Apportionment of legislators is an issue on which our federal convention almost floundered in the summer of 1787. Now over 175 years later it again becomes controversial as we hear talk of federal plans for the whole of the federal system to be accomplished by constitutional edict. My assignment is to examine the current struggle and trace as well as I am able, its effects for agriculture.

I want to begin by reviewing the history of the current apportionment struggle, then say a word about the moral arguments on each side, next examine the probability of success for those attempting to reverse the one man-one vote trend, and finally discuss the long run effects for agricultural interests and welfare. First, the historical evolution of the apportionment fight.

The Historical Background

The early English kings based representation in parliament on taxable wealth because they invented parliament to raise taxes. The American colonies seem to have followed along in this pattern. But the one man-one vote ideas of the seventeenth century Levelers did also affect early American thinking as is evidenced by the requirements laid down in the Northwest Ordinance of 1787. Though stated vaguely, these ideas were generally interpreted to mean that both houses of western state legislatures should be based on population alone. Through the nineteenth century most new states came into the union with representation by population embedded in their constitutions, and some older states, though not all by any means, changed their constitutions this way. Inspired by the populism of the frontier, the movement in theory was away from property qualifications and representation of units to representation of population.
But when it came to drawing district lines, practical matters triumphed over abstract theory: legislators districted for personal and political advantage. The gerrymander has an illustrious parent. It is named after a patriot Elbridge Gerry who was one of the few to sign the Articles of Confederation and Declaration of Independence, who attended the Constitutional Convention as a delegate, was a representative to the First Congress, governor of Massachusetts and died in office as vice president to James Madison. The rules followed are: protect seated legislators where possible and protect the party interest.

But representative government can easily survive such minor jockeying for advantage by officeholders. The practice only took on significance when large-scale shifts of population occurred in the late nineteenth century and after. The national House of Representatives for a time dodged the problem by increasing its size so seated legislators would be undisturbed. But by 1920 it ran out of floor space and so skipped an apportionment, contrary to the explicit instructions of Article I, section 2.

State legislatures also squirmed to avoid constitutional clauses. Several things happened. In 1930 the national Congress faced up to constitutional requirements but softened their effect somewhat. Dropped from the earlier act were the requirements for compactness and contiguity. No one raised embarrassing questions of population equality within states when seating took place at the beginning of the session. Heartbreak was generally avoided by gerrymandering Congressional districts at the state legislative level. A recent analysis indicates that in the twentieth century, four-fifths of the variation from representation by population for national House seats is traceable to gerrymandering in the districting, and only a minor bit from the apportionment formula itself. 3

2 See the discussion of all Kansas redistricting acts in Thomas Page, "Legislative Apportionment in Kansas," University of Kansas Publications, Lawrence, 1952. Chapter 3, pp. 29-78. This monograph is unusual in its sophisticated approach to the subject. For a study of a recent legislature in the process of redistricting, see Gilbert Steiner and Samuel Gove, "Legislative Politics in Illinois," Urbana: University of Illinois Press, Urbana, 1960, Chapter 4, pp. 84-117

The states generally took a different route. Some changed constitutions away from the population base. Every twentieth century change proposed by legislators was of this kind. In other states constitutional provisions were disregarded. State courts sometimes overruled blatant gerrymanders but hesitated to issue orders that constitutional provisions be followed. This tendency was confirmed for most in Colegrove v Green (1946). The United States Supreme Court told a professor of political science that apportionment of Illinois congressional districts was a political question; in Justice Frankfurter's expressive phrase a "political thicket" the court would do well to avoid. But the decision was peculiar in a number of respects. There was no sitting chief justice and one of the court was at the Nuremberg trials in Europe. Even worse, in the 4-3 decision Justice Rutledge sided with the majority in agreeing no relief should then be given, but with the three minority members that the case was justiciable. Nevertheless most persons assumed that the Court had said the question of apportionment was not a question to be handled by the judiciary.

But the drift from population standards continued at an even more rapid rate as suburbs grew and central cities lost population. And cases kept appearing in the courts. At this point, after the 1960 census, Baker v Carr was accepted and ruled on by the U.S. Supreme Court. The Tennessee Constitution of 1870 required reapportionment of both houses every ten years. None had occurred since 1901. In March 1962 the Supreme Court held by 6 to 2 that the question was justiciable and remanded the case back to the lower federal courts. All but Frankfurter and Warren had something to say in separate opinions.

At this point the dam burst. If Colegrove v Green had been misinterpreted as saying more than it did, now the justices were second guessed on Baker v Carr. Within six months there were 70 new cases in 33 states; within two years apportionment action had occurred in 42 states. In these two years it is fair to say a greater movement was made to approaching the population standard of one man-one vote than in the previous 60 years. And the Supreme Court followed up with a series of decisions that hammered home the trend. The Georgia county unit system was declared unconstitutional for statewide elections as contrary to the equal protection clause of the Fourteenth Amendment. (Gray v Sanders.) In February 1964, in Wesberry v Sanders, the court ruled that on the basis of Article I, Section 2, Congressional districts within states must be relatively equal in population. Then in June 1964,


5 David-Eisenberg, op. cit.
using the equal protection clause of the Fourteenth Amendment, the court ruled in Reynolds v Sims that both houses of state legislatures must be apportioned on a population basis. The division was 6 to 3.

**Moral Arguments**

This is perhaps a good place to pause and ask what the moral questions were on each side of this fight. On the one man-one vote side, the battle for apportionment was viewed as a continuation of the struggle against special privilege that began when King John signed the Magna Charta, or even perhaps before that, and is continued into modern times in fights over such issues as civil rights or woman suffrage.

The other side of the argument is more complex. Most variants go back to notions expressed perhaps best by John Calhoun in his theory of concurrent majority. Decisions, he argued, should be made only when all important political interests agree. Defining the significant political interests leads to variations. In some cases special moral qualities are claimed for such groups as Jefferson did for rural as opposed to urban citizens. In more sophisticated arguments, a plea is made for representation by communities. One student suggests a combination of representation by population, by communities which he defines by local legal boundaries of counties, cities and villages and of the top 20 functional groupings according to the latest census (farmers, lawyers and I was about to say professors, but they don't show on any method of rating).

But while moral arguments are worth considering, there is a certain artificial quality in their use in current debate. Only a relatively few on each side are really concerned with them. The rest are concerned with advantage. Most of those favoring one man-one vote will gain by it. Those who now listen with favor to theories of consensual democracy are open to question about past activities. (Why, they might be reasonably asked, was one house never set aside for cities when they were the minority? How can perpetual freezing of districts, even when they are counties, claim to represent communities that grow and change over time?)

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I should like to interject my own position here. More important than numerical equality is timeliness. By timeliness I mean a willingness in government to face up to the problems currently agitating important segments of the citizenry. Today such problems are primarily urban, or to be specific, metropolitan. State governments from World War I on have been viewed by many of their citizens as somewhat less than timely. Yet the U.S. Senate, despite its straying much farther than many states from a one man-one vote norm, is not so viewed by most persons. This is because, I suspect, most Senators have urban constituents in sizeable numbers even when from sparsely populated states. The question of timeliness is one to which I should like to return after first exploring the probabilities that the one man-one vote trend may be reversed.

Prospects for Reversing One Man-One Vote

Little direct help can be expected from the courts. Almost immediately after declaring both houses of state legislatures must be based on population, the Supreme Court, in *Lucas v Colorado General Assembly*, overruled an amendment to the Colorado constitution that placed one house on other than a population basis. Even a majority of a state electorate, they argued, can not deprive citizens of their constitutional liberties.

Both state and federal courts have also dealt with more severity with foot-dragging. In some states they have apportioned legislatures or ordered elections at large. In others they stated that until apportionment was accomplished they would only honor as legal routine, housekeeping actions. In Georgia a federal court prevented the proposal of a new constitution. On October 28, 1964 Chief Justice Warren in effect ordered the lower federal courts to move ahead on Virginia apportioning by refusing to grant a stay until 1968 when incumbent terms would be finished.

Attempts also have been made to reverse one man-one vote through amendment of the federal constitution. Three amendments proposed by the Sixteenth General Assembly of the States affiliated with the Council of State Governments struck at what was considered Supreme Court interference with state matters including apportionment. Few states have adopted these proposals. At the same time a second constitutional convention was proposed. Sixteen of the required 34 state legislatures have petitioned Congress to call such a body. More may act in early 1965, but the outlook is not too hopeful. It is not clear that Congress must call such a body, particularly on the petition of state legislatures that at the time of acting were not always apportioned according to the formula then the law of the land. The proposal also smacks of desperation since to call such a convention in the view of many is to open a pandora's box. Since most regard our system of government a fairly
successful one, given the history of mankind's follies, there is a tendency to avoid unpredictable change.

Thus more attention is being given to a constitutional amendment proposal aimed specifically at the problem of apportionment. The Seventeenth General Assembly of the States endorsed this, with some dissents, and the National Grange and American Farm Bureau, at about the same time in late autumn of 1964, endorsed it. It would permit one house of the state legislature to be apportioned on some basis other than population if the voters in an election so decided. Even this considerably more modest proposal is in for rough sledding.

The last Congress debated a proposal to delay apportionment for two years, and while this passed the House, it was killed in the Senate. An amendment to the Foreign Aid Bill proposed by Senator Dirkson to accomplish a similar result was killed by filibuster. Finally a mild resolution to urge the Supreme Court not to take undue haste passed the Senate. Now Senator Dirkson has reintroduced the amendment in the new Congress. It has the support of every Republican Senator but one, about 18 southern Democrats and a scattering of Northern Democrats. The most optimistic proponents see it as still short ten or more votes from the required two-thirds for Constitutional amendments. The amendment still leaves some questions unanswered: can a state reconsider its adoption of an apportionment of one house based on factors other than population without having to get that house to agree to amend the state constitution? Can the basis other than population include apportionment on the basis of race?

In the meantime, state legislators have been experimenting with methods of softening and sometimes partially avoiding the effects of the one man-one vote principle. Some apportionments have been ruled by courts as inadequate as both legislators and courts experiment to find out how close apportionment must be to the population standard. The method of giving weighted votes to incumbent legislators so that they can remain seated as is but cast votes according to the population of their districts has been thrown out by courts in Washington state and New Mexico. An ingenious method to test the court's acceptance of various methods was completed by the lame duck New York legislature in late 1964. Each of four apportionment acts was an amendment of the previous one. Thus if number 4 were unconstitutional, number 3 would be in effect, etc. These included provisions for apportionment on the basis of those who actually vote rather than population alone.

Thus the current trend in most states has been to find out what the acceptable standard of deviation from population might be, that is "how much?" and for the current majority to gerrymander in their own interest. Those states most resistant to any change are a half dozen or so in the
south. But in a good many of the states, enough shaking up has already occurred, combined with the results of the 1964 elections, to suggest that things will never be quite the same again. Important leaders of the fight against one man-one vote have been defeated while new proponents of the theory have been elected. Perhaps as important as any other fact is that in many states the balance of power within party organizations has shifted to those who would pay considerable attention to metropolitan problems.

Whether an absolute standard of population is carried out with mathematical precision in every state or not, rural areas should face up to the fact that as a practical matter they are not going to wield as much influence with legislative bodies as they did in the past. This even includes local government bodies such as county boards of supervisors, which are under challenge in such states as California, Wisconsin and Michigan. Most rural residents probably regard this trend as inevitable, given the current population trends. Some, given their Populist past, fight it only reluctantly on moral grounds. Even if the Constitutional amendment allowing one house on a non-population basis passes, which is unlikely at least before 1968 (if it passes at all), state legislatures will have changed markedly from what they were in the early 1960's.

The Effects of One Man-One Vote

The next point that I plan to examine is that of the likely effects of one man-one vote trend. But first it is important to ask who the beneficiaries in actual representatives were of the system as it operated before Baker v Carr. Of course the agricultural interests gained, but even more so did the residents of small cities and villages. Agricultural areas frequently are represented by the small town lawyer, banker or insurance man, and even urbanized areas choose such a representative if he has worked his way up through county government. It is the small town, already having felt the fierce impact of big city competition in business, that will suffer most. Agriculture will lose some influence, but its interests can never become wholly irrelevant in any society.

It is also important to examine, simply on a representation basis, who the major beneficiaries will be. These of course will be the metropolitan areas, but they are not as cohesive as some rural persons imagine. Few differences politically are as sharp as those between low and upper income areas within a large city or between large parts of the central city and some of its suburbs. 8

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It is indeed these suburbs that gain most in the long run since the trend of decline in population in central cities, noted dramatically in many areas after the 1960 census, is likely to continue. Even more important, in very few states (according to the most careful study I know of) will two or three population centers by themselves be able to dominate a house apportioned on population. Of states with more than 15 counties, three or less counties have a numerical majority in eight states; if all states are considered, three or less counties have a numerical majority in 15 states. In only five states do central city residents in the three largest cities (excluding suburbanites) have more than 40 percent of the population. These are Hawaii, Nevada, Rhode Island, New York and Arizona. But while dominance of a few areas is not immediately a problem in most states, a general increase that will give urbanites a clearcut majority in many states is a problem.

The impact in representational changes would of course vary. The Congressional Quarterly estimates that in the national House there would be a shift of 27 seats from rural areas, with seven going to central city districts and 20 to suburban areas. In most states the shift would be to a division of representation between central cities, suburbs and rural areas, with none in the majority.

The above analysis implicitly assumes that every representative usually votes his constituency on important issues. There is some tendency in this direction, but it is not as great as one would suppose. On specific issues party membership is generally more important than constituency as a predictor of voting. In state after state rural members have voted for urban programs, perhaps reluctantly or only in part at the urging of party leaders and candidates wishing to make a party record for a statewide election. There have also been urban representatives who voted a good deal like rural representatives, either on the basis of party program or because they won in an upset election and are more concerned with voting their true feelings than getting re-elected. Our studies show that only on a few issues is there a sharp split on roll call votes: on prohibition, civil rights in the south and of course on apportionment.

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The record is less clear on labor and welfare measures, though there is some tendency for a split presently. Occasionally one can also find clear indications that state-shared funds have especially benefited rural areas, though in some of these cases a good argument can be made that proceeds should be distributed according to need and not according to source of funds. But whereas in Florida, the lucrative race track proceeds have been distributed equally among counties, urbanites can argue that something less than a careful judgment as to need determined the formula.

But some students have made studies that examine state policies on other than a roll call basis, and they argue that rural influence on policy making is more pervasive than shows up on roll call votes. For one thing, issues are often decided in committee of the whole or legislative party caucus and without formal roll call votes. The record vote may be considerably different than the informal votes. A second point is that rural legislators have often been able to gain more than average influence through holding leadership positions. From my own observation of the Michigan Legislature during the period of crisis in the 1958 and 1959 sessions, I should say this influence was of greater importance than would be indicated by roll call votes, which were as a rule strictly party line votes.

The influence I am talking about is what I have previously referred to as timeliness. I am referring to the kinds of political ideas that prevail in a legislative body. In making policy, policy makers need a kind of short hand philosophy which they can use to make judgments. Interest alone doesn't explain political coalitions. Rather a general viewpoint binds together groups of legislators and politicians in a common cause. I think three important facts about these ideas need to be remembered:

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12 See the review of the literature in The Advisory Commission on Intergovernmental Relations, op. cit., pp. 23-29.


1. They spring in part from experience. Political ideas that are widespread are not wholly the result of abstract theory but of groupings within society struggling to get a viewpoint that will help them somehow control their environment.

2. In America I think these sets of ideas have as well been attempts to restate our tradition, that is the ideals of freedom that flow through our history from Thomas Jefferson on. In other words, I think groupings in our society meet with new experiences, and they attempt to restate American ideals in a way that helps them control their environmental.

3. Out of the many groupings that have unique experiences some must be chosen that are widespread enough to build a political coalition on them. This is the job taken over by political parties.

The experience of one's trade no doubt leads its members to unique ideas, some of which are politically relevant. But these are not widespread enough as a rule to serve as a general set of political ideas on which one can conduct campaigns but rather are better furthered by specialized interest groups. The same is true of the ideas of such subgroupings derived from their unique experiences as Negroes, white southerners, or even women.

The subgrouping which is widespread enough to use in political campaigns but yet narrow enough to be less than an overwhelming majority, is that related to place of residence. Place of residence as used here relates to the density of population that occurs where one lives and affects what sociologists call his life style.

I believe that as the experience of the majority of Americans has changed, new ideas have emerged and political parties have built new coalitions on these ideas. And with Samuel Lubell, I would argue that once a party becomes associated with the set of ideas shaped by the new majority it remains almost exclusively in power until a new set of ideas emerge. 16

Look at the history of presidential elections and note how seldom the Whigs won after the Jacksonians and consolidated their power with the emergence of the frontier majority, or how often Democrats won after Republicans had fashioned a new coalition based on the ideas growing out of small town experience, or how often Republicans have won since the Roosevelt New Deal coalition built on the ideas of large cities emerged. I should like to review briefly the ideas that emerged from these major political coalitions and then return to the notion of timeliness.

I view the Jacksonian coalition of 1828 as an attempt to deal with that frontiersman considered an emerging aristocracy. The political ideas were those that made sense in a frontier environment, though they do not in the opinion of many make as much sense in an urbanized setting. They were that ballots should belong with everyone elected since every one in the community could make a fair judgment of everyone else. They included the patronage system as opposed to long tenure in government jobs since the common man on the frontier was a jack of all trades who could handle any or most of the simple government jobs then in existence. They included short terms of office and laws against succession, particularly by treasurers. All of these would smash an incipient aristocracy of eastern officeholders.

When after the civil war a new majority existed in America, that of residents of small towns, a new set of ideas was devised in terms of that experience. The gift the small towns gave America was to make it a great nation. Small town boys from Henry Ford on, through ingenuity, hard work and thrift made the land blossom. The idealized version of the process is of course in the Horatio Alger stories, but the reality of their accomplishments is too clear to deny. The political implications of their ideas were that the small town boy should not be hindered by government regulations or by taxation that would deplete his working capital. Also related was the belief that the morally upright would in the end win out and therefore there was a reluctance to have government interfere by handing out doles. This is still the viewpoint derived from experience of many small businessmen.

However, farmers, at least in the nineteenth century, parted company with these ideas as the result of drought and depression in world markets. In their experience the moral did not always win out. But more important was the parting that occurred when a new majority emerged in the big cities. Their experience was heightened by a depression. To them achievement of the American dream was to come through government aid. Government must regulate traffic or building or sanitation where population was densely concentrated. Impersonality made the social controls of the small town ineffective in situations involving working conditions, the accuracy of the butcher's scales, or the ingredients of products purchased. To the crowded residents of cities, such experiences suggested government aid and regulation.

The majority has shifted once more and I think the new mood is the most important one in judging the long term effects of apportionment. The experience of suburban living has fashioned a low pressure political creed, one that prefers to avoid conflict and controversy in politics, and one that has an inordinate trust in the technical expert. At an earlier time the War on Poverty program, for example, would have been viewed as a handout to the victims of society. The new mood looks at it more as the professional social worker would. An other view stressed the moral responsibility for
overdrinking, the new set of ideas stresses that this is a disease, renames it alcoholism, and recommends psychiatric treatment. There are two points to note about the suburban experience: the suburbanite expects and wants large-scale organization to stay, but at the same time he is afraid individuality will get lost in the process.

These are what I would argue have been the main sets of politically relevant ideas. Note, that all can be present in society at the same time. Note secondly, that I am not necessarily arguing that the ideas of any one set are right or wrong but only that they seemed to the people involved to help them restate democratic ideas under new conditions. Finally, by timeliness I mean that the set of political ideas that dominates the governmental unit harmonizes with those fashioned by the then current majority. The United States Senate has I believe been generally looked up to by the citizens because most view it as timely--it discusses what they consider important problems and deals with these problems in ways that to them seem proper. This is true even though they are grossly disproportioned on a population basis. It springs from the fact that many Senators from rural states have urban areas that must be considered.

State legislatures, on the contrary, have been viewed as not timely and in part as a result have been deliberately bypassed by the New Deal majority when this was possible. But even they have not remained unaffected by the urban viewpoint--only less affected. Because even in the legislatures most dominated by small town political viewpoints, the newer urban viewpoints set the direction of policy. The debate was always in terms of "how much." Attempts to turn back to the previous majority viewpoint if carried into statewide elections, frequently resulted in political disaster.

The Effect of the Trend on Agriculture

What then can we say about agriculture, given the emerging political ideas and apportionment that is likely to give such ideas wide influence. In terms of benefits, less unless the experts think such programs justified. But there will be areas where they do consider such benefits justified: In research and in eliminating rural poverty. Thus I would anticipate increasing efforts to reduce subsidy payments, especially to prosperous farmers, an attempt to rationalize marketing conditions so that efficient production will pay off, and finally a reduction in the number of farms with larger farming operations encouraged. This means the direction will be one of de-emphasizing farming as a way of life and emphasizing agriculture as a business.

On the state level I would suppose the trend which began symbolically when the agricultural college was changed into a state university, will continue. Research or extension programs will not be abandoned simply because rural persons no longer control numerical majorities in both houses
of state legislatures. But such programs will no longer get preferential treatment over what urbanites consider legitimate needs. One of the important issues I would argue will be property taxation programs that are devised where rural and suburban areas overlap (particularly where new schools are built). Another will be the problems of zoning in the transitional period before suburban settlement is dense enough to sell out agricultural land but at the same time farming is more difficult and somewhat less profitable. These are important battles that agricultural interests might well lose to their serious disadvantage.

If my analysis is correct, the burden of it seems to be that of the famous prayer of the theologian Reinheld Niebuhr, "Lord give me that courage to change what can be changed, the patience to accept what can not be, and the wisdom to know the difference."

Living with government more dominated by urban and suburban residents' viewpoints will not be all that one might desire. But given present day conditions, it is likely to come about. The job then is to find a way that agriculture can profitably come to terms with it.