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Florida House of Representatives
Committee on Reapportionment

REAPPORTIONMENT IN FLORIDA: OUT OF THE 19TH CENTURY, INTO THE 21ST

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1885-1967: GEOGRAPHIC APPORTIONMENT

Florida in the Pork Chop Grip

Meaningful legislative reapportionment is a relatively recent development in Florida's political history. The state was well-known as the nation's space capital long before it established a modern system of representation in its legislature. By 1965, a rapidly growing Florida was already characterized in national publications as a "swinging, big talking boom state that moves . . . at a brisk pace towards greatness." (Robert Sherrill in Harper's) But the state's governmental institutions were lagging badly behind the swift pace of growth Florida was experiencing. As early as 1955, signs of political strain were evident, as the old Florida collided with the new. The legislature symbolized a government unable and unwilling to adjust to a radically changing Florida. Particularly frustrating to those desirous of governmental reform was the 1885 state constitution, an arcane document which consolidated legislative power and state control in the hands of politicians who were least affected by the change.

How state government became more responsive to a changing Florida is probably the most important chapter in the state's political history. And understanding Florida's political history means understanding reapportionment, for it was the issue of reapportionment that finally brought down Florida's 1885 constitution, effectively throwing out the old Florida and ushering in the new.

The Legacy of 1885

None of the drafters probably anticipated that their 1885 Constitution would survive over six decades into the twentieth century; nor is it likely that they suspected it would guide one of the nation's most populous and dynamic states. The constitutional authors also would probably be astonished to discover that their provisions for legislative representation essentially endured despite the static assumptions of history upon which these provisions were based and the fact that Florida changed so dramatically. If the constitutional authors could have foreseen Florida of 1960, would they have created a refuge for those empowered by a malapportioned legislature?

The answer is speculative, but it is doubtful that the 1885 constitutional authors set out to misrepresent Florida citizens. Nevertheless, by establishing the county boundary as the central aspect of legislative representation, and not the population of a given area, a less representative die was cast. As amended in 1924 (the last tinkering of the original document's provisions for legislative representation), the constitution set out the following methodology for determining seats in the legislature: for the House of Representatives, each of the five most populous counties received three members; each of the next eighteen most populous counties, two members; and the remaining counties received one member each.

The provisions for representation in the state Senate were not similarly definitive, seemingly allowing some discretion in the establishment of districts that treated populations equally throughout the state. In fact, this intent was expressed in the constitution's stipulation that Senate districts be "as nearly equal in population as practicable." But while certain language appeared to compel that result, other constitutional qualifications rendered such considerations meaningless. For example, "no county shall be divided in making such apportionment, and each district shall have one senator" and any multi-county district "shall comprise contiguous counties." Such rules made population equality in senate districts difficult, if not impossible.

While it is a simple matter to reproach the inflexibility of such a representative system, it seemed sensitive enough to the Florida of 1885. Until the mid-1920s, Florida grew at a modest pace, gradually increasing the number of counties, with the newly developed areas receiving representation as prescribed by the constitution. The relative smoothness in the growth and homogeneity of the state's population and economy served to mask any developing differences between regions, thereby obscuring any developing representative inequality.

By the late twenties, however, technological advancements in personal transportation, residential development, and air conditioning combined to make Florida an attractive option for year-round living, setting off a pattern of robust growth that has lasted to this day. When new residents gravitated to growing cities in choice coastal regions, the distribution of Florida's population changed. This rapid growth and urbanization exposed the unresponsiveness of political institutions established in quieter times. The state legislature was the most obvious example, as its membership failed to reflect the increased population of Florida's southern coastal areas.

Florida was not alone in seeing dramatic population shifts erode the underpinnings of representative government. From 1937 until 1955, thirty-eight states showed a decline in the proportion of the total population required to elect a majority of the upper house, and thirty-five states showed a similar decline for the lower house. In fact, the unresponsiveness of state legislatures to emerging problems is viewed by many political historians as a major factor in the rise of federal government during this period.

While unrepresentative state legislatures were more the rule than the exception for America at mid-century, the extent of Florida's malapportionment was astonishing. Equally amazing was the lack of tools available to correct the situation. Any revisions to Florida's constitution required legislative approval, an exceedingly difficult hurdle for reformers. That meant that the public would have to appeal to the state's executive

office and the judiciary, branches of Florida government which had no real constitutional authority in matters of legislative representation.

Governor Collins and the Porkchoppers

Under Florida's amended 1885 constitution, the state legislature was required to reapportion itself in the fifth year following each federal census. Despite occasional grumbling from under-represented counties, these reapportionment sessions had never amounted to much. Minor changes, if any, were made, leaving legislative leadership in traditional hands. It was not until 1954, when Leroy Collins campaigned for governor on a platform that emphasized fair legislative representation, that reapportionment became an overriding concern in state politics. Once Collins was in office, reapportionment reform became a cause that affected virtually every issue of the day.

Shortly after his election, Collins appointed a citizens' committee on reapportionment, requesting that the committee's recommendations be presented to the legislature prior to the 1955 reapportionment deliberations. By all accounts, the committee took the job seriously and sought a pragmatic solution during its meetings. As a result, the committee's final recommendations were widely viewed as moderate and respectful of legislative tradition, a tacit acknowledgment that incremental progress towards fair representation had the best chance to succeed. Fearful of even small reforms, however, the legislature ignored the committee's modest recommendations. This response to the conservative proposals infuriated the reformers and stripped away any pretense that legislative leadership was interested in anything except perpetuating control by the small-county block.

It was at this increasingly contentious time that the rural-dominated Legislature was dubbed the "Pork Chop Gang" by James Clendenin, editor of the Tampa Tribune. In his paper's searing editorials, Clendenin relentlessly

slammed legislative leadership for its narrow perspective, insisting that the small county representatives "fought only for pork, not principle." Most of Florida's urban newspapers quickly seized upon the image of the "porkchopper" and the term became part of the Florida political lexicon. Although intended as a term of disrespect, the porkchoppers nevertheless reveled in their notoriety and grew more cohesive as a group, their identity fortified and their cause fueled by the label given to them.

Discouraged by the Legislature's unwillingness to consider his committee's modest apportionment reforms, Governor Collins chose to raise the stakes with highly charged political rhetoric designed to appeal directly to the public. This had the sole effect of hardening each side further. The porkchoppers accused the governor of disrupting the low temperature bargaining approach traditionally employed between the executive and the legislature. They made it clear that no movement on reapportionment would ever occur in such an atmosphere.

In spite of the continuing acrimony, the governor called the legislature back for a special reapportionment session following the 1955 regular session. The ensuing special session was torturous, proving to be "the longest and least productive legislative session in state history", according to Neil Skene. The legislature passed two reapportionment plans which Collins vetoed and a legislatively-proposed constitutional amendment on the issue was soundly defeated at the polls.

The practical effect of the 1955 wrangling was a protracted stalemate which lasted throughout Collins's term. The bitterness reached extraordinary heights in the 1957 session when the fate of practically all legislation seemed to rest entirely on where sponsors stood on reapportionment. Rifts occasionally developed among allies, as the more reform-minded lower chamber broke with the senate to side with the governor on particular issues, further intensifying hard feelings. There was even earnest talk of

dividing Florida into two states to accommodate the obvious differences between the rural north and the urbanizing south.

The fallout of the 1955-1957 sessions left legislative leadership in the hands of the porkchoppers, but at a price. Government, if not in disarray, was at least at a standstill. With the crucial 1960 elections looming, and a number of issues requiring legislative attention, the porkchoppers decided to try to clear the air with a reapportionment overture during the 1959 session. The proposed constitutional amendment, crafted as reapportionment reform, actually contained precious little additional representation for urban areas. But desperate for some action on this front during his term, Collins supported the amendment, much to the chagrin of most reformers. The public defeated the amendment in a special election, satisfying both the reformers who sought greater changes and the porkchoppers who were left with the status quo. The only loser, it seemed, was Governor Collins, whose valiant attempts at "fair representation" came to an end. Lacking Collins, the executive branch was now firmly vanquished on the issue of reapportionment, forcing the misrepresented elements in Florida to look elsewhere for change.

The Courts Enter the Political Thicket

At the end of Collins's term, the small county legislators not only had a colorful name to unify them, the undying support of their constituents, a stranglehold on legislative leadership, and an unbroken string of success, they had to answer to less of the state than ever before. The malapportionment of the Florida legislature had become so egregious that by the 1961 session, 12.3 percent of the state's population could elect a majority in the senate and 14.7 percent a majority in the house, the lowest such numbers in Florida's history (down from 17.7 percent and 18.7 percent respectively in 1950). The five most populous counties accounted for more than 50 percent of the population but only 14 percent of the senate membership. If every county were to have a member in the house,

and all districts were to be equally populated, the house would have required a 1600 seat chamber. No wonder that Florida was receiving national attention for its legislature, "possibly the most astounding situation" in the country, according to columnist Anthony Lewis.

This misrepresentation led to predictable public policy results. In 1962, pork chop counties with 18 percent of the population were paying 15 percent of the taxes, yet received 30 percent of state disbursements. State racetrack revenues were appropriated equally to all counties regardless of size, in some cases paying for virtually the entire cost of local government. No wonder that political scholars observing Florida concluded that the state had no Democratic party, no Republican party, only the porkchoppers' party, for it was the only group that fit the description of a politically cohesive unit.

When the porkchoppers managed to get their candidate for governor elected to the statehouse in 1960 (former speaker Farris Bryant), the prospects for political change seemed to dim even further. But at the same time the porkchoppers were successfully turning back political challenges in their own state, the nation was in the midst of a social revolution that threatened to undo all that the porkchoppers had fought to save. The crusade was civil rights, a cause whose fulcrum was the authority of the federal courts.

It was not as if the federal government had been ignored as a source of help in the matter of legislative malapportionment, only that relief from that direction appeared so unlikely. State political affairs were simply not considered within the purview of federal courts. No less than the Supreme Court said as much, vigorously, in its landmark 1946 Colegrove v. Green ruling which warned against intruding in the "political thicket" of apportionment at the state and local level. But this was becoming an increasingly difficult posture to maintain as court decisions protecting individual rights began to run up against state and local political mechanisms which seemed to abrogate those rights. Still, few dared to believe that the

1954 Supreme Court ruling on desegregation would presage any wider applications. And, indeed, Florida's porkchop legislature was able to act with impunity throughout the remainder of the decade, with apparently little fear that equal protection laws would challenge its authority.

Nevertheless, the fragility of state prerogative had been exposed in racial discrimination rulings. How long could courts refrain from extending equal protection coverage to victims of geographic (and therefore political) discrimination as well?

Just when it appeared nothing would ever change the Florida legislature, the U.S. Supreme Court handed down its Baker v. Carr ruling in 1962. The legislature had just completed work with Governor Bryant on yet another facile reapportionment plan, when the U.S. Supreme Court let it be known in Baker v. Carr that federal courts, for the first time, would hear challenges to state legislative districting plans.

In Florida, as in many other malapportioned states, the judicial reaction to Baker v. Carr was swift. Before the porkchoppers could assess the case's implications, a three-judge federal court ruled the state's apportionment "null, void, and inoperative" in July 1962 and ordered the Legislature to reapportion itself. In the face of the abrupt court order, the porkchoppers backpedaled from their previous reapportionment plans and called a special session to address the court's concerns. By August 11, the special session produced a constitutional amendment providing increased urban representation in the house, while keeping the senate a small county citadel. The voters subsequently rejected the amendment, in what was largely a referendum on federal court interference, not a reaction to the plan itself.

Without a plan to present to the court, Governor Bryant was forced to call two more special sessions, in November 1962 and January 1963, in an effort to produce a satisfactory reapportionment. Finally, on January 29, a plan was produced which the lower court approved, and elections were held

shortly thereafter. The new districts brought a number of urban progressives and Republicans to Tallahassee in the spring of 1963, but the new legislature was shortlived. The following year the U.S. Supreme Court overturned the lower court's approval of the plan, ruling that the recast legislature still failed to reflect the principle of "one person-one vote." This decision, Swann v. Adams, was the turning point in the battle to end Florida's use of county boundaries as the basis for legislative representation. Despite this court ruling, the measure remained on the fall ballot, with Floridians defeating the constitutional amendment by over 300,000 votes. Again, the result was widely viewed as a repudiation of federal court interference.

Its legitimacy rejected by the highest court in the land, the legislature tried again in early 1965 to remake itself by the court's deadline of July 1. It was truly a remarkable, if not bizarre situation, having an unlawful legislature authorized to do nothing else except create another, more legal, group of lawmakers. A "temporary" plan was developed that spring and everyone was relieved when the three-judge lower court approved the plan. But those who figured that the federal courts were now on the same page were proven wrong. In the second case of Swann v. Adams, the Supreme Court rejected the new plan, ruling that the latest reapportionment plan continued to discriminate against populous regions in the state.

Yet another plan was drawn up in March 1966, and once more it passed the lower court. In October, on the doorstep of elections under the new plan, the Supreme Court stunned Florida by announcing that it was scrutinizing this recent reapportionment as well. The governor declared that additional review meant "political and probably economic chaos" for the state. Under this cloud, elections were held, and a new legislature created. It never met in regular session, for in January 1967, the third and final Swann v. Adams decision was issued. It proved to be the clincher. The Supreme Court invalidated the reapportionment under which the previous elections were held and, apparently concluding that annulled legislatures were incapable of

creating acceptable plans, ordered the lower court to draw one for the state. The plan the court designed was unlike any Florida had ever had, although it looked very much like the plans reformers had been advocating for years. For the first time in the state's history, legislative districts were created which gave primacy to population, not county boundaries. The plan granted no county automatic representation, ending for good the era of geographic apportionment in Florida politics and, therefore, the grip of the porkchoppers.

1967 1981: ARITHMETIC APPORTIONMENT (1967-1981)

Reform by the Numbers

By 1967, Florida's 1885 Constitution had been under siege by reformers for over twenty years. The document had been amended over 150 times and practically everyone agreed it was full of obsolete language. Only entrenched bureaucrats cared to defend the chaotic administrative structure the constitution permitted (Florida possessed over 200 governmental agencies). Despite the crying need for constitutional revision, attempts at change were constantly stymied by the thorny issue of legislative representation. Numerous committees had attempted to circumvent this issue by concentrating on other concerns, but met with no success.

In January 1967, prior to the issuance of the final Swann v. Adams ruling, the new legislature was meeting in special session to consider yet another plan for constitutional revision. This plan was the result of work by the Constitutional Revision Commission, an advisory body established by the legislature. With the addition of some reformers elected the previous November, cautious optimism existed on the prospects for constitutional revision. But even with the change in some legislative seats, rural lawmakers were still in control and remained fiercely protective of their interests.

In the midst of the special constitutional session came word of the Swann v. Adams ruling. And unlike past decisions, the Supreme Court allowed for no interim legislature, declaring the body in special session to be unconstitutional. It was another bizarre moment in the state's political history: at the time the Florida legislature was found to be federally unconstitutional it was debating state constitutional revision. Since the legislature was null and void and was disbanded, constitutional revision was left hanging, with no one to receive the reports of the Constitutional Revision Commission. In truth, without a legal legislature (a circumstance which had actually existed for several years), and with a sprawling, disorganized bureaucracy governed by a dysfunctional constitution, the government in Florida could literally be described as a mess.

Courts and State Move Swiftly

The federal court recognized the need to adopt a plan quickly if elections were to be held and a legislature seated before the regular session began on April 4. Achieving this required an extraordinary timetable: adoption of a new apportionment plan to allow candidate filing before February 17, primaries on February 28 and March 14, and the general election on March 28.

The court was clearly in no position to deliberate at length on different alternatives. Fortunately for the court, the issue had been debated so thoroughly in Florida for a number of years that many complete plans existed to consider. The three-judge panel also appointed as a friend of the court the esteemed University of Florida scholar, Manning J. Dauer. Dauer had been before the court for the last several years, testifying on fair approaches to reapportionment and suggesting plans in line with his philosophy. The court eventually chose to adopt one of Dauer's plans.

According to Dauer, the adopted plan was developed using the following principles:

1. The chambers would have membership in line with numbers suggested by past legislative reapportionment plans (Dauer's plan called for a 48-member senate and 119-member house);
2. No district would be so large that constituents would feel remote from their legislators;
3. Counties within districts would be contiguous, and while compactness was ideal, it would not always be achievable;
4. Population variation from the smallest to the largest district would be limited to 10 percent;
5. Smaller counties would be grouped into single member districts;
6. In larger counties, members would run at-large, following the Florida practice since it became a state in 1845;
7. County lines would not be broken in the creation of districts; in other words, census tracts would not be used exclusively to determine districts; and
8. Factors such as incumbency and political party status would be ignored.

The use of Dauer's plan brought more central and south Florida legislators to Tallahassee in April 1967 than the capital had ever seen. These new legislative members were favorably disposed to the recommendations of the Constitutional Revision Commission and other governmental reforms. This interest led to the calling of three special sessions on constitutional revision in 1967, culminating in the placement of an entirely new document on the ballot in 1968. When the voters approved the new constitution, they also approved a somewhat controversial approach to future legislative apportionment.

1972 Reapportionment

Despite misgivings in some quarters, the 1968 constitution established the legislature as the reapportioning authority in Florida. Speaking for many

who felt that the legislature's involvement represented a conflict of interest, Professor Dauer argued that the new constitution establish a bipartisan commission to decide redistricting. Dauer also suggested that any tie-breaking votes on the commission be cast by the Supreme Court.

Given the long history of the state's malapportionment and the reformist zeal of the new legislature, it may seem somewhat surprising that lawmakers left reapportionment in their own hands. But given the broad nature of constitutional revision, this was not a major issue among the general public, and it was not debated as widely as other aspects of the proposed constitution. Besides, it was argued that there were other safeguards. The constitution required the legislature to reapportion itself the second year following each federal decennial census, meaning that the court-drawn plan would end after the 1972 session. The constitution also provided for special apportionment sessions and review of the plan by the Florida Supreme Court. Gubernatorial veto, however, was effectively prevented by requiring legislative redistricting plans to be passed by joint legislative resolution, not by general legislative act. The reapportionment package did not weigh down the constitutional amendment, for the new constitution was approved by the voters in the fall.

Prior to the 1972 session, the state Attorney General asked Professor Dauer to outline principles that should guide the legislature in its first reapportionment under the new constitution. Taking into account recent case law and his own observations, Dauer suggested the following: (1) no district should vary from another by more than one percent; (2) districts should be as compact as possible; (3) counties and cities could be divided; and (4) both single and multi-member districts could be employed.

These principles were sent to the legislative reapportionment committees with the reminder that "population equality is the <u>only</u> true test of apportionment of legislative districts." Following decades of mal-apportionment based on county boundaries and the inequitable

representation that resulted, Florida's leadership was now primarily concerned with the plan's arithmetic precision.

Also, for the first time, Florida's reapportionment was based on census enumeration districts, or tracts, necessitating the use of sophisticated statistical techniques, computational devices, and highly skilled staff in the reapportionment process. The use of census information allowed greater choice in district arrangements, but also required the capability to manipulate large amounts of data. As a result, the drawing of new districts proved to be a cumbersome process, making reapportionment not only a painstaking problem politically, but a difficult technical task as well.

In practically every respect, the effort required to reapportion the state was underestimated by all involved. Since this was the first full-scale legislatively accomplished reapportionment in the modern history of Florida, this should have come as no surprise. Once completed, however, the plan was certainly unassailable on arithmetic grounds. The legislature allowed itself the largest number of seats permitted by the constitution: 40 senators and 120 representatives. The widest population variance between house districts was .3 percent (171 people), and in the larger senate districts the variance was only 1.1 percent (1,963 people). The legislature's accomplishment in this area was significant, for it helped to fend off serious challenges to the plan as well as establishing the legislature's credibility as the keeper of the process.

There was some disenchantment among various groups, blacks and Republicans in particular, that the new plan not only continued to employ multi-member districts in the house, but added them to the senate as well. Twenty-four of the house's 45 districts (comprising 99 of the 120 members) and 14 of the senate's 19 districts (comprising 35 of the 40 members) had multiple members. Many supported the use of multi-member districts on the basis of tradition, the broader interests of members elected

from larger areas, and a fear of parochial politics. Opponents of multi-member districts scoffed at such arguments, feeling they masked simple self-interest.

Veteran participants of past state reapportionment battles viewed the new wars with an understanding of the passions the process raised. Then Governor Rubin Askew, a former porkchop senator himself, acknowledged the bottom line pressures and realities with the observation that, "When you sit across a table from a friend and reapportion him out of politics, he sorta gets sensitive about it."

1978-PRESENT: PLURALIST REAPPORTIONMENT

Toward Multi-Group Representation

Compared to previous decades, the representativeness of Florida's legislature could not help but improve following the 1972 reapportionment. Legislative seats were allocated strictly by population with little concern for county boundaries. In fact, 1972 was the first time in Florida history when legislative districts crossed county boundaries at all, a significant break with tradition. (Even the 1967 court-drawn plan did not attempt that.)

Nevertheless, the new legislature did not make everyone happy. The continued use of multi-member districts in the House of Representatives caused grumbling among all who felt such districts continued to minimize the representative character of the chamber. Groups that perceived themselves as under-represented (blacks, Hispanics, Republicans) were not content to "merely influence" larger numbers of representatives. They demanded a system that made it possible to win seats in proportion to the population; the difficulty for minorities to achieve office in a multi-member arrangement left the impression of unfairness. Furthermore, the Senate's break with its nearly one hundred year tradition of single member districts created additional concern over the direction of the legislature. Minorities

felt this action in the much smaller chamber was unnecessary and constituted a retreat on the issue of fair representation.

Indeed, at least for blacks, the 1972 legislative reapportionment did not pave the way for large increases in legislative membership. Throughout the 1970s, an average of only five blacks were elected to the House and none to the Senate, numbers representing much lower proportions of the legislature than blacks' portion of the state's population.

Chafing under this multi-member district arrangement, blacks and other minorities spent the remainder of the decade aligning themselves with groups campaigning for change. Rather than waiting ten years for the next reapportionment, however, foes of multi-member districts seized upon the mandated ten-year constitutional review period, scheduled in 1978.

1978 Constitutional Revision and 1982 Reapportionment

The constitutional revision period was not just an opportunity for groups seeking the abolition of multi-member legislative districts, but another chance for those in favor of reforming the entire reapportionment process itself. Governmental reformers intent on nothing less than the removal of reapportionment from the legislative agenda hitched a ride on the single member district bandwagon. Their interest was the establishment of an independent, ostensibly non-political entity to do legislative redistricting on a completely impartial basis.

While the legislature did not embrace this concept, the increasing public sentiment for single-member districts did result in tentative legislative steps in that direction as early as 1977. In April of that year, a Senate committee approved a proposed constitutional amendment mandating single member legislative districts. A firm consensus did not emerge to enable such a proposal to pass the legislature, but the action signaled growing acceptance of the idea.

Almost a year later, in March 1978, the State Constitutional Revision Commission delivered its recommendations for constitutional change to the legislature. Significant among the many recommendations was a call for single member districts, and the suggested amendment, Revision No. 3, was generally called the "single member district" amendment. But in reality, the recommendation was far more profound. The language, as printed on the ballot, gave little indication of the fundamental change an "aye" sign would have on legislative politics:

Revision No. 3
Revision of Article III. S. 16
Legislative (Single-Member Districts and Reapportionment Commission)

> Proposing a revision of the Florida Constitution to require single member legislative districts, and to establish reapportionment standards and a commission to prepare a reapportionment plan for legislative and congressional districts.

Revision No. 3 would have required that redistricting be removed from the hands of incumbent politicians with the establishment of a non-partisan commission to handle reapportionment. The commission would be bound by strict anti-gerrymandering standards, including the requirement that districts be compact, convenient, contiguous, and single-member; that they coincide as much as possible with local political boundaries; and that lines be drawn irrespective of incumbent seats, political affiliation of registered voters, previous election results, or demographic information. Finally, all districting plans would be subject to prompt review by the Florida Supreme Court.

In retrospect, it seems clear that the procedural question posed by the constitutional amendment (how reapportionment should be accomplished) was, in the long run, more important than the product question (should single-member districts be mandated). Nevertheless, this constitutional amendment was characterized then (and now) as the "single-member representation" amendment. The debates at the time clearly centered

around that question, with such varying groups as the NAACP, the Republican party, Common Cause, and the Florida Conservative Coalition arguing strongly in favor of the amendment on the basis of the single-member provision.

Fearful of seeming to defend old-time politics and the unfairness of past legislatures, few attempted a defense of multi-member districts. Most damaging was the lack of any empirical evidence to demonstrate that minorities possessed the broader influence ascribed to them in multi-member districts. There remained, however, at least one distinguished defender of the status quo, Professor Manning Dauer. Professor Dauer had the ability to defuse the incitive arguments employed against multi-member districts while at the same time challenging the fundamentally virtuous assumptions made for single-member districts. He painstakingly defended the historical practice of multi-member districting in Florida in an effort to disprove any discriminatory intent in its use. Gazing into a future with single-member districts, Dauer viewed the state's population dispersion as reason enough why substantial minority gains would be unlikely. And at what cost would any marginal gains be made? Dauer insisted that forcing increased minority legislative membership through single-member districts could only serve to diminish minority influence on the entire legislature, not to mention increasing the parochialism of all who served there.

Whether the public at large bought this argument, or even fully understood the issue is debatable. The fact remains that Revision No. 3 went down to defeat, as did each of the other eight proposed amendments, on November 7, 1978. The loss was relatively narrow, however, 1.11 million votes to 983,000, the closest of all but one other amendment, thereby heartening advocates of single-member districts, most of whom announced their intention to redouble their efforts prior to the next reapportionment.

The Fight That Never Was

In the months and years after the 1978 constitutional revision battle, it became apparent that while the effort to mandate single-member districts had been turned back at the polls, any effort to protect multi-member districts was not going to succeed. Having come perilously close to losing control over reapportionment because of the single-member district issue, and with citizens initiatives constantly pounding away at legislative reapportionment prerogatives, legislators were in no mood to jeopardize their powers in the defense of multi-member districts. The House Select Committee on Reapportionment conducted public hearings on the issue of reapportionment in August-October 1981 and the overwhelming concern expressed by the public was for the elimination of multi-member districts. So it came as no surprise that, shortly thereafter, the legislative leadership pronounced dead the issue of single vs. multi-member districts. Statements of legislative policies and goals on redistricting were issued stating that "all senatorial districts and all representative districts shall be single member."

"Nesting" Fails to Fly, But Senators Required to Run

While the House and Senate agreed very quickly on what all thought might be a thorny issue (whether to retain multi-member districts), two other disputes emerged to complicate negotiations between the chambers. One was eventually resolved at the conference table, while in the other each side was so unyielding that a Florida Supreme Court ruling was required.

On the House side, there was strong sentiment that House districts be wholly contained or "nested" inside Senate district lines. Given a 40 member Senate and 120 member House, this meant three single-member House seats would exist within one Senate district. While there was an elementary logic and elegant appeal to such an arrangement, and perhaps in practice it could lead to more cohesive legislative operations, the problem was which legislative body would have the lead in drawing such a district

map. Either the Senate districts would have to be drawn around proposed House lines or the House would have to subdivide within proposed Senate lines; either way, one chamber would make the critical initial determinations which would limit the other. The Senate was in no mood to yield to the House's interest in nesting (on the basis of House district lines, of course) so, despite the House's passage of a reapportionment plan which included nesting, there was little chance for the arrangement's survival. In subsequent negotiations with the Senate, the House eventually relinquished the concept.

More nettlesome than the nesting issue was the debate over unexpired Senate terms. Given the Senate's staggered four-year terms, half of the chamber, those from odd-numbered districts, were elected in 1980. Would these senators have to stand for election again in the fall of 1982 following reapportionment? Or, were all senators grandfathered for their full four-year terms, as was the case when the legislature reapportioned itself in the 1960s? The authors of the 1968 Constitution overlooked this problem, ironically providing two-year senate terms after reapportionment, but making no specific provision for two-year terms before reapportionment. The issue was not debated at length in 1972, perhaps because all acknowledged the unique circumstances; the 1972 reapportionment was the first under the 1968 Constitution so a fresh start to legislative terms was expected. No such consensus existed prior to the 1982 reapportionment talks.

According to Mark Herron, then staff director of the House Select Committee on Reapportionment, "The House stridently maintained that senators should stand for re-election in 1982. The Senate, with equal vigor maintained that all senators from odd-numbered districts should continue in office until 1984." Each side defended itself with a variety of constitutional interpretations, and these positions hardened as the session wore on. The contentiousness over this point deeply affected other legislative work,

holding up negotiations on appropriations, matters of finance and taxation, and the sunset of the insurance code.

Finally, in an effort to break the logjam, legislative leaders "agreed to disagree" and punted the issue away to the Florida Supreme Court. This was accomplished by adopting a joint resolution on apportionment which incorporated "neutral language" on the question of senators' terms. The deadlock between chambers was characterized as a constitutional question, one which could only be resolved by the court in the course of its required review of the overall reapportionment plan.

The dispute could have been avoided altogether, albeit to the benefit of one side, had the legislature heeded the comments of Manning Dauer on this issue. Dauer did not equivocate, opining that the job of reapportionment simply could not be done unless one assumed that terms of senators elected in 1980 were cut to two years. "To do otherwise," explained Dauer, would "deprive those voting in the 1982 election the choice of their senator in a number of districts," a clear violation of the one-person, one-vote principle likely to trigger court review. Dauer did allow that senators elected in 1980 whose districts did not change might have an argument for leaving their term intact, but Dauer knew, as did everyone else, that it was impossible for district lines to remain unaltered in a state changing as rapidly as Florida.

Following Dauer's logic, the Florida Supreme Court in a 5-2 vote ruled that because all district boundaries had changed, all senators were required to run in 1982. Staggered terms were renewed by assigning two-year terms initially to odd-numbered districts and four-year terms to even-numbered districts, with four year terms for all senators resuming thereafter.

In its overall approval of the reapportionment plan, the court described it as a "substantial achievement in voting equality" and, indeed, the districts were extremely close to ideal population sizes. The senate districts varied from by only 2,566 people or 1.05 percent between the smallest and largest

districts. In the House, the deviation was even smaller, differing by only 378 people or .46 percent.

THE CONTEXT OF FLORIDA'S REAPPORTIONMENT FUTURE

In 1982, the Florida legislature quickly dispensed with a method of legislative representation (multi-member districts) that had been in existence in one form or another since statehood. Now, only nine years later, few citizens recall the debates that led to a legislature composed of single-member districts. There has been relatively little discussion of the fundamental effects of this change on the legislature, but at the time, the change was considered profound. Writing before the 1982 elections, Mark Herron surveyed the reapportionment plan and suggested,

> The changes in policy or government operation resulting from this reapportionment need to be measured and assessed during the next ten years. A ten-year experiment in political representation has begun.

With reapportionment looming once more, it is time to begin that assessment. Clearly, groups who pushed for single-member districts--Blacks, Hispanics, Republicans--have all increased their membership in the legislature since the 1982 reapportionment (although Republicans actually lost a few seats in the elections immediately following). But rarely can a complete assessment of a political "experiment" be reduced to such simple counts. What other changes have taken place since 1982? Did the 1982 reapportionment affect legislative operations or behavior in other subtle, but no less important ways? This is something for the public and its representatives to ponder.

It would be surprising if the 1982 reapportionment had no effect other than to elect several additional minority members, for, as this survey of the past

has described, reapportionment has been inextricably linked with the political history of the state, at one time or another affecting every issue of state government, serving to bring into sharp focus the divisions within Florida's political make-up, and exposing the tension of rapidly changing demographic and social forces. Through the reapportionment process, legislative representation has evolved over many years, moving from a county-based geographic system of representation, through one grounded in population equity, into one which seeks to grant access to all groups of citizens. Fundamentally, then, reapportionment is a crucial and necessary process which adjusts the alignment of the state's representative government along a political and social course that exists at a point in time. That next time is 1992.

Following the often turbulent reapportionment sessions of the 50s and 60s, 70s, and 80s which respectively represented struggles over "geographic", "representative", and "pluralistic" interests, what might be expected in 1992? If reapportionment continues to track political change in the state, then the trend of increased electoral competition might logically lead one to conclude the state is on the verge of simple political reapportionment during the next go round. While governmental reformers might lament even this assessment, it is important to remember the nature of representation in a complex, pluralistic society. Because there are no easy public policy answers, representative government is unavoidably factious, making reapportionment a part of the political process. If Florida has progressed to the point where reapportionment is reduced to simple politics, it follows that the state has made important strides in other areas of representativeness.

But regardless of how the upcoming redistricting battles are viewed, all involved with reapportionment should become familiar with the succinct tenets of the process as compiled by Professor Robert G. Dixon. A long-time scholar of the process, Dixon's peers knew him to be someone whole-heartedly committed to equity, fairness, and democratic values. But Dixon

was also a realist, and his years of reapportionment study convinced him of several things:

1. There are no neutral district lines;
2. Any numerical range of population equality can encompass countless alternative boundary plans;
3. Equal population stringency cannot guarantee (and can even undermine) meaningful equality and majority rule; and
4. The first three facts above are not understood by judges who rule on these matters, many journalists who report these matters, and many members of the general public.

Understanding the above tenets will put you in exclusive company when reapportionment debates commence, and could keep you from wasting time searching for the elusive "perfect" plan. For Florida, truly the only perfect plan is one which is passed by the legislature and blessed by the courts of the spring of 1992.

Regular, Special, Extraordinary, and Extended Sessions of the Florida Legislature Relating to Reapportionment

1955	**Regular Session:** April 5-June 3 (35th Regular Session under the Constitution of 1885)	60 Days
1955-1956	**Extraordinary Session:** June 6, 1955-November 6, 1956 Purpose: Reapportionment (This Session was adjourned from August 10, 1955 until September 26, 1955; from September 29, 1955 until June 4, 1956; from June 11, 1956 until November 6, 1956, at which time no members appeared and the Session expired. The Session technically could not end until the conclusion of the members' term without legislative apportionment. Since the apportionment never occurred, the Session continued, the longest session in Florida history.)	520 Days
1957	**Regular Session:** April 2-June 8 (36th Regular Session under the Constitution of 1885; this Session was extended from June 1-June 8 for eight extra days.)	68 Days
	Extraordinary Session: September 30-October 9 Purpose: Reapportionment, Constitutional Revision.	10 Days
1959	**Regular Session:** April 7-June 5 (37th Regular Session under the Constitution of 1885)	60 Days
1961	**Regular Session:** April 4-June 2 (38th Regular Session under the Constitution of 1885)	60 Days
1962	**Extraordinary Session:** August 1-August 11 Purpose: Reapportionment	11 Days
	Extraordinary Session: November 9-November 28 Purpose: Reapportionment	20 Days
1963	**Extraordinary Session:** January 29-February 1 Purpose: Reapportionment	4 Days
	Regular Session: April 2-June 19 (39th Regular Session under the Constitution of 1885; this Session was extended from June 1-June 19 for 19 extra days.)	79 Days

1965	**Regular Session:** April 6-June 4 (40th Regular Session under the Constitution of 1885)	60 Days
	Extraordinary Session: June 5-June 24 Purpose: Reapportionment	20 Days
	Extraordinary Session: June 25-July 14 Purpose: Reapportionment; then Congressional redistricting. (This extraordinary session convened on June 25 and recessed on July 2 until midnight 14, when this session automatically expired.)	20 Days
1966	**Extraordinary Session:** March 2-March 9 Purpose: Reapportionment	8 Days
1967	**Special Session:** January 9-January 28 Purpose: Constitutional Revision and Reapportionment	20 Days
	Regular Session: April 4-July 14 (41st Regular Session under the Constitution of 1885; this Session was extended from June 3-July 14 for 42 extra days.)	102 Days
	Special Session: (Senate) July 31-August 19 Purpose: Constitutional Revision.	20 Days
	Special Session: (House) July 31-August 18 Purpose: Constitutional Revision.	19 Days
	Special Session: August 21-September 1 Purpose: Constitutional Revision	12 Days
1968	**Special Session:** June 24-July 3 Purpose: Constitutional revision and the establishment of a referendum date for the proposed new constitution.	10 Days
1969	**Regular Session:** April 8-June 6 (1st Regular Session of the First Legislature convened under the Florida Constitution as revised in 1968.)	60 Days
1970	**Regular Session:** April 7-June 5 (2nd Regular Session of the First Legislature convened under the Florida Constitution as revised in 1968.)	60 Days
1971	**Regular Session:** April 6-June 4 (1st Regular Session of the Second Legislature convened under the Florida Constitution as revised in 1968.)	60 Days

1972	**Regular Session:** February 1-April 7 (2nd Regular Session of the Second Legislature convened under the Florida Constitution as revised in 1968.)	67 Days
	(This Session was extended from April 1-April 7 for seven extra days.)	
1982	**Regular Session:** January 18-March 25 (2nd Regular Session of the Seventh Legislature convened under the Florida Constitution as revised in 1968.)	67 Days
	(This Session was extended seven days from March 18-March 25.)	
	Special Session "C": March 26 Purpose: Special Apportionment Session	1 Day
	Senate: 10:00 a.m.-5:51 p.m.	7:51 Hours
	House: 10:00 a.m.-6:03 p.m.	8:03 Hours
	Special Session "D": March 29-April 7 (Actually met only from March 29-30 and April 6-7.) Purpose: Session included apportioning the State into representative districts of the United States Congress.	10 Days
	Special Session "E": April 7 Purpose: Special Apportionment Session	1 Day
	Senate: 6:00 p.m.-8:55 p.m.	2:55 Hours
	House: 6:00 p.m.-6:56 p.m.	56 Minutes
	Result: SJR 1 passed on April 7; signed by officers and filed with the Secretary of State April 19.	
1982	**Special Session "G":** May 21 Purpose: Consideration of enactment of legislation apportioning the State and establishing districts therein for the election of representatives to the U. S. Congress.	1 Day
	Senate: 11:00 a.m.-9:18 p.m.	10:18 Hours
	House: 11:00 a.m.-8:59 p.m.	9:59 Hours
	Result: H1 passed May 21; signed by officers and presented to the Governor on May 22; approved by Governor May 23.	