The Gist of It

Public bodies which must reapportion this year should do so in good faith to correct the gross inequities in public representation caused by population shifts between 1970 and 1980.

Changes in the state's population have thrown the apportionment of Louisiana's public bodies far out of line with the U.S. Supreme Court's one-man, one-vote rule, as well as other guidelines for reapportioning public bodies.

Louisiana's population shifted toward the suburbs and grew from 3.6 million to 4.2 million since 1970.

The changes in Louisiana's population mean that, until reapportionment occurs, many election districts are vastly under-represented while many others have far more representation than they are due. The rearrangement of boundaries will affect voting patterns and power blocs.

A migration from rural to urban areas and from inner cities to the suburbs produced spectacular growth for some areas, mainly in the southern part of the state. The flight to the suburbs was particularly noticeable in New Orleans, whose black population grew from 45% in 1970 to 55% in 1980.

At the same time, the number of parishes with a majority of blacks dropped from nine in 1970 to only six in 1980.

Now that 1980 census data is available, the Legislature must reapportion congressional, Public Service Commission and its own districts, while many local government bodies must reapportion themselves to insure the public an equal vote in electing their representatives.

A good faith effort again will be required to assure that people are represented equally and fairly. Neither the federal courts nor the U.S. Justice Department (which administers the U.S. Voting Rights Act) have issued a specific set of instructions to guarantee approval of reapportionment plans.

However, any reapportionment plan could be challenged in the courts and face rejection if it:
- Failed to represent equal numbers of people as nearly as possible.
- Discriminated against racial minorities by diluting or diminishing their votes.
- Gerrymandered to benefit incumbents unduly.
- Favored one political party or group.

Legislators and local officials should devise reapportionment plans that adhere to court criteria and guidelines as closely as possible and strive for even higher standards which new court decisions may demand. Citizens should monitor and participate in reapportionment of the government bodies which affect them.

Further, the Legislature should set deadlines for reapportioning all public bodies with election districts.

The state constitution sets a deadline for reapportioning the Legislature—one year after the president of the United States receives the census. But, the law is silent on deadlines for reapportionment of congressional, public service, parish and municipal districts. Deadlines should insure the new plans are in effect before the next election for each of those public bodies.

Also, the Legislature should assume the specific responsibility for reapportioning public service districts and should clarify the law on the types of districts (single-member, at-large or a combination) that school boards may use in reapportioning themselves.

Reapportionment, 1981

Reapportionment of public bodies—redrawing boundaries of election districts to adjust for population changes—occurs every 10 years after the federal census. Two overriding standards have emerged from federal court decisions dating back to 1962 and the U. S. Voting Rights Act of 1965: (1) the same number of people should be placed in each election district so that one person's vote counts as much as another's, and (2) discrimination against voting rights of racial minorities is prohibited. It is now widely accepted that periodic reapportionment must take place—and in accordance with these two basic requirements.

Citizens have a vital interest in reapportionment since remapping voting districts can affect who represents them in the Legislature, the U. S. House of Representatives, the Louisiana Public Service Commission, local school boards, parish governing bodies and municipal councils. Reapportionment also can result in major political, economic and social changes.

The 1971 reapportionment of the Louisiana Legislature demonstrates the far-reaching changes that can occur. For the first time, the Legislature was reapportioned so that each person in the state had an equal voice in electing legislators. Another first was creating legislative districts so that only one legislator was elected from each House and Senate district. As a result, legislators are more responsive to their constituencies, citizens have a better idea of who represents them since each person has only one representative and senator, and diverse racial and economic groups have gained representation. Until this reapportionment, only one black had been elected to the Legislature since the post-Civil War period; 12 blacks now serve. Some believe that the 1971 reapportionment has been a major factor in improving the caliber of legislators and facilitating enactment of progressive changes.

Reapportionment plans adopted in the 1970s now show gross inequities because of population changes between 1970 and 1980. Louisiana's population grew from 3.6 million to 4.2 million inhabitants, but the growth was not evenly distributed throughout the state. Some areas, mainly in the southern part of the state, had spectacular growth while other areas had only a modest increase or even a decline in population. Generally people moved from rural to urban areas, and out of inner cities to the suburbs. The flight to the suburbs was particularly noticeable in New Orleans.

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Concentrations of white and black populations also changed, with whites tending to move to overwhelmingly white parishes and blacks inclined to leave predominately black parishes. The number of black majority parishes dropped from nine in 1970 to only six in 1980. Orleans became a black majority parish, with 55% of its population black in 1980 compared to 45% in 1970.

The changes in Louisiana’s population mean that, until reapportionment occurs, many election districts are vastly underrepresented while many others have far more representation than they are due. Boundaries must be rearranged for public bodies across the state. These new apportionments will affect voting patterns and power blocs, and again could provide the thrust for progressive political, economic and social changes.

This Analysis is designed to provide citizens with information they will need to insure that new reapportionment plans truly represent them.

WAYS TO MEASURE POPULATION EQUALITY

The courts use several ways to determine if reapportionment plans meet the constitutional requirement for population equality.

Ideal District Population

The starting point for determining population equality is to obtain the “ideal” population for each district, a figure derived by dividing the population of the jurisdiction by the number of districts. The following are examples of “ideal district population” based on Louisiana’s 1980 population of 4,203,972.

House of Representatives
4,203,972 divided by 105 districts = 40,038 ideal House district population

Senate
4,203,972 divided by 59 districts = 70,794 ideal Senate district population

Congress
4,203,972 divided by 8 districts = 525,497 ideal congressional district population

Public Service
4,203,972 divided by 5 districts = 840,794 ideal public service district population

Districts whose population is greater than the “ideal” are “underrepresented” because a person’s vote is worth less than in a district with fewer people. Conversely, districts with populations smaller than the ideal are “overrepresented.”

Some Louisiana local governments have multicenter districts in which case the ideal is expressed as the population per representative. In a city with 28,000 population and five councilmen elected from four districts—three single-member districts and one multicenter district with two councilmen—the ideal population per representative would be 5,000. The ideal population for the multicenter district would be 10,000.

Deviations From The Ideal

Deviations are used to show how much the population of each district varies from the ideal population. The numerical difference is determined by subtracting a district’s population from the ideal population. The percentage deviation is determined by dividing the numerical difference by the ideal population. When a district’s population is greater than the ideal, the deviation is expressed as a plus; when a district’s population is smaller than the ideal, the deviation is expressed as a minus.

Among House districts, District 77 in Jefferson Parish has the largest deviation above the ideal while District 98 in Orleans Parish has the largest deviation below the ideal. Based on the 1980 ideal House district population of 40,038, District 77 has 6,028 more people than the ideal and is 17.5% overrepresented, while District 98 has 13,309 fewer people than the ideal and is 33.24% underrepresented.

Under Louisiana’s 1971 court-ordered legislative reapportionment plan, no House or Senate district had more than a 5% plus or minus deviation. However, seven Senate districts were changed through successful court appeal, resulting in deviations greater than 5% in three of those districts.

Based on the 1980 census, there is a wide range of deviations from the ideal among House and Senate districts, as shown below and in Appendices A and B.

<table>
<thead>
<tr>
<th>Deviations (+ or -)</th>
<th>Number of Legislative Districts</th>
</tr>
</thead>
<tbody>
<tr>
<td>From Ideal</td>
<td>House</td>
</tr>
<tr>
<td>Under 5%</td>
<td>23</td>
</tr>
<tr>
<td>5% to 10%</td>
<td>23</td>
</tr>
<tr>
<td>Over 10%</td>
<td>59</td>
</tr>
<tr>
<td>Total Districts</td>
<td>105</td>
</tr>
</tbody>
</table>

Appendix C indicates deviations among the eight congressional districts. Whereas deviations were less than 1% based on the 1970 census, the deviations are considerably higher based on 1980 population. For example, District 2 is 12.12% below the ideal population while District 6 is 9.83% above the ideal.

A similar situation has occurred in the population of public service districts, shown in Appendix D. Deviations based on 1970 population were less than 1%, but vary from -14.62% in District 1 to +11.73% in District 3 based on 1980 population.

Range of Deviations

When courts consider an entire reapportionment plan, they frequently refer to the “overall range” or “total maximum deviation.”

To determine the overall range, the largest plus deviation is added to the largest minus deviation, disregarding the plus and minus signs.

The table below indicates the overall range of deviations for legislative, congressional and public service districts. These overall ranges highlight the malapportionments that now exist, and the need to reapportion to assure equality of representation.

<table>
<thead>
<tr>
<th>House</th>
<th>Senate</th>
<th>Congressional</th>
<th>Public Service</th>
</tr>
</thead>
<tbody>
<tr>
<td>1970</td>
<td>Smallest District</td>
<td>-4.5%</td>
<td>-3.5%</td>
</tr>
<tr>
<td></td>
<td>Largest District</td>
<td>-4.5%</td>
<td>-3.5%</td>
</tr>
<tr>
<td></td>
<td>Overall Range</td>
<td>9.4%</td>
<td>9.4%</td>
</tr>
<tr>
<td>1980</td>
<td>Smallest District</td>
<td>-33.2%</td>
<td>-31.5%</td>
</tr>
<tr>
<td></td>
<td>Largest District</td>
<td>+77.5%</td>
<td>+55.4%</td>
</tr>
<tr>
<td></td>
<td>Overall Range</td>
<td>110.7%</td>
<td>86.9%</td>
</tr>
</tbody>
</table>

Population Variance

Another way to measure population equality is to determine the ratio of the population of the largest district to that of the smallest district, sometimes referred to as “population variance.” The ratio is obtained by dividing the population of the largest district by the population of the smallest district. The ratio for perfect equality is 1.000 to 1.
The following population variances are based on 1970 and 1980 populations:

<table>
<thead>
<tr>
<th>Governmental Body</th>
<th>Ratio, Largest to Smallest District</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>1970</td>
</tr>
<tr>
<td>House</td>
<td>1.096</td>
</tr>
<tr>
<td>Senate</td>
<td>1.138</td>
</tr>
<tr>
<td>Congress</td>
<td>1.003</td>
</tr>
<tr>
<td>Public Service</td>
<td>1.010</td>
</tr>
</tbody>
</table>

The 2.659 to 1 ratio for House districts means that a person's vote in the smallest district is worth almost three times as much as a person's vote in the largest district.

LOUISIANA'S HISTORICAL PERSPECTIVE

Louisiana has a short history of reapportioning its elective bodies—starting mainly in the 1960s as responses to a series of federal court decisions and the federal government's implementation of the U. S. Voting Rights Act of 1965.

Congressional Redistricting

The state's congressional districts were reapportioned as early as 1912 because the number of Louisiana congressmen was increased from seven to eight after the 1910 census. Louisiana has continued to have eight congressmen, and the boundaries of the congressional districts also remained the same until the late 1960s.

When the U. S. Supreme Court ruled in 1964 that the equality of representation doctrine applied to congressional districts, the constitutional districts were seriously malapportioned. A Louisiana suit was filed in 1964 (Harwell v. McKeithen) challenging those districts' constitutionality. Despite these events, the Legislature made no effort to reapportion congressional districts until 1966 when moderate changes were made, effective for the 1968 elections. The enacted plan had deviations from the ideal ranging from +13.7% to -9.1%.

In 1969 two Supreme Court decisions (Kirkpatrick v. Preisler and Wells v. Rockefeller) enunciated an equality standard for congressional reapportionment requiring mathematical exactness. Shortly afterward, a Louisiana suit was filed asking a three-judge federal panel to declare Louisiana's 1966 congressional reapportionment unconstitutional.

The Legislature responded by enacting a new congressional districting plan in 1969—effective only for the 1970 elections. Parish and ward lines were broken for the first time to achieve greater equality of representation. Deviations from the ideal 1960 population were small—ranging from +0.5% to -0.8%.

The 1969 act also required the Legislature to reapportion congressional districts again at the first regular or special session after the 1970 census. The Legislature ignored its own mandate and waited until the 1972 regular session to enact a plan for the 1972 elections which were imminent. Before the reapportionment, deviations from the ideal 1970 population ranged from +12% to -9%. The 1972 reapportionment resulted in districts with nearly equal population, although district boundaries were shifted to accommodate incumbents.

Legislative Reapportionment

Louisiana's first constitution of 1812 and subsequent constitutions called for equality of representation and periodic reapportionment, but this was largely ignored.

The 1921 constitution made it impossible to achieve equality of representation because it prohibited breaking parish lines (or ward lines in Orleans); guaranteed each parish and ward in Orleans a House seat; and provided that in Senate districts encompassing several parishes, only one senator could be elected from any one parish.

The original 1921 constitution reapportioned legislative districts and required further reapportionment after each decennial census. The 1921 constitutional reapportionment remained essentially in tact for the next 50 years. No changes were made after the 1930, 1940 and 1950 censuses. A 1954 act did add one representative for Jefferson Parish, increasing House membership to its constitutional limit of 101.

Another piecemeal change occurred in 1960 when the constitution was amended to increase maximum House membership from 101 to 105. Jefferson and East Baton Rouge parishes—the most underrepresented—each gained two representatives.

Minor changes were made in a few Senate districts through constitutional amendments approved in 1938, 1948 and 1956.

Both houses of the Louisiana Legislature were prime candidates for reapportionment in 1962 when the Supreme Court issued its Baker v. Carr decision which opened the door to federal courts hearing complaints that malapportioned state legislatures violated a person's constitutional rights. A third of the people could elect a majority of legislators in each house. Population of House districts ranged from 6,909 to 120,205, while population of Senate districts varied from 31,175 to 248,427. The Legislature created a study committee.

A suit was filed (Daniel v. Davis) challenging apportionment of Louisiana's House districts, prompting a 1963 special session. The result was rearrangement of eight House districts. These minor changes conformed to the state's constitutional constraints—and the federal court upheld the plan.

Reapportionment was a major issue of the 1966 regular session—particularly in view of the 1964 Supreme Court decision (Reynolds v. Sims) which extended the equality of representation requirement to both houses of state legislatures. Also, two Louisiana suits had been filed—Bannister v. Davis challenging the Senate apportionment and Spencer v. McKeithen calling for reapportionment of both houses. The Legislature decided it did not have to change House districts since it had already been done in 1963, and efforts to re-apportion Senate districts failed.

The Bannister and Spencer suits were consolidated. After the Legislature failed to reapportion itself during the 1966 regular session, the court declared the apportionment of both houses unconstitutional and ordered legislators to reapportion by January 1, 1967—or run at large.

Another special session was called in 1966 and both houses were reapportioned, effective for the 1967 elections. However, population deviations from the ideal were still high; three Senate districts had deviations from the ideal of more than 15% while five House districts also deviated by more than 15%. The federal courts had struck down Louisiana's constitutional requirements that each parish and Orleans ward was entitled to one representative, and the 1966 reappr-
tionment reflected this change. Considerable use was made of multimember districts to avoid dividing parishes or wards in Orleans. Under the 1966 reapportionment, 48% of the people could elect a majority of senators and 47% could elect a majority of representatives. Elections were held in 1968 under the 1966 reapportionment which resulted in a black being elected to the House and less dominance by rural legislators.

By 1970, it was certain that reapportionment would have to follow the new census, so another study committee was created. Its proposals were considered during the 1971 fiscal session. Reapportionment was declared a “fiscal” issue to avoid the three-fourths vote requirement for considering nonfiscal matters.

A lower federal court decision involving reapportioning the Mississippi legislature seemed to offer loopholes—and so the reapportionment plans were changed to encompass various districting schemes. The plan enacted in 1971 had five types of districts—single-member districts, multimember districts whose members were to be elected by posts or divisions, multimember districts with residency requirements, districts in which some legislators had to be residents of particular parishes while others could reside anywhere in the district, plus a unique Senate district. That Senate district had noncontiguous areas and called for electing four senators—two by separate parts of a parish, one by two parishes, and the fourth by three parishes. The enacted 1971 plan had deviations from the ideal population ranging from +11.8% to -10.6% in the Senate, and from +12.3% to -14.8% in the House.

Four suits challenged the 1971 reapportionment, and the federal judge assigned to the case appointed PAR’s executive director as special master to prepare a “total, complete plan” (hereafter referred to as PAR’s plan) to comply with the Supreme Court’s one-man, one-vote mandate. Before a decision was rendered, the U. S. Justice Department held that the Legislature’s reapportionment plan failed to comply with the nondiscrimination provisions of the Voting Rights Act.

PAR’s plan called for exclusive use of single-member districts in both houses. It was approved by the federal district judge, appealed to the 5th Circuit Court of Appeals which changed seven senatorial districts and affirmed by the Supreme Court. Deviations in the court-amended Senate districts ranged from +5.6% to -8.8%, while deviations in House districts ranged from +4.5% to -4.6%. Elections were held in 1971 under the court-ordered plan, which was enacted in 1972. The 1974 constitution now requires single-member districts for both the House and Senate.

Public Service Districts

Louisiana’s 1921 constitution enumerated the composition of the three public service districts from which the three commissioners were elected—and these districts remained unchanged under that constitution. The 1974 constitution provides for five commissioners elected from single-member districts. A 1975 law designated the boundaries of the districts which were equally apportioned on the basis of 1970 population.

Judicial Districts

All judges in Louisiana’s judicial system are elected. A Louisiana case (Wells v. Edwards) sought realignment of the state’s judicial districts, but the Supreme Court in 1973 affirmed a lower court decision that the one-man, one-vote principle does not apply to election of judges since they do not represent people. A 1977 Supreme Court decision reaffirmed exclusion of judicial districts from reapportionment requirements.

Local Governments

A 1968 Supreme Court decision (Avery v. Midland County) made it clear that elective bodies of local governments are also subject to reapportionment requirements. During the 1970s, many parish governing bodies, school boards and municipalities were reapportioned—some by court order and others voluntarily. Some parish and municipal reapportionments were part of a trend toward adopting home rule charters. Special interim censuses formed the basis for some local reapportionments.

THE CENSUS

Census figures on the number of inhabitants residing in particular areas provide the basic data needed to assure that reapportionment plans meet the federal courts’ equality of population standard. In fact, the purpose of the first U. S. census and subsequent censuses every 10 years is to determine the number of U. S. congressmen “apportioned among the several States,” as specified in Article I, Section 2 of the U. S. Constitution. Federal law designates important dates for taking the decennial census and reporting the results. April 1, 1980 and every 10 years thereafter is the “decennial census date.” The tabulation, by states, is to be reported to the president of the United States within nine months after the census date—or by January 1, 1981 for the 1980 census. The official census data is to be completed and transmitted to each state (the governor and officials responsible for legislative reapportionment) within one year after the decennial census date—or by April 1, 1981 for the 1980 census. Deadlines for completing reapportionment plans must be tied to how soon the census data is available.

CONSTITUTIONAL AND STATUTORY PROVISIONS

A number of federal and state constitutional and statutory provisions apply to reapportionment.

The U. S. Constitution

The rights guaranteed by the U. S. Constitution are the keystone of reapportionment standards.

Article I, Section 2, which relates to the election and apportionment among states of U. S. representatives, has been interpreted by the Supreme Court to require a strict “one-man, one-vote” approach to congressional districting. The only deviations which the courts have permitted are those that were unavoidable despite a “good faith” effort to achieve absolute equality of population, or instances where deviations could be justified.

The 14th Amendment prohibits states from denying “to any person within its jurisdiction the equal protection of the laws.” The Supreme Court has held that this constitutional guarantee includes a person’s right to have his vote count equally with that of another. This means when the