courts have little difficulty in deciding cases on apportionment where a specific clause or section of the state or federal constitution is involved. One writer has classified these specific provisions as mandatory¹ and has named four such instructions, which might be classified as follows:

Area limitations on apportionment, such as,

1. Non-division of counties.
2. Contiguity of counties.

¹David O. Walter, "Reapportionment of State Legislative Districts," Illinois Law Review, Vol. XXXVII, (May 1942), p. 23.

Limitations on size of legislature, such as,

3. Fixed number of senators and representatives.
4. Minimum or maximum number of legislators from each county or town.

Obviously there is a standard by which a court may adjudicate such cases. For example, if a constitution provides, as in Oregon, for a senate of thirty and a house of sixty members, a case under this clause might be decided on whether the thirty-first or sixty-first member had proper credentials.

Apportionment cases involving a general clause, or what has been called "discretionary requirements,"¹ necessitate a decision as to whether an apportionment meets the standards prescribed in a constitution. The difficulty in deciding these cases is illustrated by some of the tests which have been prescribed, such as, ". . . preserving as near as may be . . .,"² or ". . . to be as nearly equal in population as practicable . . .,"³ and ". . . as nearly equal in numbers as practicable."⁴ It would seem that such phrases have as their objective an equalitarian

¹Ibid., p. 23.

²Colorado Constitution, Art. V, Sec. 46.

³Florida Constitution, Art. VII, Sec. 3.

⁴Iowa Constitution, Art. III, Sec. 6.

goal but recognize that apportionment compromises may be necessary; consequently, a strict interpretation of equality may never be possible.

Equipped with this flexible standard, courts have been reluctant to declare reapportioning laws invalid because such action may create greater inequalities by reviving a prior apportionment, and no means exists to force the legislature to reapportion again. One author compiled the following table illustrating judicial differences of opinion as to when a reapportionment should be voided for not meeting the equal distribution test.

Table 22*

Judicial Interpretation of Requirement
of Legislative Districts
of Equal Population

<u>Apportionment Act</u>	<u>Index of Inequality**</u>	<u>Decision</u>
Ky., 1906, c. 139	7.19	Void, 100 S.W. 865
Wis., 1891, c. 482	5.61	Void, 51 N.W. 724
N. Y., 1892,*	3.24	Void, 33 N.E. 827
Mass., 1916,*	3.15	Void, 113 N.E. 581
Wis., 1892, c. 1	2.91	Void, 53 N.W. 35
Mich., 1891, No. 175	2.57	Void, 52 N.W. 944
N. Y., 1892, c. 397	2.28	Valid, 31 N.E. 921
Mich., 1905, No. 245	2.20	Void, 108 N.W. 749
N. Y., 1892, c. 397	2.17	Valid, 31 N.E. 921
Wis., 1892, c. 1	2.14	Void, 52 N.W. 944
Wis., 1891, c. 482	1.77	Void, 51 N.W. 724
Ind., 1903, c. 206	1.65	Void, 70 N.E. 980
Ill., 1893, p. 6	1.42	Valid, 40 N.E. 307

Table 22 (Continued)

<u>Apportionment Act</u>	<u>Index of Inequality</u>	<u>Decision</u>
N. Y., 1893 ⁺	1.25	Valid, 142 N.Y. 523

^{*}Source: Valdimer O. Key Jr., "Procedures in State Legislative Apportionment," American Political Science Review, Vol. XXVI, (December 1932), p. 1052.

^{**}"This figure was arrived at by dividing the population, or the number of qualified voters as the case might be, of the largest constituency by the population, or qualified voters, of the smallest district. Thus, the disparity in size of districts increases with the index. The question of equality was not, however, the sole issue in all of the cases. Cases and acts listed twice involved apportionment for both houses of the legislature.

⁺"Apportionment of counties for state legislatures made by local boards in Kings County, New York, and Suffolk County, Massachusetts."

Apportionment cases challenging a special or general constitutional clause are similar in nature to reapportionment cases designed to overcome legislative inertia in that all of these cases are concerned with an equitable distribution of legislators among the population. The difference in these cases, however, arises from the fact that in the former the fairness of an act performed is questioned, whereas in the inertia cases the inequalities resulting from a failure to apportion is presented with the hope of legal redress. The first set of cases are usually concerned with various gerrymander practices which have been

employed, whereas the latter cases deal with what has been termed the "silent gerrymander"¹ since non-performance over a period of time may result in such apportionment inequalities as to constitute an actual gerrymander. Inertia cases have posed such problems as, who may bring suit, is the legislature under a duty to apportion and what is the legal effect of non-apportioning particularly as to legislative authority? Because of the great number of inertia cases, the remainder of this chapter has been devoted to a brief analysis of several of the decisions resulting from these cases.

At least three states, Arkansas, New York and Oklahoma, have constitutional provisions permitting apportionment suits. Thus Amendment No. 23, Section 5, of the Arkansas Constitution reads, "Original jurisdiction (to be exercised on application of any citizen and taxpayer) is hereby vested in the Supreme Court of the State:" Where no constitutional provision exists, it would seem that the attorney general would be the official most eligible to institute apportionment suits. This would be by virtue of the fact that he is an elected official, as in Oregon, who is given authority under common and statutory law to represent the interests of the people. On this assumption, a

¹Walter, op. cit., p. 37.

recent Wisconsin case by two World War II veterans, ". . . petitioned the state attorney general to start an original action in the state supreme court to enjoin the secretary of state from proceeding with the election of members of the state legislature." They alleged that the ensuing election ". . . would sanction and perpetuate a rotten borough system without regard to equality of representation and contrary to the letter and spirit of the state constitution."¹ This petition was accepted by the attorney general with the result that "On May 23, the attorney general announced that he would accede to the petition of the two World War II veterans and seek to bring original action in the state supreme court to force redistricting."²

Relying on the attorney general to challenge an apportionment on his own initiative, however, may be unsatisfactory because of his political affiliations.³ As an elected official he will generally belong to one of the major parties and be dependent upon the party for political support; consequently, if his party profits by an inequitable apportionment, a suit challenging the favorable

¹Letter from Mrs. Hazel Kuehn, Librarian, State of Wisconsin, Legislative Reference Library, November 25, 1946.

²Ibid.

³See: Walter, op. cit., for a discussion of this subject.

apportionment might be considered an act hostile to the party interests and thereby jeopardize his political future.

Without constitutional instructions as to who may initiate an apportionment suit or without the support of the attorney general, the practice has been for some public-minded individual to bring suit or for some person, charged with violation of a statute, to plead that the particular law is invalid. Invalidity resulting from the fact that the legislature which passed the measure lacked proper authority since the legislative assembly had not been apportioned in accordance with a state or the federal constitution.

Usually these suits are quo warranto or mandamus proceedings, although injunction proceedings are permitted in some jurisdictions. Apportionments have also been attacked, "Where the issue is involved in the annexation of territory from one town or county to another it has been raised either by quo warranto proceedings or statutory petition." Furthermore, "Advisory opinions and declaratory judgments may be used, and there are examples of the use of writs of prohibition and of certiorari."¹ It should also be noted that a plaintiff may be estopped in some jurisdictions by the fact that a number of years have elapsed without the apportioning statutes' validity having been challenged. There

¹Walter, op. cit., pp. 35-36.

is no agreement, however, on this last point.

The type of argument employed will vary with the plaintiff or defendant. In a recent Oregon case, for example, it was maintained that a state legislature which had not been apportioned in accordance with the Oregon constitution was not a lawfully constituted body; consequently, it lacked legislative authority and, as a result, its laws were invalid.¹ Two plaintiffs in Wisconsin sought to enjoin the Secretary of State from permitting an election of members of the state legislature on the grounds that the proposed election would continue the states' "rotten borough system"²

In Illinois it was argued that the acts of a legislature which had not been reapportioned were a violation of Section 1 of the 14th Amendment of the United States Constitution which reads in part, ". . . . nor shall any state deprive any person of life, liberty or property, without due process of law;" Whatever the argument, however, inertia cases pose two main questions, namely, is there a legislative duty to apportion and, if so, what is the effect of non-performance on (1) the status of the

¹Memo Opinion, Re Neuberger vs. Lambert, County Treasurer, No. 170-476, Portland, Oregon, October 7, 1946. Unpublished.

²Letter from Mrs. Hazel Kuehn, op. cit.

legislature and (2) the acts of an improperly apportioned legislature?

As to the question, is the legislature under a duty to apportion, there seems to be an almost unanimous agreement among the various judicial tribunals that the legislature, by reason of constitutional apportionment provisions, is under a duty to apportion. Furthermore, when one legislature fails to apportion, the duty falls on successive legislatures until it is performed. A recent writer has made the following observation in regard to this fact:

The duty to redistrict devolves upon succeeding legislatures until a valid statute is passed. This has been decided in Indiana, Kentucky, Michigan, New Jersey, New York, and Wisconsin. This is so although the courts have declared that the legislature is under a duty to redistrict rather than merely being empowered to do so.¹

David O. Walter, "The Effect of a Failure to Redistrict the Legislature," The Law Society Journal, Vol. VIII, No. 4 (November 1938), p. 301.

Mr. Walter refers to the following cases in support of his statement:

Fesler v. Brayton, 146 Ind. 71, 76 (1896)
Stiglitz v. Scharfden, 239 Ky. 799 (1931)
Houghton County v. Blacker, 92 Mich. 638 (1892)
Giddings v. Blacker, 93 Mich. 1 (1892)
Williams v. Sec. of State, 145 Mich. 447 (1906)
Botti v. McGovern, 97 N.J.L. 353 (1922)
Sherrill v. O'Brien, 188 N.Y. 185 (1907)
Lamb v. Cunningham, 85 Wis. 90 (1892)

Although judicial tribunals have recognized apportionment as a legislative duty, they have also maintained that there is no legal method of enforcing this duty. Such a conclusion may be attributed partly to the tradition of separation of powers in the United States and to the "sovereign" nature of a state legislature.

Having in mind, therefore, the provisions for a separation of powers and the expressions of the sovereignty of the people with a consequent unrestricted power of the peoples' representatives, except as expressed or reasonably implied in written constitutions, apportionment inertia cases may be understood a little better. The following judicial decisions indicate that the judiciary must consider cases of legislative apportionment inertia in the light of these constitutional restrictions on departmental powers when no provision exists whereby the judiciary may compel the legislature or an apportioning agency, acting in a legislative capacity, to reapportion.

A recent report of the Research Department of the Illinois Legislative Council, covering the apportionment problem, particularly in Illinois, found that "Although the Constitution provides that the General Assembly shall apportion the state every ten years, there appears to be

no judicial process available to compel the legislature to reapportion against its will."¹ This report concluded that apportionment is a legislative matter which neither state nor federal courts have the power to compel the legislature to consider. The only recourse is for the people to elect an assembly that will apportion, or to amend the constitution.

In the Wisconsin case referred to above the state supreme court unanimously held that the judiciary lacked power to compel a reapportionment by the legislature. In the Oregon case noted above there was a demurrer to the facts which were to the effect that the state legislature had not reapportioned in accordance with Article IV, Section 6 of the state constitution. The court did not state that the constitutional provision to apportion was mandatory, but stated:

The duty to act as enjoined by the Constitution is a continuing duty but one which the courts may not require to be discharged. The courts are without authority to compel the legislature to make such apportionment or to require the enactment of any legislation... While we may hold a legislative act unconstitutional, we may not unseat a legislative membership and outlaw all the legislation of a session merely because the legislative body has failed to

¹Reapportionment in Illinois: Congressional and State Senatorial Districts, Research Report No. 3, August 1938, Research Department Illinois Legislative Council, p. 8.

follow a direction which we would have been powerless to enforce. The judicial branch of the government may not thus interfere with the legislative.¹

An Illinois citizen, assessed an income tax by the federal government, sought to enjoin the collector of internal revenue from collecting the tax on the ground that the Illinois State Legislature's failure to apportion resulted in a deprivation of a republican form of government. The Circuit Court of Appeals stated, however, that

To the proposition that republican government in Illinois has failed because of the omission of the Illinois General Assembly to redistrict the state as charged in the bill, we cannot yield assent.

An appeal to the United States Supreme Court resulted in a dismissal of the case for lack of jurisdiction.

The above and similar cases have established the fact that there is a legislative duty to apportion, that this duty is continuous and incumbent upon future legislatures, and that the courts are powerless to enforce this duty. The same ruling also applies to apportioning agencies other than the legislature unless the constitution provides for judicial enforcement. This results from the fact that these

¹Neuberger vs. Lambert, op. cit.

²Keogh vs. Neely, 50 Federal Reporter, 2d Series, (1931), p. 686. Also: 284 United States Reports, 583. For a discussion of the case see: Reapportionment in Illinois: Congressional and State Senatorial Districts, op. cit., pp. 10-11.

agencies are deemed to be acting in a legislative capacity and thereby have legislative immunity.

As to the question, what is the status of the legislature and its acts when there has been a non-performance of the legislative duty to apportion, the answer will be found in judicial decisions to the effect that such a legislature is a de facto assembly and its acts valid because the legislative authority is continuous. Thus it was held in Oregon:

Assuming the constitutional direction is mandatory both as to the performance of the act and as to the time thereof, the failure of the legislature to follow it does not nullify all legislative action. The legislative authority continues and its actions are valid and binding as to the public.¹

A judge in the Federal District Court in Florida promptly dismissed a case wherein it was alleged that acts passed by a legislature which had not been reapportioned were not only invalid but in conflict with the due process clause of the United States Constitution. The justice, in dismissing the case, insisted that merely stating the argument that acts passed by a legislature which had not been reapportioned were invalid showed the weakness of the contention for, if the statement were true, hundreds of

¹Neuberger vs. Lambert, op. cit.

statutes in Florida and elsewhere would be invalid.¹

Legally then, the only effect of not reapportioning is to create a de facto legislature whose acts are as valid as those of a legislature which has been apportioned properly. The significance of non-apportioning, therefore, is not to be found in the law but in the political arena.

In conclusion it should be noted that, even where apportioning statutes have created inequalities, several courts have refused to invalidate these acts because, first, invalidation revives a previous apportioning statute which may create even greater inequalities and, second, the judiciary has no means of compelling the legislature to reapportion even if an act is declared invalid.²

¹See: Everglades Drainage League v. Napoleon B. Brownard Drainage District, 253 Fed 246 (1918) and the discussion of this and similar cases by David O. Walter, "The Effect of a Failure to Redistrict the Legislature," op. cit., pp. 301-302.

²See: David O. Walter, "Reapportionment of State Legislative Districts," op. cit., p. 29.

*See State Tel & Tel. Co. v. Oregon (1912)
223 US 118*

CHAPTER VI

PROPOSED SOLUTIONS

Oregon's apportionment problem has been attributed to several factors, such as the dominance of agricultural interests, the presence of a single large city, the existence of one major political party, and a conflict of economic interests. There can be no denying the fact that all of these factors contribute in a greater or lesser degree to increasing apportioning difficulties, particularly since one economic or political group may, by controlling the state legislature, perpetuate itself through control of legislation, party nominations, and constitutional conventions.

These allegations, however, only touch the edges of the problem because Oregon's supposedly unique apportionment difficulties are really not peculiar to this state--except that Oregon may differ from other states in the specific number of years elapsed since the last apportionment. The essential problem of apportionment is found in other states. Stated simply, the proposition is one of how to apportion equitably, in accordance with

constitutional provisions, so that all the divergent economic, social and political elements within a state may have adequate representation in proportion to their fraction of the population. That the problem is nationwide may be illustrated by abstracts from letters on the subject received by the author from state officials and legislative reference bureaus. These replies were in answer to questions about the date of the last apportionment made in the state and about their underrepresentation or overrepresentation of urban areas.

A letter from Alabama stated:

We usually have several bills introduced each session of the legislature but they fail to pass. The black belt wishes to hold on as the apportionment now stands and the northern part of the State cannot muster enough votes to defeat them. The State has not had a constitutional convention since 1901.¹

In Arizona the "Urban areas are over-represented only in those cases of rather small counties where a district is composed of a considerable town surrounded by a large rural area. The town always supplies the representative and the rural area has no other representative."²

¹Letter from Mrs. Marie B. Owen, Director, State of Alabama Department of Archives and History, January 7, 1947.

²Letter from Mulford Winsor, Director, State of Arizona Department of Library and Archives, December 13, 1946.

In Colorado, "the last apportionment was made in 1933 by the people under the initiative. This covered both the Senate and House. Urban areas, particularly the City and County of Denver, which is the only city over 100,000, are under represented."¹

Florida apportions representatives by counties and senators by senatorial districts. In 1946 the Senate was reapportioned, causing the comment that "after quite a fight last year there was a new Senate apportionment."²

In North Dakota, "urban areas are not over or under represented."³ It should be noted, however, that the same letter admits that "the last apportionment in this state [North Dakota] was made in 1913, both House and Senate."

From Pennsylvania the reply was that, "the most recent apportionments and the ones we are still

¹Letter from Clair T. Sippel, Secretary, The State of Colorado, Department of Law, Legislative Reference Office, December 17, 1946.

²Letter from W. T. Cash, State Librarian, State of Florida, State Library Board, January 7, 1947.

³Letter from E. J. Taylor, Law Librarian, State of North Dakota, Supreme Court, December 16, 1946.

operating under (with exception of a few changes by amendments) are the apportionments made in 1921."¹

The Washington State Superintendent of Elections stated:

Legislative apportionment has always been a hot potatoe since it appears it is impossible to satisfy both rural and urban sections of the state. Unfortunately, our population for the most part is concentrated in the western portion, and the political thinking has been divided by the Cascade Mountains, which divides the eastern and western portions of the state.²

Finally, a letter from Wisconsin concluded, "the enforcement of the constitutional mandate must be settled in the political forum as an issue involved in the candidacy for seats in the senate and assembly."³

Since the apportionment problem exists throughout the country in a majority of the state legislatures, it has been necessary to analyze the problem in Oregon in the light of any similarities in other states. As a result, two significant problems are raised. The first centers around the economic conflict theory--the second

¹Letter from S. Edward Hannestad, Acting Director, Legislative Reference Bureau, Harrisburg, Pennsylvania, December 16, 1946.

²Letter from Kenneth N. Gilbert, State Superintendent of Elections, The State of Washington, Department of State, November 25, 1946.

³Letter from Mrs. Hazel Kuehn, Librarian, The State of Wisconsin Legislative Reference Library, November 25, 1946.

around legislative responsibility. Both are of such vital importance that they not only go to the heart of the apportionment problem but, more important, to the very roots of American government.

A glance at the eight letters referred to above reveals that, of the states represented, urban areas in Colorado are underrepresented; in Arizona they may be overrepresented; in Alabama and Washington there is a conflict between two economic areas of the state. Thus half of these states considered representation inequalities to be the result of divergent, irreconcilable interests. This sample would be unimportant were it not for the fact that a large majority of writers on the subject of reapportionment cite the economic conflict theory as the primary reason for failure to apportion.

This idea of the conflict of economic interests finds expression in statements to the effect that rural and urban areas do not have similar problems but interests peculiar to their own areas; therefore, each area wants to be adequately represented. A letter to the author stated the proposition as follows:

I understand that Oregon is industrializing, and this means urbanization will be hastened. The people of the cities must have fair representation, for the legislature exerts a lot of authority over

them. Cities have peculiar problems and urban people must have more voice in government for that reason.¹

In Oregon, as in other states having a single large city, the conflict attitude is expressed in statements that Portland must not dominate the state legislature, the assumption being that such an occurrence would be detrimental to rural interests. Thus one Oregon writer claimed that,

My main thesis is that metropolis (be it Portland, Chicago, New York) must be held down to legislative representation that will keep it from dominating the state legislature. If Portland had full proportion of legislature its vote plus a few pickups from outside would dictate. It is too dangerous to let big cities run a whole state with all a state's diversified interests. It's bad enough on measures submitted to the people--Portland's big vote often carries a measure against which all the up-state turned in its majority--but we can see and fight that danger, while metropolitan control of a legislature is something too difficult to cope with on the hundreds of bills that come up during a legislative session.²

While statements that "sagebrush" areas dominate the legislature reflect the other side of the conflict idea.

One author minced no words on this point, alleging:

As a member of the Oregon Legislature in 1941, I remember attempting to raise the salaries paid our school teachers. Along the Pacific Coast, the average salary for teachers paid in California is \$2,201, in Washington \$1,746, and in Oregon \$1,286.

¹Letter from Cullen B. Gosnell, February 3, 1947.

²Letter from C. C. Chapman, January 6, 1947.

So a clear issue was raised. Our bill to reserve new educational funds for the pay of classroom teachers, rather than for more school administrators, was defeated by a vote of 33 to 27. The votes of over-represented sagebrush areas defeated it.¹

If the belief that American society is divided into irreconcilable economic groups is correct, then one of the basic theories of government in the United States would seem to be faulty.

Briefly stated, this theory maintains that all people have certain fundamental rights. Therefore, governments exist, by the consent of the governed, to protect these fundamental rights of man. Furthermore, society's interest in preserving these rights is so great that individual or group interests must yield to the collective interests of the entire community in order to protect the welfare of all the people.

It is this theory of the supremacy of the rights of all, therefore, which is under attack when it is stated or implied that economic interests are of such paramount consideration in representation that political beliefs must take a secondary place to special interests, thereby subordinating the rights of man to the rights of owners of cows or factories.

¹Neuberger, "Last Stand of Rotten-Boroughs," op. cit., p. 9.

Historically in the United States the assertion that a special interest had prior claim to representation, over the rights of all men, resulted not only in a vigorous denial of the proposition but in an eventual yielding of the former claim to the latter. For example, arguments against suffrage extension such as John Adams' were met with the "Memorial of the Non-Freeholders of the City of Richmond,"¹ which reminded the Adamses that there was a "Declaration of Independence" still in existence in the United States, the final result being an extension of the suffrage.

The significance of the economic conflict theory, therefore, does not lie in a justification of the rural or the urban interests. The mere statement of such a belief raises the fundamental question whether - granted an economic conflict between the country and the city, capital and labor, or any other conflict between economic, social, or political groups - these conflicts are of such a nature that considerations of the rights of man must be relegated to a subordinate position in order that conflicting economic interests

¹John Adams, "A Defence of the Constitutions of Government of the United States of America," Democracy, Liberty, and Property, ed. by Francis W. Coker (New York: The Macmillan Company, 1942), pp. 121-132.

"Memorial of the Non-Freeholders of the City of Richmond," ibid., pp. 199-207.

may have first consideration. That this is not an academic question raised by theorists may be demonstrated by reference to the reaction of a state legislature, controlled by representatives from "rotten-boroughs," to an initiative mandate by the people to reapportion. "In Colorado," writes a student of the problem, "after the failure of the legislature to reapportion following the 1920 and 1930 censuses, an initiated measure was approved by popular vote in 1932. At its following session the legislature (elected under the prior act) attempted to repeal this and to pass its own reapportionment, containing serious discriminations against Denver. In Armstrong v. Mitlen [95 Colo. 425, 37 P (2d) 757 (1934)] a divided court held this legislative act invalid on the ground of inequalities."¹

Therefore, it is the author's contention that, before expressed or implied adherence is given to any belief in irreconcilable economic, social, or political conflicts as a primary reason for legislative failure to perform its duties, the full implications of such a statement should be considered. If it can be demonstrated that man's willingness to abide by democratic processes exists only so long as his special interests are not involved and that when

¹Walter, "Reapportionment of State Legislative Districts," op. cit., p. 32.

these special interests are jeopardized he will abandon democracy for the dictates of this special interest group, then the outlook is gloomy for the continuance of even these feeble efforts at democracy that have been made. In 1937 a writer stated the matter as follows:

It was Ferdinand Lassalle who taught the workers to distrust everyone who did not demand as his first aim a free and equal franchise. He knew what history has proved abundantly since; that peaceful progress toward economic and social democracy can be made only when and in so far as it is backed by the actual power of political democracy and by its supremacy over group interests and group power.¹

Legally and morally the legislature has been declared under an obligation to apportion. The legal duty was stated in the chapter of this thesis on "Judicial Interpretation of Apportionment Responsibility." The moral obligation is expressed in such statements as Governor Hurley's in an address to the 1938 session of the Massachusetts Legislature concerning apportionment. He stated:

As public officials we have sworn an oath to observe these provisions [constitutional provisions on apportionment]. With the obligations of this oath in mind, may I call your attention to certain requirements of the Constitution which have been ignored during the legislative sessions of 1936 and 1937, and to date by the legislature of 1938.²

¹Arthur Feiler, "Democracy by Class and Occupational Representation," Political and Economic Democracy, ed. by Max Ascoli and Fritz Lehmann, (New York: W. W. Norton and Co., 1937), pp. 190-191.

²Governor Charles F. Hurley, "Message to Massachusetts Legislature," House...No. 2080, June 1, 1938.

Similarly, a "Report of the Legislative Council" of Connecticut, in recommending a reduction in the size of the House of Representatives, stated:

We realize that such a proposal calls for an unusually high degree of disinterestedness and even self-sacrifice on the part of the members of the House of Representatives, some of whom would definitely be cut off from any hope of succeeding themselves. We feel, however, that the record of the Connecticut House of Representatives establishes that it will meet this problem in a spirit of the broadest and most high minded patriotism.¹

What is the political significance then of legislative failure to perform this duty? The significance centers around first, whether the legislatures' failure to reapportion is a result of a total disregard for the will of the people or whether it is a result of basic weaknesses in existing legislative procedures.

If it could be established that the reason for failure to reapportion periodically as provided in the Oregon Constitution is a result of a total disregard on the part of the legislators, for the will of the people, it would then be necessary either to remove those now in power for more trustworthy representatives or revoke the power of the legislators to reapportion. Revocation of the apportioning power could be accomplished as was done in Arkansas for

¹State of Connecticut, Report of the Legislative Council, Public Document 96 (November 20, 1946), p. 33.

example, by inserting an amendment to the constitution providing for automatic apportioning by an agency, other than the legislature, subject to mandamus for non-performance. Such an agency might be empowered to act on its own initiative or, as in California, in the event of legislative failure to reapportion during the first session after the taking of a state or federal census.

From personal interviews with members of the 1945-1947 Joint Interim Committee of the House and Senate on Apportionment and a study of the apportionment problem in Oregon, the author has been unable to gather sufficient evidence to indicate a wilful desire to disregard the mandate of the people. It would seem that this belief might be substantiated by the fact that apportionment committees were established in 1921, 1931, 1939, 1941, and 1945. The last committee received \$1,000.00 to make a study of the laws on reapportionment. Therefore, the political significance of the apportionment problem results primarily from basic weaknesses in existing legislative procedures.

In 1791 John Quincy Adams wrote, in regard to legislative power:

Distribute the whole of your power in such a manner, as will necessarily prevent any one man, or body of men, or any possible combination of individual interests, from being arbitrary, but do not incur your own representatives with shackles, prejudicial to your own interests; nor suffer yourselves, like the Spanish Monarch of ridiculous memory, to be roasted to

death, by denying your servants the power of removing the fire from before you.¹

Approximately one hundred and fifty-six years later the practice of encumbering ". . . your own representatives with shackles, prejudicial to your own interests. . . ." which John Q. Adams deplored, continues unabated in state legislatures. For example, Section 17, Article IV of the Oregon Constitution provides: "Each house shall have all powers necessary for a branch of the legislative department of a free and independent state." A dozen sections further, however, the same article, in Section 29, provides for "Compensation of Members," which is limited to \$8.00 a day for fifty days. Thus, legislators are forced to serve the state gratis if, as is often the case, the legislature should require more than fifty days to complete its work adequately. These "shackles" have become so restrictive that special studies have been made of state legislative organization and procedures, because it is believed that, as the Council of State Governments has said,

No legislator or student of government can doubt the importance of a strong and well-organized legislature in any present-day democratic state. Over large areas of the world legislative bodies have lost ground. The independence of legislatures has been more vigorously and successfully attacked than at any time during the past century. To meet this challenge the

¹John Quincy Adams, "Letters of Publicola," Democracy, Liberty and Property, op. cit., p. 369.

organization and procedure of the legislative branch of government is receiving increasing attention in the United States and abroad.¹

In Oregon the Legislative Assembly is constantly faced with the problem of organization and procedure as a result of meeting biennially for a limited session, lack of continuity between sessions and inadequate fact-finding agencies. The first two handicaps affect the amount of time that will be allotted to measures placed before the legislature. The tendency is, as a result, to consider matters affecting taxation, business, labor, education, and welfare as soon as possible and other matters if there is sufficient time remaining. The lack of adequate fact-finding agencies is a severe handicap because of the inability of legislators, while in session, to investigate pending measures in order to ascertain the merits of the proposal after a consideration of the pertinent facts of the case.

Changes in length of session and salary are matters beyond the scope of this thesis because they are more a legislative organizational problem than an apportionment. The lack of adequate fact-finding agencies, however, is significant because failure to understand the apportionment problem in Oregon has led to much misinformation on the part of

¹The Council of State Governments, Our State Legislatures, (Chicago: The Council of State Governments, 1946), p. 18.

the legislators and the public. This may be demonstrated by an analysis of proposed solutions to the apportionment problem which have been contained in suggestions for use of the initiative, referendum, and statutory or constitutional changes. The illustrative changes have been proposed by members of the legislature.

Table 23 contains a list of five major proposals for reapportionment which have been introduced by members of the legislature within a period of almost a quarter of a century. It will be observed that at least two of these measures contained provisions for use of the referendum. Similarly, four states, California, Washington, Arkansas, and Colorado, have used the initiative to apportion.

Table 23*

Proposed Reapportionment Measures,
1923-1943

<u>Year</u>	<u>Number of Measure</u>	<u>Proposal</u>	<u>Disposition</u>
1923	SJR 14	<p>1. Following a state or federal census, senators and representatives shall be apportioned:</p> <p>a. One representative from each county.</p> <p>b. Senators and other representatives shall be apportioned according to population in each district.</p> <p>2. Limitation on size of legislature of 30 and 60 would remain.</p> <p>3. Representatives from each county shall be automatic and require no apportionment.</p> <p>4. This would amend Art. IV, Sec. 6 and would be put to a referendum vote.</p>	<p>In committee on resolutions upon adjournment.</p>
1935	SB 286	<p>"To authorize county courts or county commissioners to create districts in counties, and providing for election of state senators and representatives of such districts."</p>	<p>Introduced, read twice and referred to committee on elections and privileges.</p>

Table 23 (Continued)

<u>Year</u>	<u>Number of Measure</u>	<u>Proposal</u>	<u>Disposition</u>
1937	HJR 8	<p>1. After the next state or federal census the number of senators and representatives shall be fixed by law.</p> <p>2. Each county shall have one representative.</p> <p>3. Senators and remainder of representatives shall be apportioned among counties according to number of white population therein.</p> <p>4. Ratio - white population divided by the number of senators and representatives. A fraction of one-half would entitle district represented to another member. If number is insufficient then county would be attached to an adjacent county.</p>	Referred to committee on reorganization and administration which recommended that it "do not pass."
1943	SJR 1	<p>1. Amend Sec. 6 of Art. IV to read:</p> <p>a. Number of senators and representatives shall be fixed by law following the next federal or state census.</p> <p>b. Two-thirds of senators and representatives shall be apportioned</p>	"Withdrawn by unanimous consent."

Table 23 (Continued)

<u>Year</u>	<u>Number of Measure</u>	<u>Proposal</u>	<u>Disposition</u>
		according to population and one-third according to area.	
		2. Ratio used for legislators elected by population would be two-thirds of number of senators and representatives divided into total population of the state.	
		3. Ratio for those chosen by area would be ". . . . determined by dividing one-third of the number of senators and representatives, respectively, and dividing the number of square miles in each county by such respective ratios."	
		4. County or district would be entitled to one senator or representative for a major fraction.	
		5. If a county didn't have the necessary area or population then it would be attached to an adjoining county.	
		6. Sec. 5, Art. IV should be repealed.	
		7. Proposal to be submitted to referendum vote.	

Table 23 (Continued)

<u>Year</u>	<u>Number of Measure</u>	<u>Proposal</u>	<u>Disposition</u>
1943	SJR 5	Sec. 2, Art. IV should be repealed and 31 senators and 61 representatives provided for.	In committee upon adjournment.

*Source: State of Oregon, Journals of the Senate and House,

(Salem, 1923), Senate Joint Resolution No. 14.

Ibid., (1935), Senate Bill No. 286.

Ibid., (1937), House Joint Resolution No. 8.

Ibid., (1943), Senate Joint Resolution No. 1.

Ibid., (1943), Senate Joint Resolution No. 5.

A further analysis of Table 23 reveals a second method of attempting to solve the apportionment problem. This consists in statutory or constitutional proposals for changing the apportionment ratio.

Finally, there are those who believe that the problem of reapportionment of the Oregon Legislative Assembly may be solved by substitution, that is, adopting a different basis for apportioning. Thus, several of the proposals in Table 23, if adopted, would provide both a county and a population basis for determining legislators. Again, the 1945-1947 Interim Apportionment Committee suggested that the words "white population" in the Oregon Constitution be changed to read "registered voters."¹

Regardless of the merits of these proposals, it should be noted that none go to the core of the reapportionment problem in Oregon from a political point of view. Politically, the problem in Oregon, as in other states, is how to overcome the inertia of an apportioning agency. For example, had these alternative measures been adopted, there would have been no guarantee that legislative inertia or the inertia of those performing a legislative function could have been overcome. Again, for purposes of illustration, Massachusetts provides for representation on the basis of

¹See Appendix C.

legal voters, but failure to implement this with a provision that reapportionment must be performed has resulted in a continuance of the apportionment problem in that state.

Therefore, a far more satisfactory approach is that stated by a committee of the Portland City Club which studied the reapportionment problem in Oregon. This committee claimed:

There would seem to be no valid reason for creating new senators when several of the old ones cannot be justified on the basis of apportionment by population. We believe that the legislative assembly should be placed under an obligation to the under-represented portions of the state to perform its duty. Your committee does not approve of reapportionment by constitutional amendment. The principles and procedures to govern reapportionment may well be established by amendment, but the actual performance should be delegated. Reapportionment by amendment means that it will be piecemeal and consequently lead to many inconsistencies.¹

It was noted in a previous chapter² that several states have recognized the basic weakness in not compelling a performance of the duty to apportion by placing the task in the hands of an apportioning agent or agency divorced from the legislature, while others have provided for an alternative method of apportionment in the event of legislative inertia.

¹"Constitutional Amendment Increasing Number of Senators to Thirty-One Members," Portland City Club Bulletin, Vol. XXVII, No. 22 (October 4, 1946), pp. 82-83.

²See Chapter II.

As a result of the political problem raised by legislative apportionment inertia, namely, how to compel elected representatives to perform a duty which they are legally and morally sworn to undertake, a recommendation for change seems to be fully justified. The long-standing failure of the Oregon Legislative Assembly to apportion has constituted not only a neglect of duty but a breach of faith with the Oregon electorate; therefore, it is recommended that the duty to reapportion be placed in the hands of an automatic apportioning agency composed of members subject to mandamus for non-performance of this duty. Had the state legislature been able to make a major apportionment within the past thirty-seven years, consideration might be given the adoption of an alternative method of apportioning. It is believed, however, that the inherent organizational and procedural weaknesses of a short session biennial legislature would force the legislature to continue to default in performing its duty. The suggestion of the 1945-1947 Interim Apportionment Committee that the governor be made responsible for reapportionment does not guarantee performance since he is not only liable to the pressure of political considerations but not subject to mandamus.

It is suggested that this automatic apportioning agency be located in an existing bureau of the state government. Had Section 5, Article IV of the Oregon Constitution been

followed and state censuses taken, the Census Bureau of the State would seem a logical choice. This is the agency that apportions on the federal level.

The provision for an automatic apportioning agency could be made by statute. If, however, the legislature failed to pass such a measure, some civic-minded group, such as the Portland City Club or the League of Women Voters, should initiate a constitutional amendment to that effect. Obviously this measure should be concerned with an automatic apportionment agency. It should not, however, alter the existing constitutional apportionment provision, except for the word "white" before "population," because the present constitutional clause recognizes representation of people and not special interests or areas. What is needed is a mandatory provision that the duty to reapportion be complied with upon completion of censuses.

A second recommendation is that the practice of apportioning the United States House of Representatives by use of the major fractions method be prescribed by statute. Should it be found, as was disclosed in this thesis, that a strict apportionment of the state on the basis of population would leave certain counties unrepresented, it is recommended that a compromise plan be adopted. The compromise suggested would be to apportion the legislature on the basis

of a county priority list resulting from the use of the major-fractions system.¹ Instead of stopping the list at thirty for the Senate and sixty for the House (the maximum membership), however, the list should be stopped just short of these maxima and joint-counties included. In this thesis, for example, the priority list for the House was stopped at fifty-four. Thereafter, unrepresented counties were included in combination. These counties should be combined so that their joint-county population will be as nearly equal as possible to the population of the last county on the priority list. To illustrate, in Chapter III the priority list in Table 5 was stopped at fifty-four. This meant that the population necessary to elect the fifty-fourth representative was approximately 17,000. Therefore, no unrepresented joint-county combination should have a total population in this instance of less than 17,000.²

Finally, no logical or democratic objection can be raised to the 1945-1947 Interim Apportionment Committee's suggestion that the word "white" be deleted from considerations of apportionment. Representatives should represent all of the people in a democracy and not merely the "white" population." Furthermore, such a phrase is indicative of

¹See: Chapter III, Table 5.

²See: Chapter III, Table 10.

a policy counter to that expressed in the Fourteenth and Fifteenth Amendments of the United States Constitution.

Thus it has been stated that

In view of the policy of the Fourteenth and Fifteenth Amendments of the United States Constitution, the exclusion of the negro citizen is to be decried, and fortunately no state except Oregon has written this provision into its constitution.¹

It should be noted, however, that non-white could include almost any shade of skin pigmentation and most certainly includes not only Negroes but also Chinese and Japanese.

In conclusion, therefore, it is recommended that the duty to reapportion be placed in an administrative agency subject to mandamus for non-performance or to judicial review for inequal apportionments; that the mathematical method of apportioning by major-fractions employed by the federal government in reapportioning the House of Representatives be adopted; and that the word "white" be stricken from before the word "population" in the apportionment clause of the Oregon Constitution. If these changes were made, the apportionment maladjustments existing in the Oregon Legislative Assembly could be reduced to a minimum.

¹Elizabeth Durfee, "Apportionment of Representation in the Legislature: A Study of State Constitutions," Michigan Law Review, (June 1945), p. 1092.

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A P P E N D I X

APPENDIX A

REPRESENTATION IN OREGON LEGISLATIVE

ASSEMBLY BY COUNTIES

(REGULAR SESSIONS) 1858-1947

Table I Senators--Oregon Legislative Assembly
1858-1947

Table II Representatives--Oregon Legislative
Assembly 1858-1947

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APPENDIX A

Table I

Senators - Oregon Legislative Assembly

<u>Session Number</u>	<u>1?</u>	<u>1</u>	<u>2</u>	<u>3</u>
<u>Year</u>	<u>1858</u>	<u>1860</u>	<u>1862</u>	<u>1864</u>
<u>Apportionment Ratio</u>	<u>Territorial</u>	<u>Constitution</u>	<u>Constitution</u>	<u>3,021</u>
<u>County</u>	<u>No. of Sen.</u>	<u>No. of Sen.</u>	<u>No. of Sen.</u>	<u>No. of Sen.</u>
Baker	-	-	-	-
Benton	1	1	3,074	1
Clackamas	-	-	3,466	1
Douglas	1	1	4,453	1
Grant	-	-	-	-
Jackson	1	1	3,736	1
Josephine	1	1	1,623	1
Lane	2	2	4,780	2
Linn	2	2	6,772	2
Marion	2	2	7,088	2
Multnomah	1	1	4,150	1
Polk	1	1	3,625	1
Umatilla	-	-	-	-
Union	-	-	-	-
Wasco	-	-	1,689	1
Yamhill	1	1	3,245	1

Table I (Continued)

Session Number	1	1	2	3
Year	1858	1860	1862	1864
Apportionment Ratio	Territorial	Constitution	Constitution	3,021
<u>County Combinations</u>	No. of <u>Sen.</u>	No. of <u>Sen.</u>	No. of <u>Sen.</u>	No. of <u>Sen.</u>
Baker and Umatilla	-	-	-	1
Clackamas and Wasco	1	1	1	-
Clatsop, Columbia, Tillamook, Washington	1	1	1	1
Columbia, Tillamook, Washington	-	-	-	-
Coos, Curry, and Douglas	-	-	-	1
Coos, Curry, and Umpqua	1	1	1	-
Totals	16	16	16	18
Total State Population		52,465		

Table I (Continued)

<u>Session Number</u>	4	5	6	7
<u>Year</u>	1866	1868	1870	1872
<u>Apportionment Ratio</u>	3,021	3,021	3,021	3,021
<u>County</u>	<u>No. of Sen.</u>	<u>No. of Sen.</u>	<u>No. of Sen.</u>	<u>No. of Sen.</u>
Baker	2	1	1	1
Benton	1	1	1	1
Clackamas	2	1	1	1
Douglas	1	1	1	1
Grant	1	1	1	1
Jackson	1	1	1	1
Josephine	1	1	1	1
Lane	2	2	2	2
Linn	3	2	2	2
Marion	2	2	2	2
Multnomah	2	2	2	2
Polk	2	1	1	1
Umatilla	1	1	1	1
Union	1	1	1	1
Wasco	1	1	1	1
Yamhill	1	1	1	1
			2,804	
			4,584	
			5,993	
			6,066	
			2,251	
			4,778	
			1,204	
			6,426	
			8,717	
			9,965	
			11,510	
			4,701	
			2,916	
			2,552	
			2,509	
			5,012	
<u>County Combinations</u>				
Baker and Umatilla	-	-	-	-
Clackamas and Wasco	-	-	-	-
Clatsop, Columbia, Tillamook, Washington	1	1	-	1
Columbia, Tillamook, Washington	-	-	1	-

Table I (Continued)

<u>Session Number</u>	4	5	6	7
<u>Year</u>	1866	1868	1870	1872
<u>Apportionment Ratio</u>	3,021	3,021	3,021	3,021
<u>County Combinations</u>	<u>No. of Sen.</u>	<u>No. of Sen.</u>	<u>No. of Sen.</u>	<u>No. of Sen.</u>
Coos, Curry, and Douglas	1	2	1	2
Coos, Curry, and Umpqua	-	-	-	-
Totals	25	22	22 90,923	22

Table I (Continued)

Session Number	8	9	10	11
Year	1874	1876	1878	1880
Apportionment Ratio	3,025	3,025	3,025	3,025
<u>County</u>	<u>No. of Sen.</u>	<u>No. of Sen.</u>	<u>No. of Sen.</u>	<u>No. of Sen.</u>
Baker	1	1	1	1 4,616
Benton	1	1	1	1 6,403
Clackamas	2	2	2	2 9,260
Douglas	1	2	2	2 9,596
Grant	1	1	1	1 4,303
Jackson	1	1	1	1 8,154
Josephine	1	1	1	1 2,485
Lane	2	2	2	2 9,411
Linn	3	3	3	3 12,676
Marion	3	3	3	3 14,576
Multnomah	3	3	3	3 25,203
Polk	1	1	1	1 6,601
Umatilla	1	1	1	1 9,607
Union	1	1	1	1 6,650
Wasco	1	-	-	- 11,120
Washington	1	1	1	1 7,082
Yamhill	2	2	2	2 7,945

Table I (Continued)

<u>Session Number</u>	<u>8</u>	<u>9</u>	<u>10</u>	<u>11</u>
<u>Year</u>	<u>1874</u>	<u>1876</u>	<u>1878</u>	<u>1880</u>
<u>Apportionment Ratio</u>	<u>3,025</u>	<u>3,025</u>	<u>3,025</u>	<u>3,025</u>
<u>County Combinations</u>	<u>No. of Sen.</u>	<u>No. of Sen.</u>	<u>No. of Sen.</u>	<u>No. of Sen.</u>
Benton and Polk	1	1	1	1
Clatsop, Columbia, Tillamook	1	-	1	1
Coos and Curry	-	1	1	1
Coos, Curry, and Douglas	2	-	-	-
Crook, Gilliam, Klamath, Lake, and Wasco	-	-	-	-
Crook, Klamath, Lake and Wasco	-	-	-	-
Lake and Wasco	-	1	1	1
Morrow and Umatilla	-	-	-	-
Totals	30	29	30	30
Total State Population			1	174,768

Table I (Continued)

<u>Session Number</u>	<u>12</u>	<u>13</u>	<u>14</u>
<u>Year</u>	<u>1882</u>	<u>1885</u>	<u>1887</u>
<u>Apportionment Ratio</u>	<u>3,025</u>	<u>3,025</u>	<u>3,025</u>
<u>County</u>	<u>No. of Sen.</u>	<u>No. of Sen.</u>	<u>No. of Sen.</u>
Baker	1	1	1
Benton	1	1	1
Clackamas	2	2	2
Douglas	2	2	2
Grant	1	1	1
Jackson	1	1	1
Josephine	1	1	1
Lane	2	2	2
Linn	3	3	3
Marion	3	3	3
Multnomah	3	3	3
Polk	1	1	1
Umatilla	1	1	1
Union	1	1	1
Wasco	1	1	1
Washington	1	1	1
Yamhill	2	2	2

Table I (Continued)

<u>Session Number</u>	<u>12</u>	<u>13</u>	<u>14</u>
<u>Year</u>	<u>1882</u>	<u>1885</u>	<u>1887</u>
<u>Apportionment Ratio</u>	<u>3,025</u>	<u>3,025</u>	<u>3,025</u>
<u>County Combinations</u>	<u>No. of Sen.</u>	<u>No. of Sen.</u>	<u>No. of Sen.</u>
Benton and Polk	1	1	1
Clatsop, Columbia, Tillamook	1	1	1
Coos and Curry	1	1	1
Coos, Curry, and Douglas	-	-	-
Crook, Gilliam, Klamath, Lake, and Wasco	-	-	1
Crook, Klamath, Lake and Wasco	-	1	-
Lake and Wasco	1	-	-
Morrow and Umatilla	-	-	1
Totals	30	30	30

Table I (Continued)

<u>Session Number</u>	<u>15</u>	<u>16</u>	<u>17</u>	<u>18</u>	<u>19</u>
<u>Year</u>	<u>1889</u>	<u>1891</u>	<u>1893</u>	<u>1895</u>	<u>1897</u>
<u>Apportionment Ratio</u>	<u>6,592</u>	<u>6,592</u>	<u>6,592</u>	<u>6,592</u>	<u>6,592</u>
<u>County</u>	<u>No. of Sen.</u>	<u>No. of Sen.</u>	<u>No. of Sen.</u>	<u>No. of Sen.</u>	<u>No. of Sen.</u>
Baker	1	6,764	1	-	-
Benton	1	8,650	1	-	1
Clackamas	1	15,233	1	1	1
Clatsop	-	10,016	1	1	1
Douglas	1	11,864	1	1	1
Grant	1	5,080	-	-	-
Jackson	1	11,455	1	1	1
Lane	2	15,198	2	2	2
Linn	2	16,265	2	2	2
Marion	3	22,934	2	2	2
Multnomah	5	74,884	5	5	5
Polk	1	7,858	1	1	1
Umatilla	-	13,381	1	1	1
Wasco	1	9,183	-	-	-
Washington	1	11,972	1	1	1
Yamhill	1	10,692	1	1	1
<u>County Combinations</u>					
Baker and Malheur	-	1	-	1	1
Benton and Lincoln	-	-	-	1	-
Clackamas and Marion	-	1	1	1	1
Clatsop, Columbia and Tillamook	1	-	-	-	-

Table I (Continued)

<u>Session Number</u>	15	16	17	18	19
<u>Year</u>	1889	1891	1893	1895	1897
<u>Apportionment Ratio</u>	6,592	6,592	6,592	6,592	6,592
<u>County Combinations</u>	<u>No. of Sen.</u>	<u>No. of Sen.</u>	<u>No. of Sen.</u>	<u>No. of Sen.</u>	<u>No. of Sen.</u>
Columbia, Tillamook and Washington	1	1 -	1	1	1
Coos, Curry, and Josephine	1	1 -	1	1	1
Crook, Klamath and Lake	1	1 -	1	1	1
Gilliam, Harney & Morrow	-	- -	-	-	1
Gilliam, Sherman & Wasco	-	-	1	1	-
Gilliam and Wasco	1	1 -	-	-	-
Grant, Harney, & Morrow	-	1 -	1	1	1
Morrow and Umatilla	1	- -	1	-	-
Sherman and Wasco	-	-	1	1	1
Umatilla and Union	1	1 -	1	1	1
Union and Wallowa	-	1 -	1	1	1
Totals	29	30	30	30	30
Total State Population		317,704			

Table I (Continued)

<u>Session Number</u>	<u>20</u>	<u>21</u>	<u>22</u>	<u>23</u>	<u>24</u>
<u>Year</u>	<u>1899</u>	<u>1901</u>	<u>1903</u>	<u>1905</u>	<u>1907</u>
<u>Apportionment Ratio</u>	<u>6,592</u>	<u>12,083</u>	<u>12,083</u>	<u>12,083</u>	<u>12,083</u>
<u>County</u>	<u>No. of Sen.</u>	<u>No. of Sen.</u>	<u>No. of Sen.</u>	<u>No. of Sen.</u>	<u>No. of Sen.</u>
Baker	-	-	15,597	-	-
Benton	-	1	6,706	1	1
Clackamas	1	1	19,658	1	1
Clatsop	1	1	12,765	1	1
Douglas	1	1	14,565	1	1
Jackson	1	1	13,698	1	1
Josephine	-	-	7,517	-	-
Lane	2	1	19,604	1	1
Linn	2	1	18,603	1	1
Marion	2	2	27,713	2	2
Multnomah	5	5	103,167	5	5
Polk	1	1	9,923	1	1
Umatilla	1	1	18,049	1	1
Union	-	1	16,070	-	-
Wasco	-	-	13,199	1	1
Washington	1	1	14,467	1	1
Yamhill	1	1	13,420	1	1
<u>County Combinations</u>					
Baker, Harney, and Malheur	-	1		1	1
Baker and Malheur	1	-		-	-
Benton and Lincoln	1	-		-	-
Benton and Polk	-	-		-	-

Table I (Continued)

<u>Session Number</u>	<u>20</u>	<u>21</u>	<u>22</u>	<u>23</u>	<u>24</u>
<u>Year</u>	<u>1899</u>	<u>1901</u>	<u>1903</u>	<u>1905</u>	<u>1907</u>
<u>Apportionment Ratio</u>	6,592	12,083	12,083	12,083	12,083
<u>County Combinations</u>	<u>No. of Sen.</u>	<u>No. of Sen.</u>	<u>No. of Sen.</u>	<u>No. of Sen.</u>	<u>No. of Sen.</u>
Clackamas, Columbia, and Multnomah	-	-	-	-	-
Clackamas and Marion	1	-	-	-	-
Clackamas and Multnomah	-	1	1	1	1
Columbia, Multnomah, and Washington	-	1	1	1	1
Columbia, Tillamook, and Washington	1	-	-	-	-
Coos and Curry	-	1	1	1	1
Coos, Curry, and Josephine	1	-	-	-	-
Crook, Grant, Klamath, and Lake	-	-	-	1	1
Crook, Jefferson, Klamath, and Lake	-	-	-	-	-
Crook, Klamath, and Lake	1	-	-	-	-

Table I (Continued)

<u>Session Number</u>	<u>20</u>	<u>21</u>	<u>22</u>	<u>23</u>	<u>24</u>
<u>Year</u>	<u>1899</u>	<u>1901</u>	<u>1903</u>	<u>1905</u>	<u>1907</u>
<u>Apportionment Ratio</u>	<u>6,592</u>	<u>12,083</u>	<u>12,083</u>	<u>12,083</u>	<u>12,083</u>
<u>County Combinations</u>	<u>No. of Sen.</u>	<u>No. of Sen.</u>	<u>No. of Sen.</u>	<u>No. of Sen.</u>	<u>No. of Sen.</u>
Crook, Klamath, Lake and Wasco	-	1	1	-	-
Crook, Morrow, and Umatilla	-	-	-	-	-
Douglas, Josephine, and Lane	-	1	1	1	1
Gilliam, Grant, Sherman, Wasco, and Wheeler	-	1	1	-	-
Gilliam, Sherman, Wasco	1	-	-	-	-
Gilliam, Sherman, and Wheeler	-	-	-	1	1
Grant, Harney, Malheur	-	-	-	-	-
Grant, Harney, Morrow	1	-	-	-	-
Hood River and Wasco	-	-	-	-	-
Lane and Linn	-	-	-	-	-

Table I (Continued)

<u>Session Number</u>	<u>20</u>	<u>21</u>	<u>22</u>	<u>23</u>	<u>24</u>
<u>Year</u>	<u>1899</u>	<u>1901</u>	<u>1903</u>	<u>1905</u>	<u>1907</u>
<u>Apportionment Ratio</u>	<u>6,592</u>	<u>12,083</u>	<u>12,083</u>	<u>12,083</u>	<u>12,083</u>
<u>County Combinations</u>	<u>No. of Sen.</u>	<u>No. of Sen.</u>	<u>No. of Sen.</u>	<u>No. of Sen.</u>	<u>No. of Sen.</u>
Lincoln, Tillamook, Washington & Yamhill	-	-	-	-	-
Lincoln, Tillamook, and Yamhill	-	1	1	1	1
Linn and Marion	-	1	1	1	1
Morrow, Umatilla, and Union	-	1	1	1	1
Sherman and Wasco	1	1	1	-	-
Umatilla and Union	1	-	-	-	-
Union and Wallowa	1	-	1	1	1
Totals	30	30	30	30	30
Total State Population	413,856	413,536			

Table I (Continued)

<u>Session Number</u>	<u>25</u>	<u>26</u>	<u>27</u>	<u>28</u>
<u>Year</u>	<u>1909</u>	<u>1911</u>	<u>1913</u>	<u>1915</u>
<u>Apportionment Ratio</u>	<u>15,162</u>	<u>15,162</u>	<u>15,162</u>	<u>15,162</u>
<u>County</u>	<u>No. of Sen.</u>	<u>No. of Sen.</u>	<u>No. of Sen.</u>	<u>No. of Sen.</u>
Baker	1	1 10,076	1	1
Benton	-	- 10,603	-	-
Clackamas	1	1 29,931	1	1
Clatsop	1	1 16,106	1	1
Douglas	1	1 19,674	1	1
Jackson	1	1 25,756	1	1
Josephine	1	1 9,567	1	1
Lane	1	1 33,783	1	1
Linn	1	1 22,662	1	1
Marion	2	2 39,720	2	2
Multnomah	6	6 246,261	6	6
Polk	-	- 15,460	-	-
Umatilla	1	1 20,300	1	1
Union	-	- 16,191	-	-
Wasco	-	- 16,536	-	-
Washington	1	1 21,522	1	1
Yamhill	1	1 16,265	1	1
<u>County Combinations</u>				
Baker, Marney, and Malheur	-	-	-	-
Baker and Malheur	-	-	-	-
Benton and Lincoln	-	-	-	-

Table I (Continued)

<u>Session Number</u>	<u>25</u>	<u>26</u>	<u>27</u>	<u>28</u>
<u>Year</u>	<u>1909</u>	<u>1911</u>	<u>1913</u>	<u>1915</u>
<u>Apportionment Ratio</u>	<u>15,162</u>	<u>15,162</u>	<u>15,162</u>	<u>15,162</u>
<u>County Combinations</u>	<u>No. of Sen.</u>	<u>No. of Sen.</u>	<u>No. of Sen.</u>	<u>No. of Sen.</u>
Benton and Polk	1	1	1	1
Clackamas, Columbia, and Multnomah	1	1	1	1
Clackamas and Marion	-	-	-	-
Clackamas and Multnomah	-	-	-	-
Columbia, Multnomah, and Washington	-	-	-	-
Columbia, Tillamook, and Washington	-	-	-	-
Coos and Curry	1	1	1	1
Coos, Curry, and Josephine	-	-	-	-
Crook, Grant, Klamath, and Lake	-	-	-	-
Crook, Jefferson, Klamath, and Lake	-	-	-	1

Table I (Continued)

<u>Session Number</u>	<u>25</u>	<u>26</u>	<u>27</u>	<u>28</u>
<u>Year</u>	<u>1909</u>	<u>1911</u>	<u>1913</u>	<u>1915</u>
<u>Apportionment Ratio</u>	<u>15,162</u>	<u>15,162</u>	<u>15,162</u>	<u>15,162</u>
<u>County Combinations</u>	<u>No. of Sen.</u>	<u>No. of Sen.</u>	<u>No. of Sen.</u>	<u>No. of Sen.</u>
Crook, Klamath, and Lake	1	1	1	-
Crook, Klamath, Lake, Wasco	-	-	-	-
Crook, Morrow, and Umatilla	-	1	-	-
Douglas, Josephine, and Lane	-	-	-	-
Gilliam, Grant, Sherman, Wasco, and Wheeler	-	-	-	-
Gilliam, Sherman, and Wasco	-	-	-	-
Gilliam, Sherman, and Wheeler	1	1	1	1
Grant, Harney, and Malheur	1	1	1	1
Grant, Harney, and Morrow	-	-	-	-
Hood River and Wasco	1	1	1	1
Lane and Linn	1	1	1	1

Table I (Continued)

<u>Session Number</u>	25	26	27	28
<u>Year</u>	1909	1911	1913	1915
<u>Apportionment Ratio</u>	15,162	15,162	15,162	15,162
<u>County Combinations</u>	<u>No. of Sen.</u>	<u>No. of Sen.</u>	<u>No. of Sen.</u>	<u>No. of Sen.</u>
Lincoln, Tillamook, Washington, and Yamhill	1	1	1	1
Lincoln, Tillamook, and Yamhill	-	-	-	-
Linn and Marion	-	-	-	-
Morrow, Umatilla, and Union	1	-	1	1
Sherman and Wasco	-	-	-	-
Umatilla and Union	-	-	-	-
Union and Wallowa	1	1	1	1
Totals	30	30	30	30
Total State Population		672,765		

Table I (Continued)

Session Number	29	30	31	32	33
Year	1917	1919	1921	1923	1925
Apportionment Ratio	15,162	15,162	15,162	15,162	15,162
<u>County</u>	<u>No. of Sen.</u>	<u>No. of Sen.</u>	<u>No. of Sen.</u>	<u>No. of Sen.</u>	<u>No. of Sen.</u>
Baker	1	1	1 17,929	1	1
Clackamas	1	1	1 37,698	1	1
Clatsop	1	1	1 23,030	1	1
Douglas	1	1	1 21,332	1	1
Jackson	1	1	1 20,405	1	1
Josephine	1	1	1 7,655	1	1
Lane	1	1	1 36,166	1	1
Linn	1	1	1 24,550	1	1
Marion	2	2	2 47,187	2	2
Multnomah	6	6	6 275,898	6	6
Umatilla	1	1	1 25,946	1	1
Washington	1	1	1 26,376	1	1
Yamhill	1	1	1 20,529	1	1
<u>County Combinations</u>					
Benton and Polk	1	1	1	1	1
Clackamas, Columbia, and Multnomah	1	1	1	1	1
Coos and Curry	1	1	1	1	1
Crook, Deschutes, Jefferson Klamath, and Lake	-	1	1	1	1

Table I (Continued)

<u>Session Number</u>	<u>29</u>	<u>30</u>	<u>31</u>	<u>32</u>	<u>33</u>
<u>Year</u>	<u>1917</u>	<u>1919</u>	<u>1921</u>	<u>1923</u>	<u>1925</u>
<u>Apportionment Ratio</u>	<u>15,162</u>	<u>15,162</u>	<u>15,162</u>	<u>15,162</u>	<u>15,162</u>
<u>County Combinations</u>	<u>No. of Sen.</u>	<u>No. of Sen.</u>	<u>No. of Sen.</u>	<u>No. of Sen.</u>	<u>No. of Sen.</u>
Crook, Jefferson, Klamath and Lake	1	-	-	-	-
Gilliam, Sherman, Wheeler	1	1	1	1	1
Grant, Harney, and Malheur	1	1	1	1	1
Hood River and Wasco	1	1	1	1	1
Lane and Linn	1	1	1	1	1
Lincoln, Tillamook, Washington, and Yamhill	1	1	1	1	1
Morrow, Umatilla, and Union	1	1	1	1	1
Union and Wallowa	1	1	1	1	1
Totals	30	30	30	30	30
Total State Population			783,389		

Table I (Continued)

<u>Session Number</u>	<u>34</u>	<u>35</u>	<u>36</u>	<u>37</u>
<u>Year</u>	<u>1927</u>	<u>1929</u>	<u>1931</u>	<u>1933</u>
<u>Apportionment Ratio</u>	<u>15,162</u>	<u>15,162</u>	<u>15,162</u>	<u>15,162</u>
<u>County</u>	<u>No. of Sen.</u>	<u>No. of Sen.</u>	<u>No. of Sen.</u>	<u>No. of Sen.</u>
Baker	1	1	1	1
Clackamas	1	1	1	1
Clatsop	1	1	1	1
Douglas	1	1	1	1
Jackson	1	1	1	1
Josephine	1	1	1	1
Lane	1	1	1	1
Linn	1	1	1	1
Marion	2	2	2	2
Multnomah	6	6	6	6
Umatilla	1	1	1	1
Washington	1	1	1	1
Yamhill	1	1	1	1
<u>County Combinations</u>				
Benton and Polk	1	1	1	1
Clackamas, Columbia, and Multnomah	1	1	1	1
Coos and Curry	1	1	1	1
Crook, Deschutes, Jefferson, Klamath, and Lake	1	1	1	1

Table I (Continued)

<u>Session Number</u>	<u>34</u>	<u>35</u>	<u>36</u>	<u>37</u>
<u>Year</u>	<u>1927</u>	<u>1929</u>	<u>1931</u>	<u>1933</u>
<u>Apportionment Ratio</u>	<u>15,162</u>	<u>15,162</u>	<u>15,162</u>	<u>15,162</u>
<u>County Combinations</u>	<u>No. of Sen.</u>	<u>No. of Sen.</u>	<u>No. of Sen.</u>	<u>No. of Sen.</u>
Crook, Jefferson, Klamath and Lake	-	-	-	-
Gilliam, Sherman, and Wheeler	1	1	1	1
Grant, Harney, and Malheur	1	1	1	1
Hood River and Wasco	1	1	1	1
Lane and Linn	1	1	1	1
Lincoln, Tillamook, Washington, and Yamhill	1	1	1	1
Morrow, Umatilla, and Union	1	1	1	1
Union and Wallowa	1	1	1	1
Totals	30	30	30	30

Table I (Continued)

<u>Session Number</u>	<u>38</u>	<u>39</u>	<u>40</u>	<u>41</u>	
<u>Year</u>	<u>1935</u>	<u>1937</u>	<u>1939</u>	<u>1941</u>	
<u>Apportionment Ratio</u>	<u>15,162</u>	<u>15,162</u>	<u>15,162</u>	<u>15,162</u>	
<u>County</u>	<u>No. of Sen.</u>	<u>No. of Sen.</u>	<u>No. of Sen.</u>	<u>No. of Sen.</u>	
Baker	1	1	1	1	18,297
Clackamas	1	1	1	1	57,130
Clatsop	1	1	1	1	24,697
Douglas	1	1	1	1	25,728
Jackson	1	1	1	1	36,213
Josephine	1	1	1	1	16,301
Lane	1	1	1	1	69,096
Linn	1	1	1	1	30,485
Marion	2	2	2	2	75,246
Multnomah	6	6	6	6	355,099
Umatilla	1	1	1	1	26,030
Washington	1	1	1	1	39,194
Yamhill	1	1	1	1	26,336
<u>County Combinations</u>					
Benton and Polk	1	1	1	1	
Clackamas, Columbia, and Multnomah	1	1	1	1	
Coos and Curry	1	1	1	1	
Crook, Deschutes, Jefferson Klamath, and Lake	1	1	1	1	

Table I (Continued)

<u>Session Number</u>	38	39	40	41
<u>Year</u>	1935	1937	1939	1941
<u>Apportionment Ratio</u>	15,162	15,162	15,162	15,162
<u>County Combinations</u>	<u>No. of Sen.</u>	<u>No. of Sen.</u>	<u>No. of Sen.</u>	<u>No. of Sen.</u>
Gilliam, Sherman, and Wheeler	1	1	1	1
Grant, Harney, and Malheur	1	1	1	1
Hood River and Wasco	1	1	1	1
Lane and Linn	1	1	1	1
Lincoln and Tillamook	-	1	1	1
Lincoln, Tillamook, Washington, and Yamhill	1	-	-	-
Morrow, Umatilla, and Union	1	1	1	1
Union, Wallowa	1	1	1	1
Totals	30	30	30	30
Total State Population				1,089,684

Table 1 (Continued)

Session Number	42	43	44
Year	1943	1945	1947
Apportionment Ratio	15,162	15,162	15,162
<u>County</u>	No. of <u>Sen.</u>	No. of <u>Sen.</u>	No. of <u>Sen.</u>
Baker	1	1	1
Clackamas	1	1	1
Clatsop	1	1	1
Douglas	1	1	1
Jackson	1	1	1
Josephine	1	1	1
Lane	1	1	1
Linn	1	1	1
Marion	2	2	2
Multnomah	6	6	6
Umatilla	1	1	1
Washington	1	1	1
Yamhill	1	1	1
<u>County Combinations</u>			
Benton and Polk	1	1	1
Clackamas, Columbia, and Multnomah	1	1	1
Coos and Curry	1	1	1
Creek, Deschutes, Jefferson, Klamath, and Lake	1	1	1

Table I (Continued)

<u>Session Number</u>	42	43	44
<u>Year</u>	1943	1945	1947
<u>Apportionment Ratio</u>	15,162	15,162	15,162
<u>County Combinations</u>	<u>No. of Sen.</u>	<u>No. of Sen.</u>	<u>No. of Sen.</u>
Gilliam, Sherman, and Wheeler	1	1	1
Grant, Harney, and Malheur	1	1	1
Hood River, Wasco	1	1	1
Lane and Linn	1	1	1
Lincoln and Tillamook	1	1	1
Lincoln, Tillamook, Washington, and Yamhill	-	-	-
Morrow, Umatilla, and Union	1	1	1
Union, Wallowa	1	1	1
Totals	30	30	30

APPENDIX A

Table II

Representatives - Oregon Legislative Assembly

Session Number	1?	1	2	3
Year	1858	1860	1862	1864
Apportionment Ratio	Territorial	Constitution	Constitution	1,510
County	No. of Rep.	No. of Rep.	County population	No. of Rep.
Baker	-	-	-	2
Benton	2	2	3,074	2
Clackamas	3	3	3,466	3
Clatsop	-	-	498	-
Columbia	-	-	532	-
Douglas	2	2	4,453	3
Grant	-	-	-	-
Jackson	3	3	3,736	3
Josephine	1	1	1,623	1
Lane	3	3	4,780	3
Linn	4	4	6,772	4
Marion	4	4	7,088	4
Multnomah	2	2	4,150	3
Polk	2	2	3,625	2
Umatilla	-	-	-	2
Umpqua	1	1	-	-
Union	-	-	-	-
Wasco	1	1	1,689	-
Washington	1	2	2,801	2
Yamhill	1	2	3,245	2

Table II (Continued)

<u>Session Number</u>	<u>1?</u>	<u>1</u>	<u>2</u>	<u>3</u>
<u>Year</u>	<u>1858</u>	<u>1860</u>	<u>1862</u>	<u>1864</u>
<u>Apportionment Ratio</u>	<u>Territorial</u>	<u>Constitution</u>	<u>Constitution</u>	<u>1,510</u>
<u>County Combinations</u>	<u>No. of Rep.</u>	<u>No. of Rep. of popu- lation</u>	<u>No. of Rep.</u>	<u>No. of Rep.</u>
Baker and Union	-	-	-	-
Clatsop, Columbia, and Tillamook	-	-	-	1
Clatsop and Tillamook	1	1	1	-
Columbia and Washington	1	-	1	-
Coos and Curry	1	1	1	1
Totals	33	34	34	38
Total State Population		52,465		

Table II (Continued)

<u>Session Number</u>	4	5	6	7	
<u>Year</u>	1866	1868	1870	1872	
<u>Apportionment Ratio</u>	1,510	1,510	1,510	1,510	
<u>County</u>	<u>No. of Rep.</u>	<u>No. of Rep.</u>	<u>No. of Rep.</u>	<u>County population</u>	<u>No. of Rep.</u>
Baker	1	1	1	2,804	1
Benton	2	1	2	4,584	2
Clackamas	3	2	3	5,993	3
Clatsop	-	-	1	1,255	1
Columbia	-	-	-	863	1
Douglas	3	3	3	6,066	3
Grant	2	2	2	2,251	2
Jackson	3	3	3	4,778	3
Josephine	1	1	1	1,204	1
Lane	3	3	3	6,426	3
Linn	5	5	5	8,717	5
Marion	5	5	5	9,965	5
Multnomah	4	3	4	11,510	4
Polk	3	3	3	4,701	3
Umatilla	2	1	2	2,916	2
Umpqua	-	-	-	-	-
Union	1	1	1	2,552	1
Wasco	2	2	2	2,509	2
Washington	2	2	2	4,261	2
Yamhill	2	2	2	5,012	2

Table II (Continued)

Session Number	4	5
Year	1868	1868
Apportionment Ratio	1,510	1,510
<u>County</u>	No. of <u>Rep.</u>	No. of <u>Rep.</u>
Baker and Union	1	1
Clatsop, Columbia, and Tillamook	1	1
Clatsop and Tillamook	-	-
Columbia, Washington	-	-
Coos and Curry	1	1
Totals	47	43
Total State Population		

6		7	
1870		1872	
1,510		1,510	
No. of Rep.	County popu- lation	No. of Rep.	
1		1	
-		1	
-		-	
-		-	
1		1	
47		49	
	90,923		

Table II (Continued)

Session Number	8	9	10	11	12	13	14	
Year	1874	1876	1878	1880	1882	1885	1887	
Apportionment Ratio	1,515	1,515	1,515	1,515	1,515	1,515	1,515	
<u>County</u>	No. of <u>Rep.</u>	No. of <u>Rep.</u>	No. of <u>Rep.</u>	No. of <u>Rep.</u>	County popu- lation	No. of <u>Rep.</u>	No. of <u>Rep.</u>	No. of <u>Rep.</u>
Baker	2	2	2	2	4,616	2	2	2
Benton	3	3	3	3	6,403	3	3	3
Clackamas	4	4	4	4	9,260	4	4	4
Columbia	1	1	1	1	2,042	1	1	1
Coos	1	1	1	1	4,834	1	1	1
Douglas	4	4	4	4	9,596	4	4	4
Grant	1	1	1	1	4,303	1	1	1
Jackson	3	2	2	2	8,154	2	2	2
Josephine	1	1	1	1	2,485	1	1	1
Lake	-	1	1	1	2,804	1	-	-
Lane	4	4	4	4	9,411	4	4	4
Linn	6	6	6	6	12,676	6	6	6
Marion	6	6	6	6	14,576	6	6	6
Morrow	-	-	-	-	-	-	-	1
Multnomah	6	7	7	7	25,203	7	7	7
Polk	3	3	3	3	6,601	3	3	3
Tillamook	-	-	1	-	970	-	-	-
Umatilla	3	2	2	2	9,607	2	2	1
Union	2	2	2	2	6,650	2	2	2
Wasco	2	2	2	2	11,120	1	-	-
Washington	-	3	3	3	7,082	3	3	3
Yamhill	3	3	3	3	7,945	3	3	3

Table II (Continued)

<u>Session Number</u>	<u>8</u>	<u>9</u>	<u>10</u>	<u>11</u>	<u>12</u>	<u>13</u>	<u>14</u>	
<u>Year</u>	1874	1876	1878	1880	1882	1885	1887	
<u>Apportionment Ratio</u>	1,515	1,515	1,515	1,515	1,515	1,515	1,515	
<u>County Combinations</u>	<u>No. of Rep.</u>	<u>No. of Rep.</u>	<u>No. of Rep.</u>	<u>No. of Rep.</u>	<u>County popu- lation</u>	<u>No. of Rep.</u>	<u>No. of Rep.</u>	<u>No. of Rep.</u>
Clackamas, Columbia and Tillamook	-	-	-	-	-	-	-	1
Clatsop and Tillamook	1	1	-	1	1	1	1	-
Coos and Curry	1	1	1	1	1	1	1	1
Crook, Gilliam, and Wasco	-	-	-	-	-	-	-	2
Crook and Wasco	-	-	-	-	-	-	2	-
Klamath, Lake	-	-	-	-	-	-	1	1
Totals	57	60	60	60		59	60	60
Total State Population					174,768			

Table II (Continued)

<u>Session Number</u>	<u>15</u>	<u>16</u>	<u>17</u>	<u>18</u>	<u>19</u>
<u>Year</u>	<u>1889</u>	<u>1891</u>	<u>1893</u>	<u>1895</u>	<u>1897</u>
<u>Apportionment Ratio</u>	<u>3,296</u>	<u>3,296</u>	<u>3,296</u>	<u>3,296</u>	<u>3,296</u>
<u>County</u>	<u>No. of Rep.</u>	<u>No. of Rep.</u>	<u>County population</u>	<u>No. of Rep.</u>	<u>No. of Rep.</u>
Baker	1	1	6,764	1	1
Benton	2	2	8,650	2	1
Clackamas	3	3	15,233	3	3
Clatsop	2	2	10,016	2	2
Columbia	1	1	5,191	1	1
Coos	1	1	8,874	1	1
Crook	1	1	3,244	1	1
Douglas	3	3	11,864	3	3
Gilliam	1	1	3,600	1	1
Grant	1	1	5,080	-	-
Jackson	3	3	11,455	3	3
Josephine	1	1	4,878	1	1
Lane	3	3	15,198	3	3
Linn	3	3	16,265	3	3
Malheur	1	1	2,601	1	1
Marion	5	5	22,934	5	5
Morrow	1	1	4,205	1	1
Multnomah	9	9	74,884	9	9
Polk	2	2	7,858	2	2
Umatilla	3	3	13,381	3	3
Union	2	2	12,044	2	2
Wallowa	1	1	3,661	1	1
Wasco	2	-	9,183	-	-
Washington	3	3	11,972	3	3
Yamhill	2	2	10,692	2	2

Table II (Continued)

<u>Session Number</u>	<u>15</u>	<u>16</u>	<u>17</u>	<u>18</u>	<u>19</u>
<u>Year</u>	<u>1889</u>	<u>1891</u>	<u>1893</u>	<u>1895</u>	<u>1897</u>
<u>Apportionment Ratio</u>	<u>3,296</u>	<u>3,296</u>	<u>3,296</u>	<u>3,296</u>	<u>3,296</u>
<u>County Combinations</u>	<u>No. of Rep.</u>	<u>No. of Rep.</u>	<u>County population</u>	<u>No. of Rep.</u>	<u>No. of Rep.</u>
Benton and Lincoln	-	-		1	1
Coos and Curry	1	1		1	1
Grant and Harney	-	-		1	1
Klamath and Lake	1	1		1	1
Sherman and Wasco	-	2		2	2
Tillamook and Yamhill	1	1		1	1
Totals	60	60		60	60
Total State Population			317,704		

Table II (Continued)

<u>Session Number</u>	<u>20</u>	<u>21</u>	<u>22</u>	<u>23</u>	<u>24</u>
<u>Year</u>	<u>1899</u>	<u>1901</u>	<u>1903</u>	<u>1905</u>	<u>1907</u>
<u>Apportionment Ratio</u>	<u>3,296</u>	<u>6,041</u>	<u>6,041</u>	<u>6,041</u>	<u>6,041</u>
<u>County</u>	<u>No. of Rep.</u>	<u>No. of Rep.</u>	<u>County population</u>	<u>No. of Rep.</u>	<u>No. of Rep.</u>
Baker	1	1	15,597	1	1
Benton	1	1	6,706	1	1
Clackamas	3	3	19,658	3	3
Clatsop	2	2	12,765	2	2
Columbia	1	1	6,237	1	1
Coos	1	1	10,324	1	1
Crook	1	-	3,964	-	-
Douglas	3	2	14,565	2	2
Gilliam	1	-	3,201	-	-
Jackson	3	2	13,698	2	2
Josephine	1	1	7,517	1	1
Lane	3	3	19,604	3	3
Linn	3	3	18,603	3	3
Malheur	1	-	4,203	-	-
Marion	5	5	27,713	5	5
Morrow	1	-	4,151	-	-
Multnomah	9	12	103,167	12	12
Polk	2	1	9,923	1	1
Umatilla	3	2	18,049	2	2
Union	2	1	16,070	1	1
Wallowa	1	-	5,538	-	-
Wasco	-	-	13,199	-	2
Washington	3	3	14,467	3	3
Yamhill	2	2	13,420	2	2

Table II (Continued)

Session Number	20	21	22	23	24
Year	1899	1901	1903	1905	1907
Apportionment Number	3,296	6,041	6,041	6,041	6,041
<u>County Combinations</u>	No. of Rep.	No. of Rep.	County population	No. of Rep.	No. of Rep.
Benton and Lincoln	1	-	-	-	-
Clackamas and Multnomah	-	1	1	1	1
Coos and Curry	1	1	1	1	1
Crook, Grant, Jefferson, Klamath, and Lake	-	-	-	-	-
Crook, Grant, Klamath, and Lake	-	-	-	2	2
Crook, Klamath, Lake, and Wasco	-	3	3	-	-
Douglas and Jackson	-	1	1	1	1
Gilliam, Grant, Sherman, Wasco, and Wheeler	-	3	3	-	-
Gilliam, Sherman, and Wheeler	-	-	-	2	2
Grant and Harney	1	-	-	-	-
Harney and Malheur	-	1	1	1	1
Hood River and Wasco	-	-	-	-	-
Klamath and Lake	1	-	-	-	-
Lincoln and Polk	-	1	1	1	1
Morrow and Umatilla	-	1	1	1	1
Sherman and Wasco	2	-	-	-	-
Tillamook and Yamhill	1	1	1	1	1
Union and Wallowa	-	1	1	1	1
Totals	60	60		60	60
Total State Population			413,536		

Table II (Continued)

<u>Session Number</u>	<u>25</u>	<u>26</u>	<u>27</u>	<u>28</u>
<u>Year</u>	<u>1909</u>	<u>1911</u>	<u>1913</u>	<u>1915</u>
<u>Apportionment Ratio</u>	<u>6,041</u>	<u>6,041</u>	<u>6,041</u>	<u>6,041</u>
<u>County</u>	<u>No. of Rep.</u>	<u>No. of Rep.</u>	<u>County population</u>	<u>No. of Rep.</u>
Baker	1	1	18,076	1
Benton	1	1	10,663	1
Clackamas	3	3	29,931	3
Clatsop	2	2	16,106	2
Columbia	1	1	10,580	1
Coos	1	1	17,959	1
Crook	-	-	9,315	-
Douglas	2	2	19,674	2
Gilliam	-	-	3,701	-
Jackson	2	2	25,756	2
Josephine	1	1	9,567	1
Lane	3	3	33,783	3
Linn	3	3	22,662	3
Malheur	-	-	8,601	-
Marion	5	5	39,780	5
Morrow	-	-	4,357	-
Multnomah	12	12	226,261	12
Polk	1	1	13,469	1
Umatilla	2	2	20,309	2
Union	1	1	16,191	1
Wallowa	-	-	8,364	-
Wasco	-	-	16,336	-
Washington	3	3	21,522	3
Yamhill	2	2	18,285	2

Table II (Continued)

<u>Session Number</u>	<u>25</u>	<u>26</u>	<u>27</u>	<u>28</u>
<u>Year</u>	<u>1909</u>	<u>1911</u>	<u>1913</u>	<u>1915</u>
<u>Apportionment Ratio</u>	<u>6,041</u>	<u>6,041</u>	<u>6,041</u>	<u>6,041</u>
<u>County Combinations</u>	<u>No. of Rep.</u>	<u>No. of Rep.</u>	<u>County population</u>	<u>No. of Rep.</u>
Benton and Lincoln	-	-	-	-
Clackamas and Multnomah	1	1	1	1
Coos and Curry	1	1	1	1
Crook, Grant, Jefferson, Klamath, and Lake	-	-	-	2
Crook, Grant, Klamath and Lake	2	2	2	-
Crook, Klamath, Lake and Wasco	-	-	-	-
Douglas and Jackson	1	1	1	1
Gilliam, Grant, Sherman, Wasco, and Wheeler	-	-	-	-
Gilliam, Sherman, and Wheeler	2	2	2	2
Grant and Harney	-	-	-	-
Harney and Malheur	1	1	1	1
Hood River and Wasco	2	2	2	2
Klamath and Lake	-	-	-	-
Lincoln and Polk	1	1	1	1
Morrow and Umatilla	1	1	1	1
Sherman and Wasco	-	-	-	-
Tillamook and Yamhill	1	1	1	1
Union and Wallowa	1	1	1	1
Totals	60	60	60	60
Total State Population		672,765		

Table II (Continued)

<u>Session Number</u>	<u>29</u>	<u>30</u>	<u>31</u>	<u>32</u>	<u>33</u>	
<u>Year</u>	<u>1917</u>	<u>1919</u>	<u>1921</u>	<u>1923</u>	<u>1925</u>	
<u>Apportionment Ratio</u>	<u>6,041</u>	<u>6,041</u>	<u>6,041</u>	<u>6,041</u>	<u>6,041</u>	
<u>County</u>	<u>No. of Rep.</u>	<u>No. of Rep.</u>	<u>No. of Rep.</u>	<u>County popu- lation</u>	<u>No. of Rep.</u>	<u>No. of Rep.</u>
Baker	1	1	1	17,929	1	1
Benton	1	1	1	13,744	1	1
Clackamas	3	3	3	37,698	3	3
Clatsop	2	2	2	23,030	2	2
Columbia	1	1	1	13,960	1	1
Coos	1	1	1	22,257	1	1
Deschutes	-	-	-	9,622	-	-
Douglas	2	2	2	21,332	2	2
Hood River	-	-	-	8,315	1	1
Jackson	2	2	2	20,405	2	2
Josephine	1	1	1	7,655	1	1
Klamath	-	-	-	11,413	-	-
Lane	3	3	3	36,166	3	3
Lincoln	-	-	-	6,084	-	-
Linn	3	3	3	24,550	2	2
Malheur	-	-	-	10,907	1	1
Marion	5	5	5	47,187	4	4
Multnomah	12	12	12	275,898	13	13
Polk	1	1	1	14,181	1	1
Tillamook	-	-	-	8,810	1	1
Umatilla	2	2	2	25,946	2	2
Union	1	1	1	16,636	1	1
Wallowa	-	-	-	9,778	-	-
Wasco	-	-	-	13,648	1	1
Washington	-	-	-	26,376	-	-
Yamhill	2	2	2	20,529	2	2

Table II (Continued)

Session Number	29	30	31	32	33
Year	1917	1919	1921	1923	1925
Apportionment Ratio	6,041	6,041	6,041	6,041	6,041
<u>County Combinations</u>	No. of Rep.	No. of Rep.	No. of Rep. <u>County population</u>	No. of Rep.	No. of Rep.
Clackamas and Multnomah	1	1	1	1	1
Clatsop and Columbia	-	-	-	-	-
Coos and Curry	1	1	1	1	1
Crook, Deschutes, Grant, Jefferson, Klamath, Lake	-	2	2	-	-
Crook, Deschutes, Jefferson, Klamath, and Lake	-	-	-	3	3
Crook, Grant, Jefferson, Klamath, and Lake	2	-	-	-	-
Crook and Jefferson	-	-	-	-	-
Deschutes and Lake	-	-	-	-	-
Douglas and Jackson	1	1	1	-	-
Gilliam, Morrow, Sherman, and Wheeler	-	-	-	-	-
Gilliam, Sherman, and Wheeler	2	2	2	2	2
Grant and Harney	-	-	-	1	1
Harney and Malheur	1	1	1	-	-
Hood River and Wasco	2	2	2	-	-
Lincoln and Polk	1	1	1	1	1
Morrow and Umatilla	1	1	1	1	1
Tillamook and Yamhill	1	1	1	-	-
Union and Wallowa	1	1	1	1	1
Totals	60	60	60	60	60
Total State Population			783,389		

Table II (Continued)

<u>Session Number</u>	<u>34</u>	<u>35</u>	<u>36</u>	<u>37</u>
<u>Year</u>	<u>1927</u>	<u>1929</u>	<u>1931</u>	<u>1933</u>
<u>Apportionment Ratio</u>	<u>6,041</u>	<u>6,041</u>	<u>6,041</u>	<u>6,041</u>
<u>County</u>	<u>No. of Rep.</u>	<u>No. of Rep.</u>	<u>No. of Rep. County population</u>	<u>No. of Rep.</u>
Baker	1	1	16,754	1
Benton	1	1	16,555	1
Clackamas	3	3	46,205	3
Clatsop	2	2	21,124	1
Columbia	1	1	20,047	1
Coos	1	1	28,373	1
Deschutes	-	-	14,749	1
Douglas	2	2	21,965	2
Hood River	1	1	8,938	1
Jackson	2	2	32,918	2
Josephine	1	1	11,498	1
Klamath	-	-	32,407	2
Lane	3	3	54,493	3
Lincoln	-	-	9,903	1
Linn	2	2	24,700	2
Malheur	1	1	11,269	1
Marion	4	4	60,541	4
Multnomah	13	13	338,241	13
Polk	1	1	16,858	1
Tillamook	1	1	11,824	1
Umatilla	2	2	24,399	2
Union	1	1	17,492	1
Wallowa	-	-	7,814	1
Wasco	1	1	12,646	1
Washington	3	3	30,275	2
Yamhill	2	2	22,036	2

Table II (Continued)

<u>Session Number</u>	<u>34</u>	<u>35</u>	<u>36</u>	<u>37</u>
<u>Year</u>	<u>1927</u>	<u>1929</u>	<u>1931</u>	<u>1933</u>
<u>Apportionment Ratio</u>	<u>6,041</u>	<u>6,041</u>	<u>6,041</u>	<u>6,041</u>
<u>County Combinations</u>	<u>No. of Rep.</u>	<u>No. of Rep.</u>	<u>No. of Rep. County population</u>	<u>No. of Rep.</u>
Clackamas and Multnomah	1	1	1	1
Clatsop and Columbia	-	-	-	1
Coos and Curry	1	1	1	1
Crook, Deschutes, Grant, Jefferson, Klamath, Lake	-	-	-	-
Crook, Deschutes, Jefferson, Klamath, and Lake	3	3	3	-
Crook, Grant, Jefferson, Klamath, and Lake	-	-	-	-
Crook and Jefferson	-	-	-	1
Deschutes and Lake	-	-	-	1
Douglas and Jackson	-	-	-	-
Gilliam, Morrow, Sherman, and Wheeler	-	-	-	2
Gilliam, Sherman, Wheeler	2	2	2	1
Grant and Harney	1	1	1	1
Harney and Malheur	-	-	-	-
Hood River and Wasco	-	-	-	-
Lincoln and Polk	1	1	1	-
Morrow and Umatilla	1	1	1	-
Tillamook and Yamhill	-	-	-	-
Union and Wallowa	1	1	1	-
Totals	60	60	60	60
Total State Population			953,786	

Table II (Continued)

Session Number	38	39	40	41	42	43	44	
Year	1935	1937	1939	1941	1943	1945	1947	
Apportionment Ratio	6,041	6,041	6,041	6,041	6,041	6,041	6,041	
<u>County</u>	<u>No. of Rep.</u>	<u>No. of Rep.</u>	<u>No. of Rep.</u>	<u>No. of Rep.</u>	<u>County popu- lation</u>	<u>No. of Rep.</u>	<u>No. of Rep.</u>	<u>No. of Rep.</u>
Baker	1	1	1	1	18,297	1	1	1
Benton	1	1	1	1	18,629	1	1	1
Clackamas	3	3	3	3	57,130	3	3	3
Clatsop	1	1	1	1	24,697	1	1	1
Columbia	1	1	1	1	20,971	1	1	1
Coos	1	1	1	1	32,466	1	1	1
Deschutes	1	1	1	1	18,631	1	1	1
Douglas	2	2	2	2	25,728	2	2	2
Hood River	1	1	1	1	11,580	1	1	1
Jackson	2	2	2	2	36,213	2	2	2
Josephine	1	1	1	1	16,301	1	1	1
Klamath	2	2	2	2	40,497	2	2	2
Lane	3	3	3	3	69,096	3	3	3
Lincoln	1	1	1	1	14,549	1	1	1
Linn	2	2	2	2	30,485	2	2	2
Malheur	1	1	1	1	19,767	1	1	1
Marion	4	4	4	4	75,246	4	4	4
Multnomah	13	13	13	13	355,099	13	13	13
Polk	1	1	1	1	19,989	1	1	1
Tillamook	1	1	1	1	12,263	1	1	1
Umatilla	2	2	2	2	26,030	2	2	2
Union	1	1	1	1	17,399	1	1	1
Wallowa	1	1	1	1	7,623	1	1	1
Wasco	1	1	1	1	13,069	1	1	1
Washington	2	2	2	2	39,194	2	2	2
Yamhill	2	2	2	2	26,336	2	2	2

Table II (Continued)

<u>Session Number</u>	38	39	40	41	42	43	44	
<u>Year</u>	1935	1937	1939	1941	1943	1945	1947	
<u>Apportionment Ratio</u>	6,041	6,041	6,041	6,041	6,041	6,041	6,041	
<u>County Combinations</u>	<u>No.</u> <u>of</u> <u>Rep.</u>	<u>No.</u> <u>of</u> <u>Rep.</u>	<u>No.</u> <u>of</u> <u>Rep.</u>	<u>No.</u> <u>of</u> <u>Rep.</u>	<u>County</u> <u>popu-</u> <u>lation</u>	<u>No.</u> <u>of</u> <u>Rep.</u>	<u>No.</u> <u>of</u> <u>Rep.</u>	<u>No.</u> <u>of</u> <u>Rep.</u>
Clackamas and Multnomah	1	1	1	1		1	1	1
Clatsop and Columbia	1	1	1	1		1	1	1
Coos and Curry	1	1	1	1		1	1	1
Crook and Jefferson	1	1	1	1		1	1	1
Deschutes and Lake	1	1	1	1		1	1	1
Gilliam, Morrow, Sherman and Wheeler	2	2	2	2		2	2	2
Grant and Harney	1	1	1	1		1	1	1
Totals	60	60	60	60		60	60	60
Total State Population					1,089,684			

APPENDIX B

**CONSTITUTIONAL PROVISIONS FOR
APPORTIONMENT OF
STATE LEGISLATURES**

Appendix B

Constitutional Provisions for Apportionment of
State Legislatures*
As of January 1, 1945

<u>State</u>	<u>Citation: Art. & Sec. of Const.</u>	<u>Basis of Apportionment</u>		<u>Apportioning Agency</u>
		<u>Senate</u>	<u>House or Assembly</u>	
Alabama	IV, 50; IX, 198-203	Population, ex- cept no county more than one member.	Population, but each county at least one member.	Legislature.
Arizona	IV, 2, 1 (1)	Prescribed by constitution.	Votes cast for governor at last preceding general elec- tion, but not less than if computed on basis of elec- tion of 1930.	No provision for Senate, redistricting for House by County Boards of Supervisors.
Arkansas	VIII, 1-5	Population.	Each county at least one mem- ber; remain- ing members distributed among more populous coun- ties according to population.	Board of Appor- tionment (Gov- ernor, Secre- tary of State, and Attorney General). Sub- ject to re- vision by state Supreme Court.

Appendix B (Continued)

<u>State</u>	<u>Citation: Art. & Sec. of Const.</u>	<u>Basis of Apportionment</u>		<u>Apportioning Agency</u>
		<u>Senate</u>	<u>House or Assembly</u>	
California	IV, 6	Population, exclusive of persons ineligible to naturalization. No county, or city and county, to have more than one member; no more than three counties in any district.	Population, exclusive of persons ineligible to naturalization.	Legislature or, if it fails, a Reapportionment Commission (Lieutenant-Governor, Attorney General, Secretary of State, and Superintendent of Public Instruction). In either case, subject to a referendum.
Colorado	V, 45-49	Population.	Population.	Legislature.
Connecticut	III, 3, 4; Amdts. II, XV, XVIII, XXXI	Population, but each county at least one member.	Prescribed by constitution: two members from each town having over 5,000 population; others, same number as in 1874.	General Assembly for Senate, no provision for House.

Appendix B (Continued)

<u>State</u>	<u>Citation: Art. & Sec. of Const.</u>	<u>Basis of Apportionment</u>		<u>Apportioning Agency</u>
		<u>Senate</u>	<u>House or Assembly</u>	
Delaware	II, 2	Districts specifically established by constitution.	Districts specifically established by constitution.	No provision.
Florida	VII, 3, 4	Population, but no county more than one member.	Population, i. e., 3 to each of 5 largest counties, 2 to each of next 18, 1 each to others.	Legislature.
Georgia	III, 2; (Par. 1i, iii), 3 (Par. 1)	Population.	Population, i. e., 3 to each of 8 largest counties, 2 to each of next 30, 1 each to others.	Legislature "may" change senatorial districts. No provision for House.
Idaho	III, 2, 4, 5; XIX, 1, 2	One member from each county.	Total House not to exceed 3 times Senate. Each county entitled to at least one representative, apportioned as provided by law.	Legislature.

Appendix B (Continued)

<u>State</u>	<u>Citation: Art. & Sec. of Const.</u>	<u>Basis of Apportionment</u>		<u>Apportioning Agency</u>
		<u>Senate</u>	<u>House or Assembly</u>	
Illinois	IV, 6, 7, 8	Population.	Population.	Legislature.
Indiana	IV, 4, 5, 6	Male inhab- itants over 21 years of age.	Male inhab- itants over 21 years of age.	Legislature.
Iowa	III, 34, 35	Population, but no county more than one mem- ber.	One to each county, and one addi- tional to each of the nine most populous counties.	Legislature.
Kansas	II, 2; X, 1-3	Population.	Population, but each county at least one.	Legislature.
Kentucky	Art. 33	Population.	Population, but no more than two counties to be joined in a district.	Legislature.

Appendix B (Continued)

<u>State</u>	<u>Citation: Art. & Sec. of Const.</u>	<u>Basis of Apportionment</u>		<u>Apportioning Agency</u>
		<u>Senate</u>	<u>House or Assembly</u>	
Louisiana	III, 2, 5, 6	Population.	Population, but each parish and each ward of New Orleans at least one member.	Legislature.
Maine	IV, Pt. I, 2, 3; IV, Pt. II, 1, 2	Population, exclusive of aliens and Indians not taxed. No county less than one nor more than five.	Population, exclusive of aliens and Indians not taxed. No town more than seven members, unless a consolidated town.	Automatic, population classification set up in constitution.
Maryland	III, 2, 5	One from each county and from each of six districts constituting Baltimore city.	Population, but minimum of two and maximum of six per county. Each of Baltimore districts as many members as largest county.	Governor for House; no provision for Senate.

Appendix B (Continued)

<u>State</u>	<u>Citation: Art. & Sec. of Const.</u>	<u>Basis of Apportionment</u>		<u>Apportioning Agency</u>
		<u>Senate</u>	<u>House or Assembly</u>	
Massachusetts	Pt. II, Ch. I, Sec. II, Art. I, Sec. III, Art. 1; Amdt. LXXI	Legal voters.	Legal voters.	Legislature.
Michigan	V, 2-4	Population.	Population.	Legislature.
Minnesota	IV, 2, 23, 24, Sched. 10, 12	Population, ex- clusive of nontaxable Indians.	Population, ex- clusive of nontaxable Indians.	Legislature "shall have power."
Mississippi	XIII, 254, 256	Prescribed by constitution.	Prescribed by constitution, each county at least one. Counties grouped into three divi- sions, each division to have at least 44 members.	Legislature "may."

Appendix B (Continued)

<u>State</u>	<u>Citation: Art. & Sec. of Const.</u>	<u>Basis of Apportionment</u>		<u>Apportioning Agency</u>
		<u>Senate</u>	<u>House or Assembly</u>	
Missouri	III, 2-11	Population.	Population, but each county at least one mem- ber.	House, by county courts. Senate, by commission appointed by governor.
Montana	V, 4; VI, 3-6	One member from each county.	Population.	Legislature.
Nebraska ¹⁸⁹²	III, 5	Population, ex- cluding aliens.	Population, ex- cluding aliens.	Legislature "may."
Nevada	I, 13; XVII, 6	Population.	Population.	Legislature.
New Hampshire	Pt. II, 9, 11, 26	Direct taxes paid.	Population.	Legislature.
New Jersey	IV, 11, 1; IV, 111, 1	One member from each county.	Population, but at least one member from each county.	Legislature.
New Mexico	IV, (42)	Population.	Population.	Legislature.

Appendix B (Continued)

<u>State</u>	<u>Citation: Art. & Sec. of Const.</u>	<u>Basis of Apportionment</u>		<u>Apportioning Agency</u>
		<u>Senate</u>	<u>House or Assembly</u>	
New York	III, 3-5	Population, excluding aliens. No county more than 1/3 membership, nor more than 1/2 membership to two adjoining counties.	Population, excluding aliens. Each county (except Hamilton) at least one member.	Legislature. Subject to review by courts.
North Carolina	II, 4-6	Population, excluding aliens and Indians not taxed.	Population, excluding aliens and Indians not taxed, but each county at least one member.	Legislature.
North Dakota	II, 29, 35; XVIII, 214	Population.	Population.	Legislature.
Ohio	XI, 1-11	Population.	Population, but each county at least one member.	Governor, Auditor, and Secretary of State, or any two of them.
Oklahoma	V, 9-16 (b)	Population.	Population, but no county to have more than seven members.	Legislature.

Appendix B (Continued)

<u>State</u>	<u>Citation: Art. & Sec. of Const.</u>	<u>Basis of Apportionment</u>		<u>Apportioning Agency</u>
		<u>Senate</u>	<u>House or Assembly</u>	
Oregon	IV, 6, 7	White population.	White population.	Legislature.
Pennsylvania	II, 16-18	Population, but no city or county to have more than 1/6 of membership.	Population, but each county at least one mem- ber.	Legislature.
Rhode Island	V, 1; VI, 1	Qualified voters, but minimum of 1 and maximum of 6 per city or town.	Population, but at least one member from each town or city, and no town or city more than $\frac{1}{4}$ of total, i.e., 25.	Legislature "may."
South Carolina	I, 2; III, 3-6	One member from each county.	Population, but at least one member from each county.	Legislature.

Appendix B (Continued)

<u>State</u>	<u>Citation: Art. & Sec. of Const.</u>	<u>Basis of Apportionment</u>		<u>Apportioning Agency</u>
		<u>Senate</u>	<u>House or Assembly</u>	
South Dakota	III, 5; XIX, 2	Population, ex- cluding sol- diers and of- ficers of U.S. Army and Navy.	Population, ex- cluding sol- diers and of- ficers of U.S. Army and Navy.	Legislature, or failing that, Governor, Superintendent of Public In- struction, Pre- siding Judge of Supreme Court, Attorney General, and Secretary of State.
Tennessee	II, 4, 6	Qualified voters.	Qualified voters.	Legislature.
Texas	III, 25-26a, 28	Qualified electors, but no county more than one member.	Population.	Legislature.
Utah	IX, 2, 4	Population.	Population, but each county at least one mem- ber.	Legislature.
Vermont	II, 13, 18, 37	Population, but each county at least one mem- ber.	One member from each inhabited town.	Constitution.

Appendix B (Continued)

<u>State</u>	<u>Citation: Art. & Sec. of Const.</u>	<u>Basis of Apportionment</u>		<u>Apportioning Agency</u>
		<u>Senate</u>	<u>House or Assembly</u>	
Virginia	IV, 43	Population.	Population.	General Assembly.
Washington	II, 3, 6; XXII, 1, 2	Population, ex- cluding Indians not taxed and soldiers, sailors and of- ficers of U. S. Army and Navy in active ser- vice.	Population, ex- cluding Indians not taxed and soldiers, sailors and of- ficers of U. S. Army and Navy in active ser- vice.	Legislature, or by initiative.
West Virginia	VI, 4-10, 50	Population, but no two members from any county, unless one county consti- tutes a district.	Population, but each county at least one mem- ber.	Legislature.

Appendix B (Continued)

<u>State</u>	<u>Citation: Art. & Sec. of Const.</u>	<u>Basic of Apportionment</u>		<u>Apportioning Agency</u>
		<u>Senate</u>	<u>House or Assembly</u>	
Wisconsin	IV, 3-5	Population, ex- cluding Indians not taxed and soldiers and officers of U. S. Army and Navy.	Population, ex- cluding Indians not taxed and soldiers and officers of U. S. Army and Navy.	Legislature.
Wyoming	III, 3; III-A, 2-3	Population, but each county at least one mem- ber.	Population, but each county at least one mem- ber.	Legislature.

^oSource: Council of State Governments, The Book of the States 1945-1946
(Chicago: The Council of State Governments, 1945), Vol. VI, pp. 115-120.
(Entire table is reproduced.)

^{**}Unicameral.

APPENDIX C

REPORT OF

JOINT INTERIM COMMITTEE

OF THE HOUSE AND SENATE 1945-1947

ENTITLED

"STUDY OF REAPPORTIONMENT LAW"

Appendix C

REPORT

of

JOINT INTERIM COMMITTEE
OF THE HOUSE AND SENATE*

Appointed and Acting Under

Senate Joint Resolution No. 22

Forty-third Legislative Assembly

to the

Forty-fourth Legislative Assembly

STUDY OF

REAPPORTIONMENT LAW

COMMITTEE

Lew Wallace
Senator, Multnomah CountyMarshall E. Cornett
Senator, Klamath CountyE. W. Kimberling
Representative, Grant CountyAlex Barry
Representative, Multnomah CountyNed Callaway
Representative, Linn County

*Entire report reproduced.

Appendix C (Continued)

TO: THE FORTY-FOURTH LEGISLATIVE ASSEMBLY OF OREGON

The following members of the Interim Committee appointed for the purpose of studying reapportionment pursuant to Senate Joint Resolution No. 22 desire to make the following report:

We make the following recommendations concerning two paragraphs of the Constitution of Oregon; namely, paragraphs 5 and 6 of Article IV, which read as follows:

5. Census. The legislative assembly shall, in the year 1865, and every 10 years after, cause an enumeration to be made of all the white population of the state.

6. Apportionment. The number of senators and representatives shall, at the session next following an enumeration of the inhabitants by the United States or this state, be fixed by law, and apportioned among the several counties according to the number of white population in each. And the ratio of senators and representatives shall be determined by dividing the whole number of white population of such county or district, by such respective ratio; and when a fraction shall result from such division, which shall exceed one-half of said ratio, such county or district shall be entitled to a member for such fraction. And in case any county shall not have the requisite population to entitle such county to a member, then such county shall be attached to some adjoining county for senatorial or representative purposes.

It is obvious to even a casual reader of this portion of the Constitution that it is entirely outmoded and not consistent with the practice and procedure of the officers of the state of Oregon.

Appendix C (Continued)

(1) The State of Oregon does not now nor ever has followed paragraph 5.

(2) Basing our reapportionment upon white population means very definitely that this apportionment is being based on a formula which does not include many of our citizens of other than the white races and does include every white foreigner and alien residing within our boundaries. This obviously is not the American way of doing things.

(3) The formula itself is not correct in that if you would start with Multnomah County you would not have anything left in the way of representation for the last several counties. On the other hand, if you would start with any upstate county under this formula, when you came to Multnomah County there would be nothing left.

With the above facts in mind the following suggestions are made:

(1) We would suggest that "registered voters" be substituted for "white population". This would eliminate foreign and alien residents from being counted and would include all citizens regardless of color.

(2) We would suggest changing the formula so that in determining apportionment the total registered voters would be divided by 30 or 60 depending upon whether you were apportioning the Senate or the House, and we would make only

Appendix C (Continued)

a total figure of that amount count for each senator or representative, as the case might be. Then there would be no discrepancy in the formula. We would recommend the senatorial districts be not less than one county nor more than three and that the maximum allowed to any one district would be one senator with combinations of smaller counties to make up the necessary quota for one senatorial district.

The representatives would be based on the actual population worked out by the formula suggested above.

By using the registration, the figures would be absolutely exact and easily available and we suggest that we use the system followed by the Federal Government and have the governor at least once every four years apportion the legislation according to the above formula. This apportionment to be made within ninety days prior to any regular session of the legislature with the legislature having the right to review such apportionment by the governor, but unless such action is taken by the legislature, the apportionment made by a governor will stand as the law until changed by a future reapportionment by a governor.

Respectfully submitted,

Marshall E. Cornett
Lew Wallace
Ned Callaway

Typed by

Rozelle S. Henry

Produced Pursuant to Protective Order in Case No. 03-1-00000-00000