Congressional Redistricting in California: 1965-67: The Quilting Bee and Crazy Quilts

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Like most states, California's government and politics have been affected by the implications of *Baker v. Carr*, Reynolds v. Sims, and Wesberry v. Sanders. In particular, the judicial requirement of "one man, one vote" meant major changes for representation in California. Responding to the Supreme Court's mandate, California's state legislative districts were revised in 1965, with revolutionary implications for the state senate. The congressional dis-
districts that had not been realigned in 1965, despite the congressional delegation's desires, were altered in 1967. In 1971, with five new congressional districts allotted to California, and with new census data, the reapportionment process began anew. The result of the 1971 reapportionment efforts was an impasse, with Democratic legislative bills vetoed by the Republican governor. Eventually the courts were drawn into the struggle, with the distinct possibility that the courts would be drawing the district lines in 1973.

This article has two purposes: first, to trace the development of proposals for congressional change from inception to approval between 1965 and 1967; and, second, to give some insight into the actual operation of a reapportionment process. Unfortunately the bulk of articles about redistricting ignore or pass over quickly the reality of the process in which the incumbents quilt from their own aesthetic senses leading to what some call crazy quilts. This terminology is appropriate because the creation of a redistricting bill is comparable to a quilting bee. In contrast to the frequent legalistic and statistical surveys of redistricting practices this report will have some of the features of an inside report of a participant-observer. This is possible because of the writer's deep involvement in the creation of the 1965 and 1967 proposals for realignment.\footnote{The writer's reapportionment experience includes the following: Assistant to the Consultant of the Reapportionment Committee in 1951; Ph.D. dissertation on the 1951 reapportionment; Consultant to the Reapportionment Committee in 1961; Consultant to the Governor (1964-1965) re: Senate and Assembly reapportionment; Consultant to the Congressional delegation in 1965 and again in 1966-67; Consultant for the City of Newport Beach redistricting in 1966; member of Los Angeles Mayor's Committee on Redistricting in 1962; and Consultant to the Congressional delegation in 1970-71.}

This study also has immediate relevance because it indicates the techniques that made possible a successful congressional realignment in 1971 with the approval of 32 of 38 incumbents in contrast to the rejected proposals for state legislative districts.

Development of a Bill

Background: California has repeatedly reaped a bounty of new congressional seats, most notably in 1931 (9 seats), 1951 (7 seats), and 1961 (8 seats).\footnote{L. HAPDY, CALIFORNIA GOVERNMENT, 10 (2nd ed. 1962) [hereinafter cited as Hardy].} Resulting reapportionments have been characterized as reeking of gerrymandering.\footnote{L. Hardy, The California Reapportionment of 1951, 1955 (unpublished dissertation in University of California at Los Angeles Library); H.F. WAX,} In 1951 the Republicans...
had their opportunity when they won six of the seven new districts. Another recently realigned district also went to the Republicans. The effectiveness of Republican efforts is amply demonstrated by the election results in the 1950's in Los Angeles County. With 51 percent of the vote in 1954 the Republicans won 66.6 percent of the representation. In other parts of the state the election and representation percentages were closer, probably because required grouping of whole counties limited electoral manipulation.

In 1961 the Democrats had their opportunity, with seven of the eight new districts swinging their way as well as two realigned districts. The subtlety of gerrymandering is again revealed most graphically in Los Angeles County. In 1962 with 49.85 percent of the vote the Democrats won 66.7 percent of the representation. Whereas the disparities of 228,712 to 451,322 in Los Angeles County (average should have been 352,874) gave the Republicans advantages in 1951, the disparities in 1961 with three exceptions were within a 5 percent range.

Evaluation of the 1951 and 1961 reapportionments has often centered around the extreme disparities and reflects a certain naivete. Specifically the disparities, often the extreme examples, were caused by peculiarities of constitutional provisions. In particular, whole counties had to be considered outside of the multi-district counties, and within multimember counties whole Assembly districts had to be used in the creation of Congressional Districts. To focus attention on the 28th Congressional District or the 71st and 76th assembly districts, the disparities offer little insight into the total picture, although there is little doubt that gerrymandering was involved in both the 1951 and 1961 reapportionment.

In 1965 and again in 1967 the state legislature had an opportunity to rectify the disparities. Implicit in the quest for “one man, one vote” the cumbersome constitutional provisions would be set aside—but would the unfettered political factors produce the desired legal effect? One is reminded of the observations made about the federal system:

8. See Hardy, supra note 6 at 10.
Social structures and processes are relatively impervious to purposeful change. They also exhibit intricate interrelationships so that change induced at point "A" often produces unanticipated results at point "Z". Changes introduced into an imperfectly understood system are as likely to produce reverse consequences as the desired ones.\textsuperscript{10}

**Activity in 1965:** Five State Legislators had moved up to the Congressional level in 1962 and in 1963 at the special election another joined them so that by 1965 thirteen of the thirty-eight man delegation had State Legislative experience, most of them fully cognizant of what redistricting can do to a man's career.\textsuperscript{11} It is not surprising that several Congressmen recognized legal rules that would upset the current situation. Soon after the *Wesberry* case\textsuperscript{12} the implications for California congressional delegations were especially apparent. A committee of Democratic members (chaired by Harlan Hagan, with Phillip Burton being the most active participant) investigated the problems, their possible solution, and the creation of a workable program. A consultant was hired, and negotiation was initiated among incumbents to achieve a package for presentation to the state legislature which would have to pass any such proposal.

At that time, the Congressmen who were more interested than others were not incumbents who felt comfortable with their majorities or whose districts were equitable. Naturally those Congressmen whose districts were safe preferred to leave matters as they were: "Why bother me?" But those with marginal districts or special problems (e.g. adverse ethnic or racial concentration) or with light or heavy populations that meant major shifts, were sympathetic to some realignment to the degree of their understanding of the problem.

**The Political Situation:** In 1965 the Democrats were still in their golden era in California. They held the governorship, as well as most statewide offices, and comfortable legislative majorities. Twenty-four of the thirty-eight Congressmen were Democrats. It is not surprising that impetus for action came from the Democrats anxious to solidify their positions, while Republican Congressmen

\textsuperscript{10} Goals for Americans, Report of the President's Commission on National Goals 276 (Colum. U. 1960).
\textsuperscript{12} Wesberry v. Sanders, 376 U.S. 1 (1964).
at that juncture could only work out arrangements in cooperation with the Democratic majority.

However, the Democratic Party was far from unified. Besides, Jesse Unruh, Speaker of the Assembly, was focusing upon the rivalries with the Democratic Governor and State Senate and Assembly reapportionment, which vitally affected his power base. Interested though he was in reapportionment, the Governor was in no position to force through the legislature a redistricting bill. Unruh's stance was supported by the belief that Congressional reapportionment might not be required and that the existing lines maximized Democratic strength. At the same time that he encouraged a no-change position, the Speaker's lieutenants were made available to Congressmen. They promised to provide data as a device that might short-circuit the gathering of alternative materials and might make the Congressmen dependent on the Speaker's resources.

Ultimately a Congressional plan emerged to bring Congressional Districts within the 15 percent variation. In general this was a program that protected incumbents. The most notable changes occurred in San Bernardino, Sacramento and San Francisco counties and in districts that absorbed surplus population in the 28th Congressional District. In these negotiations Congressman Phillip Burton played an important role. His crusade-like furor to get a package and his expertise in reapportionment were instrumental in consummating agreement among many reluctant actors, but not without later ramifications.

Congressmen Hagan and Burton went to Sacramento armed with a program that they hoped would persuade the State Legislature to adopt the Congressional proposal. The results were fruitless. Without a court order, with a belief that the proposal was not to Democratic advantage (especially in the 28th district) and that it did not sufficiently help the Speaker's proteges in the Congress, the state legislative leadership ignored the proposal. The matter was complicated by the longstanding rivalry between Unruh and Burton. The older Burton in the Assembly and his brother who won the

13. The writer at that time was serving as consultant to the Governor on reapportionment (with special attention to senatorial reapportionment) and also as consultant to the Democratic members of the California congressional delegation.
20th Assembly District after Phillip Burton's departure to Congress had long been Unruh's unbreakable foes in the state legislative power structure. The Unruh hostility and suspicion of anything promoted, which was shared by many other legislators, did not help the 1965 Congressional program. Moreover, the Congressional delegation was far from united in its presentation. Many preferred to "let Jesse take care of the situation." Failure to act temporarily put a quietus on Congressional redistricting.

When the matter did reach the State Supreme Court in July, 1965, the opinion stated:

We are, therefore, of the opinion that the Legislature should have an opportunity to consider the question of Congressional districting in the light of the standards set forth in Silver v. Brown, ante, page 270, 279-280 (46 Cal. Rptr. 308, 405 P. 2d 132). Accordingly, the petition is denied without prejudice to the right to seek similar relief if the Legislature has not enacted a new Congressional districting measure by the close of its regular 1967 session.¹⁴

What did the court mean? One group said it meant action or else. Another group equally believed that it meant that the court would not interfere. The latter view was continually thrown up to the action group: "I know one of the justices on the court, and he says they don't want the problem." Although that view continued until the signing of the bill in December, 1967, it ignored the prevalent trend of court decisions throughout the nation. In his testimony on May 12, 1967, Assistant Attorney General Charles Barrett said:

There is little doubt that if this session of the legislature does not enact a Congressional redistricting statute Phill Silver, the petitioner in the above mentioned case, will seek relief from the California Supreme Court. It seems most probable that the Court, pursuant to such a petition would take steps to insure that the 1968 elections were held under reapportioned districts. It could well be that the Court would draw suggested districts which the Secretary of State would be required to follow under the legislature, prior to the time of election, redistricted in a constitutional manner.¹⁵

But politicians are seldom detoured by the facts.

In the summer of 1966 interest in redistricting was renewed and the Democratic delegation again engaged a consultant. The committee was again chaired by Congressman Hagan, and the other members were Burton and Thomas Rees. The latter was a new Congressman who had formerly been an Assemblyman and State Senator. In the Senatorial reapportionment of 1965 when he was State

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¹⁵. Statement made to the Senate Committee on Elections and Reapportionment on May 12, 1967, author's files.
Senator from Los Angeles, his role had been important, and his interest in reapportionment was more than casual.16

With the 1966 election pending, the consultant's work was primarily involved with collecting registration figures for Los Angeles and Orange counties. Preliminary adjustments could be anticipated on the basis of previous plans and the expectation was that all incumbents would be reelected.

Nevertheless, unfortunately for defeated incumbents, the 1966 election was disastrous for the Democratic Party. In the Reagan landslide that captured the governorship, all statewide offices, with one exception, went to Republicans. A tenuous Democratic majority was maintained in the State Assembly and the State Senate, but primarily on the basis of malapportionment practices in their districts. The total Republican vote for the Assembly contests was 53.7 percent, the State Senate 50.1 percent and the Congressional 53.1 percent. The Republican Party won 47.5 percent of the seats in the Assembly, 47.5 percent in the State Senate, and 44.7 percent of the California delegation in the House of Representatives.

Specifically, three Democratic incumbents (Cameron, Hagan and Dyal) had been replaced by three Republicans. On the assumption that the previous proposals favored by Democrats in those districts would not be favorable to Republicans, the 1965 plans seemed undesirable from the Republican point of view. At the same time, the Unruh position was reinforced by the 1966 results, and any change in the three lost districts became less desirable to the Democrats. But Democrats who had survived the 1966 sweep took a second look at the 1965 proposals. Republicans began to speculate not only on how to protect their new members but also on how to prepare realignments to their party's benefit. Some Republican Congressmen from safe districts were willing to keep several marginal districts as long as their own districts were perpetuated.

Fundamental to the political movement of a bill was the division of the executive and legislative branches in Sacramento. Obviously a Republican executive would not approve a Democratic proposal

16. Assemblyman Thomas Rees entered the House of Representatives as a result of a special election in 1966. Later another Assemblyman (Jerome Waldie) joined the State legislator contingent of Congressmen, making a total of 15 among the 38 at the time of the 1967 reapportionment. Rees' involvement in the 1965 reapportionment is covered in Sohner, supra note 4.
to the sole advantage of the Democrats; similarly, a Democratic legislature would not be expected to approve a Republican redistricting to the detriment of some Democratic Congressmen. Any proposal would have to be bipartisan and realistic enough to benefit incumbents. Despite this logic many of the legislators, presumably astute politicians, ignored it until the very end.

*Developing a 1967 program:* The initial reaction to the 1966 election and its aftermath was “Let’s not do anything.” The consultant was informed in January that his services would not be needed. In the Democratic delegation the word spread by Congressmen close to Unruh was that the Assembly leadership did not want the reapportionment issue to complicate what would, in any case, be an acrimonious session. Also implicit was the consolation that the Assembly and State Senate committees would be available in case of emergency. However, by the middle of February the consultant once more was engaged and so began an arduous experience for this political scientist. Congressman John McFall had assumed the chairmanship of the Democratic reapportionment committee which had been expanded in numbers. Congressman H. Allen Smith assumed a similar position within the Republican delegation.

On May 12, 1967, George H. Murphy, Legislative Counsel, made a statement before the Senate Committee on Elections and Reapportionment pointing out:

The Legislature has not yet been expressly directed by a court to reapportion Congressional districts. When the California Supreme Court, in *Silver v. Brown* was asked to consider this question, it refused to decide the matter, stating, as it did in the case of the legislative districts, that the Legislature should first have an opportunity to consider the question. The Court stated that if the Legislature did not enact legislation to reapportion the Congressional districts by the end of its 1967 Regular Session, the court would take jurisdiction and decide the matter itself.

In substance, the court thus told the Legislature that it must act at the current session if it wishes to avoid a redistricting by the courts.17

Thus, a reapportionment was to be anticipated. Murphy went on to discuss guidelines, concluding that the court would follow its 1965 recommendations, namely: 1. no district may depart from the ideal size by more than 15 percent; 2. a majority of the members must be elected by the voters of districts containing at least 48 percent of the population of the state, and 3. that reapportionment should be based on the 1960 federal decennial census.

After reviewing similar cases in other states, especially Texas,

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17. Statements made to the Senate Committee on Elections and Reapportionment on May 12, 1967, author’s files.
the Legislative Counsel opined that

[t]he legislature should set its sights at a maximum population variance of five percent in the formation of Congressional districts, with greater variances being tolerated only where necessary to maintain the integrity of the boundaries of a political subdivision. In no case do we have any basis for concluding that a variance in excess of 10 percent would be permitted.  

This perspective of 15 percent shifted to 10 percent to potentially 5 percent, either of which complicated further the changing political realities. At first blush the adjustment of an additional 5 percent (involving approximately 20,500 people) might seem minor. However, whereas 28 districts had to give-and-take to achieve a 15 percent, 35 districts had to be adjusted to achieve a 10 percent shift. Always present is the potential ripple effect that draws an analogy between the effect of a stone thrown into a lake and the shifts in reapportioned districts. When it is said that six districts are overpopulated and three districts are underpopulated, there is no simple solution in giving surplus population to a small district. The change of population to an adjacent "equitable" district (one initially within the range) may make that district overpopulated, or underpopulated, and that in turn makes the next district overpopulated or underpopulated and so on. For example the 9th, the 8th, and the 7th Congressional Districts were underpopulated while the 10th and the 11th Congressional Districts were overpopulated.

Given the county lines, geographical terrain and population concentrations, the 7th C.D. had to expand into the 8th C.D. (potentially endangering the incumbent registration percentage, as well as racial balance). The removal of population from the 8th C.D. further underpopulated that district. Consequently it had to expand into the 9th C.D. which, in turn, had to expand into the 10th C.D. that was overpopulated. However, since the 10th and 11th C.D.'s were heavily Republican, adjustments became political as well as statistical. If, because of underpopulation, the 10th C.D. required expansion, this could be accomplished by addition of part of the 11th C.D. to the 10th C.D. If the sections removed were Republican, the result would weaken the Republican hold in the 11th C.D., or if Republican areas were given to the 9th C.D. the Democratic position would be jeopardized in that district. The ultimate result gave the 9th C.D. Democratic parts of the 11th C.D. (breaking county lines) and

18. Id.
moved the 10th C.D. into the 12th C.D. that, in turn, had to move into the 18th C.D. etc. The ripple had traveled some two hundred miles.

In March there occurred a shift crucial both in perspective and in methods of operation. It was not a deliberate, or even a conscious action but was de facto.

First, the Democratic desire to save the three lost districts became more remote. As one Democrat said:

Earlier in the year it was hard to think of undercutting the comeback chances of Democratic colleagues who'd gone down last November. But as the '66 elections got more distant and Democratic prospects for '68 kept looking worse, we all decided that the first law of politics is survival.19

Specifically, whereas the 1965 proposals gave Republican sections of the San Bernandino County to a Republican, the 1967 proposals found Democratic sections being given to a Democrat, John V. Tunney, to improve the position of freshman Republican Jerry Pettis. The 1965 proposal for no adjustment in the Democratic 25th C.D. gave way to the massive shift of Republican sections in Orange County to protect freshman Republican Charles Wiggins. This aided Democrat Richard T. Hanna by removal of the Republican areas. The 18th C.D. was subject to many variations, the final action being the removal of Kings County (home of the former Democratic Congressman Hagan) from the district of Republican Robert Mathias.

Secondly, the role of the consultant underwent a significant change. In 1965 he was engaged to gather data and make nominal suggestions. He was supposed to provide an aura of respectability to what otherwise might have seemed unscrupulous action. The negotiations were carried on by actively interested Congressmen, most notably Burton. After March of 1967 the consultant assumed an active role in assembling the diverse interests into a manageable package. From a staff position for the Democratic members his role had changed to that of synthesizer for the entire delegation. Virtually all Congressmen were dealt with individually. Some preferred not to become involved, especially where no changes were anticipated. A few Congressmen were not very communicative because they assumed the consultant was too close to Burton. Several Congressmen had to be interviewed several times. Some asked for detailed information, e.g. exactly what percentage of a district was Democratic or Republican, what percentage Negro, what percentage loyal to what party? After untold hours and several trips to Wash-

ington, the consultant emerged with a program within a 10 percent variation with three minor exceptions, each of which involved grouping of whole counties.

By early June the state legislators involved in reapportionment were invited to go to Washington for a discussion of the Congressional proposal. The first to arrive was Assemblyman John Fenton, Chairman of the Assembly Elections and Reapportionment Committee, with several of his fellow committee members. Fenton and his group fanned out to learn individual Congressional stands and to review the proposals. In contrast to Fenton's informational exploratory trip, State Senator James Mills, Chairman of the State Senate Elections and Reapportionment Committee, with Louis Sherman, Vice Chairman, arrived in June with semiconcrete proposals, notably his insistence that the variations come within 5 percent.

As a result of the Mills visit, the perspectives shifted again. Mills indicated that he meant to submit a bill that would generally conform to the Congressional wishes. But this expressed intention and its presentation of alternatives (frightening in some cases) served to break down resistance to action and caused several remotely interested Congressmen to consider how a reapportionment could affect them. In particular, the alternative Mills proposals for the San Joaquin Valley (one of which gave rural Congressman B. R. Sisk an urban district made up predominately of valley cities) and the Central Coastal area focused attention on the need to break county lines to achieve a 5 percent variation. In contrast to the Assembly no-action or no-program stance, Mills indicated that there would be action at least in the state senate, where a program would be put on the books. This tactic was not in accordance with the ideas of the state assembly leadership. Mills' initiation of a concrete proposal had considerable potential. Courts in some states had picked up a legislative proposal from one house as a solution to inaction by the whole legislature. The California court would have a ready-made solution with the Mills proposal on the books. It also put Mills, a close ally of the Speaker, in an independent role as a state senator.

In cooperation with the Congressmen the consultant set out to develop a 5 percent variation plan, again with some minor exceptions. There was not full agreement, but the consultant carried with him the Congressmen's proposals, which were in some cases
incompatible. In Sacramento, he worked closely with the State Senate staff in the preparation of the Mills bill. That bill (Senate Bill 130) included a few variations from the Congressional plan, because it involved the settling of incompatibilities.

As the Mills bill emerged it contained sufficient discrepancies to prompt a vigorous Republican attack. For instance, Congressman Charles S. Gubser challenged the inclusion of 25,000 people from San Mateo County in his 10th C.D. The accepted Congressional proposal left San Mateo County (the 11th C.D.) intact, although it was overpopulated by 30,000. Mills’ bill shifted approximately 25,000 of these predominately Republicans to the 10th C.D. Not only did this break county lines, but the removal of Republican voters boosted the Democratic opportunity in San Mateo County. The recent death of Republican Arthur J. Younger, with a special election in the offing, added an emotional dimension to the controversy. Although the Santa Clara-San Mateo problem was the focal point of attack, other Republican Congressmen chimed in. Congressman Pettis discovered that the lines in the Mills plan did not agree exactly with lines listed by the Consultant. Congressman Talcott, who had not expected changes, found the Mills line unacceptable. When the consultant informed him of what was being proposed by the Mills Committee, he wired that the proposal was not in the best interests of his constituency. Later he wrote regarding alternative suggestions: “The proposals get worse.”

In the hectic two-hour Senate caucus on reapportionment, with about thirty of the thirty-nine members attending, the dissatisfaction of Republicans became all too apparent. Charges flew that the Congressional bill was a Burton bill. The mere name Burton was anathema to many conservatives and to legislators in general. When the chart of registration information was distributed, only San Francisco lacked figures, because of an exception in the election code, but the state senators wanted to know why Burton’s district did not have registration percentages.

The state senate scene was complicated by the death of State Senator Eugene McAteer, which left the voting balance twenty Democrats to nineteen Republicans. The pending special election in San Francisco would have to decide whether the state senate would remain in Democratic control, or be tied, with Republican Lieutenant-Governor Robert Finch able to cast the deciding vote. Added to the implications was the entrance into that race of Assemblyman John Burton, brother of the Congressman.

The dissatisfaction of Democrats also played a role. Congressman Harold T. Johnson, former state senator, objected to the realignment in his district. His former colleague Hugh Burns, President pro tempore, and others echoed a desire to maintain the status quo.

State Senator Burns came forth with his own resolution that called for delay of reapportionment until after the next federal census.\(^2\)

Burns quoted Congressman B. F. “Bernie” Sisk as saying that only a few Congressmen wanted action. He claimed that his resolution (Senate Resolution 83) had bipartisan support. The caucus went in favor of the Burns resolution.\(^2\) The resolution sounded the call that was to become virtually the sole reason for no action—the 1960 figures were inadequate. Added, of course, was the argument that the courts were overstepping their jurisdiction.

The result of wires, letters, and other communications from Republican Congressmen was a stalemate. Mills, who had tried to incorporate most of the Congressional proposals in his bill found the rug pulled out from under him. In a lengthy explanatory letter written to the Congressmen, Mills concluded:

> The action by the Republican Congressmen, that of encouraging their State Senators to oppose Congressional Reapportionment on philosophical grounds, has resulted in the Senate's declaring its opposition to any such action. This has delivered the question to the courts.\(^2\)

Mills was especially annoyed that the challenge was put on philosophical grounds that established a no-retreat position, in contrast to mere objection that would allow the normal legislative maneuvering.

To all intents and purposes the Mills bill was dead—as well as the congressional package. In defiance of the obvious trend of court decisions, the State Senate took the ostrich position. State Senator Mills prophesied that the Courts would act and that the

\(^2\) Sacramento Bee, July 12, 1967. Senator Mills had prepared an alternative resolution that was not used in view of the caucus approval of the Burns statement.
\(^2\) Letter from Senator Mills to all members of the California Congressional Delegation, July 18, 1967. Mills declared, “I cannot say that I am unhappily to be temporarily rid of it.”
Legislature would be back for a special session. Apparently few of his colleagues believed him. Others began to speculate that if the Legislature did not act the court would pick up the Mills plan as its own, or possibly develop its own plan that might not be any worse than the current proposals. On the Assembly side, Fenton was still mulling his data and delaying presentation of any bill. The Assembly leadership was also banking on inaction, or taking the position that, if the Court pressed for action, the Speaker and his followers would be able to come to the rescue.

At the close of the legislative session, when the legislature was clearly on record as doing nothing on Congressional redistricting, the court wheels began to move. As expected, Phill Silver, a Los Angeles attorney long active in California reapportionment matters, filed a petition to activate his previous appeal of 1965. But also before the court was another appeal by one Abe Vickter, Los Angeles labor leader. The two petitions basically requested the same thing—action!—but the Vickter approach varied by including a proposed realignment of Congressional districts within a 1 percent variation, with two exceptions (whole counties). If the court chose to act, without a trained staff it would have difficulty developing a reapportionment plan, unless it called for at-large elections. Since time was of the essence to get 1968 elections underway, the proposed ideal plan could potentially be the court plan. As an indication of what might happen if legislative action were not forthcoming, the Vickter plan may have encouraged more concern by some individuals. It is not without significance that when the state legislative staff sought to check out by computer the implication of the Vickter plan its programming code was HAVOC.

To the consternation of several Congressmen of both parties, the Vickter plan had been drawn up by their former consultant. One Republican Congressman wrote to the consultant inquiring whether the Vickter plan had indeed been prepared by him, and he replied:

The sequence of events have fallen in this order. I assumed my responsibilities with the Congressional delegation ended in July when the State Senate rejected the so-called "package" primarily on the basis of Republican objection which appeared in Sacramento to be unanimous. I can assure you that it was the agreed plan that I attempted to push in Sacramento, but apparently that was not the view of some Congressmen.

Soon after I began my vacation from reapportionment (with considerable relief) a lawyer (David Leveton) contacted me on

behalof his client (Mr. Vickter, whom I do not know). He asked if I could prepare a reapportionment plan without regard to incumbents or political factors, that would be within 1 percent variation, be compact and break counties or communities as little as possible. I said as a technician (my role in the previous process) I could. It is that plan which appears in the brief.

Quite naturally coming down from 5 percent to 1 percent would necessitate considerable change from previous plans, which were not considered. With two exceptions every Congressman of both parties will to varying degrees find a difference between the brief plan and the previous plan. The exceptions are McFall and Waldie, whose districts made up of whole counties did not have to be altered. If this plan were adopted by the court I am sure almost every Congressman would hate my guts, again to varying degree. However, a court reapportionment was exactly what the "package" deal sought to avoid. Unfortunately, for various reasons many Congressmen of both parties did not support the legislative program. If the court does not act then their gamble will pay off; if not then someone is going to do it.26

On October 6, 1967, the State Supreme Court met to hear petitions. The result called for legislative action by December 7th.27 If the legislature did not act the court indicated that it would. It invited interested parties to submit proposals with figures, grouping of census tracts, or boundaries. Specifically it said:

We believe that all interested parties should be afforded an opportunity to be heard as to what plan the court should adopt if the Legislature fails to adopt a valid plan. Since time is of the essence, any proposed plan should be presented to the court not later than November 10, 1967. Any such plan must include illustrative maps and the population of the proposed districts based on the 1960 census and set forth complete descriptions of the districts either by metes and bounds or by reference to whole counties, whole present or former assembly districts, or other whole political subdivisions or census tracts. Any plan submitted should be accompanied by a brief setting forth why the plan should be adopted. All proposed plans may be filed on or before November 27, 1967. In the event that the Legislature has not enacted a valid congressional reapportionment measure by December 7, 1967, the court will order into effect a plan it deems appropriate.28

Though rejecting the legislative desire (both on the state and national levels) for no action, the court indicated a willingness to accept moderate changes, up to potentially 15 percent, in view of the rapid changes in population. It allowed that some effort might be

made to recognize population change within the 15 percent latitude. Almost immediately the Governor indicated that he would call a special session to handle the matter. Although Governor Reagan deemed the court action ill timed and ill founded, he stated that the legislature should handle the matter. The call to begin a special session November 7th was made.

In the interim, the reluctant participants come to life again. Assemblyman Fenton and his group arrived in Washington on October 24th for renewed discussions but without a concrete program. State Senator Mills and his group arrived in Washington on October 30th. The Republican state senate victory in San Francisco and other political developments put the senate visit in a different perspective from the earlier visit of June. With the state senate tied, the potential for Republican control seemed realistic if all Republican State Senators supported one candidate for the President pro tempore position, with Republican Lieutenant-Governor Finch casting the deciding vote. Republican minority leader McCarthy was seeking to assert a Republican position to boost his chances against determined challenges to his leadership. Senator Mills hoped to salvage his proposals by gaining near-unanimous Congressional approval for what was in essence their proposals.

Democrats met with Democratic State Senators and Republicans met with the Republican State Senators, individually and collectively. Then on October 31st the entire California Congressional delegation met with the State Senators. As the delegation was getting down to final action the surprise of the day came with the presentation of an alternate Republican proposal by Assemblyman Charles Conrad, an expert on reapportionment from his days as co-architect of the 1951 Republican reapportionment. His plan was called the "minimum change" proposal. The effect was to create serious problems for Democratic Congressmen Corman and Tunney, as well as other subtle manipulations for party advantage. The Conrad proposal was given an airing but attracted little support.

All Congressmen were invited to indicate their dissatisfaction with the altered Mills proposals. Congressman Gubser presented a summary of a carefully reasoned statement that he had previously distributed. Although several other dissents were expressed, possibly for home consumption, the general tone was "let's get it over with." Though points of dissatisfaction with the Mills proposal

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were strongly felt, most Congressmen believed it to be “probably the best we can hope for.”

As the special session got underway in Sacramento an article in the Wall Street Journal created considerable furor. Entitled Massive Gerrymander Mapped in California by 38 Congressmen, Joseph W. Sullivan’s article implied that California incumbents were resorting to the worst of political deeds in what “may be the greatest bipartisan gerrymander in U.S. history.” The facts recited were correct but quite obviously a good part of the article had been deleted in the newspaper office. The broad generalizations that remained and that constituted evaluations left much to be desired. The result was a brutal attack on the delegation.

The response was immediate. Democratic Congressman John McFall described the story as “unfair, unreasonable and untrue.” He went on to say:

There was nothing secret about it. As a result of these meetings some changes were made. Now, there’s general support in the delegation.

I suppose you can say we conspired not to hurt each other, if friends can conspire to do that.

Republican Congressman H. Allen Smith remarked:

We haven’t drawn up any lines. We’ve drawn lines among ourselves in our minds but not on paper. I haven’t seen a map, but it’s my understanding the Mills bill is pretty much in accordance with what we all discussed.

The consultant said that the plan was:

[D]esirable from the point of view of seniority the state could gain. Most incumbents will be protected, and the State will gain from their seniority. Anyone who recognizes the way Washington operates knows seniority is an important factor.

State Senator John McCarthy, Republican minority leader said: “I refuse to accept such an accusation.”

If the Wall Street Journal article was indicative of typical press coverage one would have cause for reflection on a politician’s adverse remarks about the press. For example, the Wall Street

33. Id.
35. Id.
Journal quoted the consultant as saying: "They were a bunch of wallflowers at first, but once we got them dancing it was hard to get some of them to stop." What the consultant had said was, "most members had at first been reluctant to get involved in the reapportionment. The vast majority of Congressmen would just as soon have waited until 1972. However, once the writing was on the wall, they acted, and the results were sometimes startling."

Although unfortunate in respect to the damage to the legislative image, the article did contribute political benefit for those interested in getting the Congressional bill passed. Several Congressmen who otherwise might have failed to comment were forced to make statements (if qualified statements) on its behalf. Furthermore, the logic of the action and procedure was aired. Especially the point was brought out that the action was an interim measure and that the probable re-election of incumbents would increase their seniority in the House of Representatives, a factor that would be of utmost benefit to the state.

When the Legislature met on November 6, 1967, four proposals emerged: the Mills Bill (S.B.1), McCarthy Bill (S.B.2), Fenton Bill (A.B.3), and Conrad Bill (A.B.2).

The Conrad bill became the Republican bill. Its effect has been previously mentioned. Known as a "minimum change" bill, its subtle Republicanism was a rallying point for internal political struggle over Republican Assembly leadership. The McCarthy Bill made drastic alterations to enhance Republican opportunities in the 7th C.D. by dropping its Democratic registration from 58.8 to 53.7 percent and in the 17th C.D. by a more drastic Democratic drop from 64.3 to 52.3 percent. Other changes would have been to the advantage of the Republicans, possibly more so than the Conrad Bill. However, it was a last-minute effort and unrealistic from several viewpoints. Two examples of the unpolitical nature of the McCarthy program may be noted. Without direct geographical proximity Marin County was linked with the 7th C.D. the home district of Senator Sherman, Vice Chairman of the Senate Elections and Reapportionment Committee. Although with Republican advantages, it could not have been popular with the Vice Chairman. The alteration in the 17th C.D. would probably have ended the political career of Congressman Cecil King, the Dean of the California Congressional delegation.

37. See discussion at page 22, supra.
In the case of both the Conrad and McCarthy bills, the efforts were not only reapportionment exercises but also represented the important internal political struggle for Republican leadership in the respective houses. McCarthy was attempting to salvage his waning leadership in the Senate and to boost his image for a tough 1968 election battle. Conrad's program represented a challenge to liberal Republican leadership in the Assembly.

Actually only the first two bills (Fenton and Mills) received serious consideration. With the Republican Congressmen in general agreement in support of the Congressional program, it was virtually impossible to mobilize the Republican minority in the state legislature for an all out fight that would have depended on wooing supporters from the Democratic majority. Party leaders outside the legislature and their advisors tried, but without success. Their efforts were termed "unrealistic."

The Fenton Bill, in effect, was a "hi-jacked" Mills Bill, with some modification similar to the Vickter proposal. It was proclaimed as a more Democratic bill. In effect it made enough changes to appear different from the earlier proposals that were worked out by others. Besides, it incorporated desires of individual Congressmen closely aligned with Speaker Unruh while creating sufficient disadvantages for others to require appeals and to make them respectful of power. The Mills Bill had made minor modifications to placate some Congressional dissatisfaction, notably alterations in the Santa Clara area.

Both Fenton and Mills conducted public hearings with minor responses. Fenton's committee held three hearings in Los Angeles (October 16, 17 and 18) and others in San Bernardino (October 19), San Diego (October 23), Fresno (October 26), Sacramento (October 27), and in San Francisco (October 20 and 31). Mills' committee held hearings in Los Angeles on October 27 and in San Francisco November 3. There is no indication that public opinion reshaped the bills in either case.

On November 13, 1967, the Fenton Bill cleared the Assembly by a vote of 42 to 25. Virtually all the legislators acknowledged that

the details would be worked out in a conference committee. On the floor the bill was termed a "monstrosity" by Assemblyman Conrad whose bill had been rejected in committee. Other comments focused on the court. Assemblyman Conrad said: "The problem we face is the fault of the Court—a Court that has been arrogant and incompetent."42

Fenton defended his bill as "a good, workable plan." He added "under the circumstances it is the best we can find."43 Nine Republicans and thirty-three Democrats supported the measure while twenty-two Republicans and three Democrats opposed it.

On the following day the Senate Elections and Reapportionment Committee took up its own Senate bills along with the Fenton Bill. The Conrad plan was revived by Senator Bradley, who introduced it as Senate Bill 5. The committee chose to amend the Fenton Bill by inserting the language of the Mills Bill. In turn the Senate approved it by a 22 to 15 vote on November 15. Six Republicans and sixteen Democrats supported the measure while fourteen Republicans and one Democrat opposed it.44 The Assembly cleared the way for a joint conference by rejecting the amended Senate proposal on November 16.45

The conference committee consisted of Assemblyman Leon Ralph (D-Los Angeles), Frank Murphy (R-Santa Cruz), and Jack Fenton (D-Montebello), and State Senators James R. Mills (D-San Diego), Lewis F. Sherman (R-Berkeley), and John F. McCarthy (R-San Rafael). Some thirty-four specific discrepancies existed, and the four key problem areas centered around the realignment of the 2nd C.D., the division of Sacramento County between the 3rd and 4th C.D.s, the Long Beach-Orange County tie-ups involving the 32nd C.D., and the 34th C.D., and the 25th C.D. that also concerned linking Orange County with Los Angeles County.46

After a conference of several hours, with emotional and ego exchanges, the issues were resolved and the technicalities were left to the staff members. On November 19, the Congressional consultant joined staff members of both houses in an attempt to iron out discrepancies and improve descriptions. Though the Congressional consultant and state senate consultant were doubtful of some arrangements, the assumptions seemed to be that the package would move rapidly through the legislature by Thanksgiving.

42. Los Angeles Times, November 14, 1967.
43. Id.
Those expectations were dashed on November 21. The Assembly leadership was faced with a solid Republican bloc that refused to move the Fenton Bill, with its 52 amendments, the product of the conference committee. The conference committee had approved the report by a 4-to-2 vote, with McCarthy and Murphy dissenting. Outwardly, the controversy hinged on challenges to the Fenton staff figures. Getting population figures to balance is always difficult, but with inexperience, ego, ignorance and a computer approach compounding the normal proclivities to err, the problem becomes impossible. Add to that a politician's bid for points, revenge, prestige, and headlines, and every triviality becomes an issue.

Again Assemblyman Conrad led the attack. Ten districts were said to be beyond the 5 percent figure claimed by Fenton. Again at the staff level (including the State Senate, Assembly, Congressional, and Conrad staffs) the details were analyzed and reanalyzed endlessly. Actually the congressional reapportionment had become involved in issues beyond representation. The participants were arguing statistical trivia, wheeling and dealing without facts, treating census tracts as children might play with blocks, damning the courts, and deploiring the use of 1960 figures, but the essence involved the internal Republican power struggle in the Assembly and intraparty issues of medical cuts, income tax deductions, and judicial appointments for the Speaker. Judging from the press coverage, no one seemed greatly concerned about the great issues of representation, representative government, democracy, Baker v. Carr, etc. The participants were involved in the thicket of reapportionment with the drakes and ganders.

After the preliminaries and the statements for party and home consumption, the Legislature moved toward "getting it over with." The court deadline was just around the corner. The court had been reviewing several plans as a result of its October invitation. If the Legislature did not act, the court would, and it had the means. In general the participants reacted: "Let's get it over—whatever it might be."

The previous bills had been scrapped in favor of a new Fenton Bill (A.B.9) that embodied the conference committee work, in-

cluding balancing all the district figures. On November 30, the Assembly went on record as approving Assembly Bill 9.

On December 5th, the Senate acted, by a vote of 21 to 15, making minor amendments that had been agreed upon. Six Republicans and fifteen Democrats supported the plan. Fourteen Republicans and one Democrat opposed it. On the same day the Assembly concurred in the amendments and approved the measure. Six Republicans joined thirty-three Democrats in support, while twenty-eight Republicans and seven Democrats opposed the measure. On December 6, Lieutenant Governor Robert Finch, as Acting Governor, signed the Fenton Bill. As he did so, he said, “Gentlemen, the deed is done.” Probably thirty-eight Congressmen silently said their “Amens.”

Commentary

Close association with legislators, especially after the 1967 reapportionment, has not diminished the writer’s respect and admiration for them. Indeed, it has increased it. The legislator’s task is difficult and often thankless. My purpose is to describe the reapportionment process in operation—one of the most political of matters—in order to clarify the nature of that process.

What Was Done: A careful analysis of the reapportionment bills will indicate that incumbent interests played a major role in the creation of the 1967 program. Not only can that be substantiated by the 1965 proposals, but the modifications made necessary by the 1966 election confirm it. In this regard the practices are not unusual.

When all the alternative plans are considered, it will be seen that every Congressional district might have been changed substantially. In the final bill only one district (the 14th) escaped alteration. All other districts were changed to varying degrees.

The major changes occurred in seven areas that will be discussed separately. In the north the realignment of the underpopulated 4th C.D. centered around movement into the overpopulated 3rd C.D. The big question was how best to divide Sacramento County. Congressman John E. Moss wanted to keep the city of Sacramento intact and the northwest corner of the county compact. At the same time Congressman Robert L. Leggett, representing several small counties, did not want so much of Sacramento County that he would become a “Sacramento Congressman” at the expense of

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his other counties. Difficulties also centered around which portions
of the county should go to Leggett. Special attention had to be
given the issue of growing suburban areas whose 1960 census figures
did not reflect the population and/or party registration. Finally,
Leggett was given 80,000 people from Sacramento County, moving
Lake County into the 1st C.D., while Moss retained the city of Sacra-
mento nucleus but not the northwest corner of the county. Thus
Leggett's constituency belonged in two portions of the county and
in area covered most of Sacramento County.

In San Francisco the underpopulated 5th C.D. of Democratic
Congressman Phillip Burton was extended into the 6th C.D. of
Republican Congressman William S. Maillard. In turn the 6th
C.D. had to cover additional population. Two logical alternatives
were available: Marin County that was part of the overpopulated
1st C.D., or San Mateo County that as a unit was the overpopulated
11th C.D. In view of Maillard's substantial Democratic registration,
a move into San Mateo would have been a move into a Republican
area and would have weakened the Republican 11th C.D. Burton's
Democratic 5th C.D. could have been moved into San Mateo but
adjacent areas were Democratic, and that would have weakened
the Democratic chances in San Mateo County.52 Considering politi-
cal realities and the overpopulation of the 1st C.D., the preference
of the Marin-San Francisco combination was obvious to all except
the people of Marin and their legislators. The next question was:
How far into Marin County should the division cut? The solution
was known as the Burton-Bagley line, though both Burton and
Bagley objected. Assemblyman William T. Bagley's interest stem-
med from a potential future Congressional bid. Eventually ap-
proximately 100,000 of Marin County's population was added to the
6th C.D. In turn the 1st C.D. of Congressman Don H. Clausen was
depleted of surplus population, even with the acquisition of Lake
County from the 4th C.D.

The solution in the 7th, 8th, 9th, and 10th C.D.s has already been
referred to in relationship to the ripple effect.53 The Democratic

52. It is not without significance that the Fenton-Unruh proposal created
a narrow corridor to give Burton certain Republican sections in San Mateo
County with the dual advantage of potentially creating a problem for
Burton and also boosting Democratic percentage in the 11th C.D.
53. See text at — supra.
7th C.D. had to reach into the Democratic 8th C.D., with the issue centering around how many Negroes Congressman Jeffrey Cohelan would acquire, the implication being that eventually the Congressional district would be substantially Negro. The 8th C.D. of Congressman George P. Miller was pushed into the 9th C.D. in a fashion not especially pleasing to the Hayward-Newark political leaders. In the planning stage, the Democratic 9th C.D. of Congressman Don Edwards was expanded into the Democratic section of the Republican 10th C.D. of Congressman Charles S. Gubser, although the overpopulation of districts in the San Joaquin Valley would have seemed an alternative if mountain barriers and socio-economic differences between the two constituencies had not discouraged that move. The final Fenton proposal brought the 9th C.D. into the Democratic sections of southern San Mateo County, as well as portions of the 10th C.D. The 11th C.D. of the late Republican Congressman J. Arthur Younger now contained a higher percentage of Republican voters. The depleted 10th C.D. previously overpopulated, had to be expanded into San Benito County. Removal of the latter from the 12th C.D. lessened the Republican following of Congressman Burt L. Talcott and required his jumping the mountain barrier into the San Joaquin Valley with a narrow county-boundary connection to Kings County.

Though neither of the moves of the 10th and 12th C.D.s jeopardized the Republican incumbents, they vigorously dissented, and not without reason. Gubser pointed out that his district's overpopulation for a decade seemed to warrant some consideration, especially in a proposal that depleted his district to the point of requiring its expansion. Why couldn't surplus population from his district just be trimmed away without further changes? Added to that was the population growth of Santa Clara County that by 1971 would require the dropping of San Benito County from the 10th C.D. just as it had been dropped in 1961. Thus San Benito County in the many reapportionments of the 1960s would have been shifted three times, only to be shifted again in 1971.

Talcott argued that it was desirable to retain his district's community unity that was indicated by the preponderance of Spanish city names and agricultural interests. The Congressman also pointed to the near ideal population and the extended nature of his district. Like many of their peers, Congressman Gubser and Talcott were caught in the ripple that began with realignment of districts to the north. When adjustments were made elsewhere, their results required changes in other districts, just as a stone produces ripples in other parts of the pool far removed from the initial point of contact between the stone and the water. They may
well have said: "Is this exactitude the goal professors and lawyers fought for in reapportionment cases?" Their plea, "Why not start the ripple from our base?" is typical of the perspective of politicians and laymen, as well as of many scholars.

In Southern California the significant shifts involved primarily the districts of freshman Republicans and adjacent Democratic districts that Democrats boost in favorable registration. In Republican Jerry L. Pettis' San Bernardino County district (the 33rd) the benefit of surplus population was given to Democrat John V. Tunney of the 38th C.D., while Congressman Glenard P. Lipscomb picked up about 20,000 constituents in the western part of San Bernardino County. These exchanges highlight the differences between the 1965 and 1967 plans. In 1965 the Democrat from the 33rd exchanged heavy Republican sections to Lipscomb, and Tunney was not involved. In 1967 the reverse took place because of changes resulting from the 1966 election. San Bernardino Democrats were very hostile to the arrangement but were unsuccessful in blocking it.

The position of Republican Congressman Charles E. Wiggins of the 25th C.D. reflected another change in perspective from 1965 to 1967. In 1965 the Democratic 25th C.D. was not altered, but when a Republican was elected in that district in 1966, the desirability of strengthening the district was obvious from a Republican viewpoint. The underpopulated 25th C.D. was therefore moved into the northern Orange County Republican sections of the overpopulated 34th and 35th C.D.s. The effect was to relieve some pressure from Democratic Congressman Richard T. Hanna. Wiggins' Democratic registration percentage dropped from 62 to 50. Furthermore, Hanna's district was also aided by the exchange of territory with Republican Congressman Craig Hosmer of the 32nd C.D. A small portion of the 34th C.D. was given to the 35th C.D. of Congressman James B. Utt. In the latter case the area was growing substantially and being populated by more Republicans that Democrats.

Another major shift that differed from the 1965 proposals was in relationship to the 28th C.D. of Republican Congressman Alphonzo Bell. The elongated 28th C.D. has long been the butt of jokes about gerrymandering. The district, a strip along the coast of the Santa Monica Bay, goes into the Hollywood Hills, then extends into the Palos Verdes Peninsula by way of a narrow corridor in the
Playa del Rey Marina area. This has led to the remark that at high tide portions of the district are not contiguous. Actually, the existence of several independent cities along the coast and their common interests make the district logical. At the same time, Republican voting strength is concentrated.

In 1965 the corridor to Palos Verdes was eliminated by the extension of the Democratic 26th, 31st and 17th C.D.s into the 28th C.D. But in 1967 at least two of the Democratic incumbents were adamantly against such a change, in view of the 1966 elections. The McCarthy bill would have proceeded according to the 1965 intent, but the final bill retained the coastal district and whittled the surplus constituency from the Hollywood Hills. A sizeable section of the 28th C.D. in that area was absorbed by Congressman Thomas M. Rees.

The exchanges between Bell and Rees constituted a fascinating but frustrating aspect of the reapportionment process. Although the overpopulation of one district and the underpopulation of the other might seem to suggest an easy solution, especially in view of Democratic areas that Rees could have absorbed, both men wanted the same areas. At one point the difference narrowed to a question of shifting 20,000 more people that Rees wanted to draw from one area and Bell wanted to draw from another. The consultant suggested 10,000 from each area, and a temporary agreement was reached. The final bill gave Rees much of what he wanted, while Bell’s plans were upset by state legislative politics. Rees obtained sections in the Hollywood Hills, the rest of Hollywood Strip and additional territory in West Los Angeles. Most of the area was part of Los Angeles City. Bell, on the other hand, lost much of the population of the City of Los Angeles to Rees and Reinecke, while retaining the Palos Verdes peninsula area that he wished to give up. It was rumored that both men aspired to run for Mayor of Los Angeles and that each wanted to hold as much as possible of the City of Los Angeles in his congressional district. At any rate, Rees got the better of the bargain.

Republican Congressman Ed Reinecke of the 27th C.D. was awarded additional sections of the 28th C.D. that Congressman Bell had wanted. This extension was in the form of a claw. To the west Reinecke took from Democrat James C. Corman significant sections almost surrounding the 22nd C.D. Corman took Democratic sections from Reinecke. Reinecke’s percentage dropped from 60 percent Democratic to approximately 50. In the process Corman’s district became more Democratic, but still marginal.

The resulting 27th district may well succeed the 28th C.D. as a
classical modern image of the gerrymander. The district extends into Kern County for some 75 miles, and it links northern Los Angeles sections with the west San Fernando Valley despite the absence of a direct thoroughfare. The east portion of Kern County is similar to northern Los Angeles economically and geographically. Highway 395 (the only highway through that part of the desert) links the area more to Los Angeles County than to Kern County, and the mountains between east and west Kern County create further separation. Indeed, boundary lines of Kern County merely reflect the inadequacy of nineteenth-century line drawing. Furthermore, the overall population distribution in the state and the geographical barriers make the connection logical. Still, the shape of the district invites the cry of gerrymander.

The argument that the lack of a thoroughfare mitigated against the creation of this district was not reasonable. In a metropolitan area, districts are not expected to have an internal transportation network. Almost all Congressmen in the Los Angeles area cross into other districts as they travel (if they do) in their districts. Only if one regarded each district as a province would the argument have validity. Congressman Reinecke's own comments in response to the Wall Street Journal that gave him the "prize" for the gerrymander of the year gives insight into the creation of a district: "I am not happy with my new district. It extends into areas I don't want. But I'll accept it. I wouldn't say it's unfair. I would say the newspaper article is totally unfair."

In the other Congressional districts the changes were moderate to minor. Madera County and 40,000 people were added to the 2nd C.D. of Democrat Harold T. Johnson from Democratic B. F. "Bernie" Sisk's heavily populated 16th C.D. Congressman Sisk resisted further change because he wanted to keep Merced and Fresno counties intact. However, additional population was needed for Democrat John McFall's 15th C.D. and this was arranged in the final version of the bill by the division of Merced County. The 18th C.D. was depleted of its surplus population by the previously described alteration in the 28th C.D. and the 12th C.D. Most notable was the removal from the 18th C.D. of Kings County, the home of former Congressman Hagan, who had been defeated by Republican Robert Mathias in 1966.

The 13th C.D. of Republican Charles Teague picked up additional population from Los Angeles. Los Angeles Congressmen Charles Wilson (D), August Hawkins (D), Cecil King (D), Del Clawson (R), Edward Roybal (D), Chet Holifield (D), George Brown, Jr. (D), H. Allen Smith (R), and Glenard Lipscomb (R) had minor adjustments made to their districts without drastic effect. Generally there was a slight addition or loss in registration. Probably the most notable exchange of territory involved Negroes, when Negro Democratic Congressman Hawkins absorbed Negro sections from Wilson, Roybal and Clawson. Republican Congressman Utt, whose 35th C.D. was overpopulated, had to relinquish territory in Orange and San Diego Counties. San Diego Congressmen Lionel Van Deerlin (D) and "Bob" Wilson (R) absorbed some Utt territory while making minor internal shifts between their districts.

Aside from accomplishing some judicious change of territory to the benefit of most incumbents, the important feature was the breaking of county lines. The legal requirements have previously been mentioned as obstacles to the formation of equitable districts. The 1967 demand for "one man, one vote", with slight variations, required the ignoring of county lines. Needless to say, every break caused righteous indignation from county groups and laments from county registrars. New flexibility in manipulation of districts had occurred in 1965 realignments of Assembly and State senatorial districts, and in 1967 advantage was taken of this precedent for the shaping of Congressional districts. The results were two-fold. In the first place, the disregard for county lines not only presented the opportunity for the creation of more equitable districts but it also permitted more gerrymandering. Although that aspect may be deplored, another result occurred that may be more positive. The unrealistic county lines of the nineteenth century were disregarded again. The Congressional districts in many cases became true metropolitan areas, eliminating the parochialism inherent in districts following county lines. The new districts have the potential to become instrumentalities of the twenty-first century if Congressmen respond to their broader responsibility and if the electorate recognizes their common problems that make county lines superfluous.

What Might Have Been Done: To analyze the potential political alternatives would be a fruitless exercise after the deed. On the other hand, to write in general terms at this time may have some value for the future.

First, one could argue that the 1967 realignment ought to have

55. See text at (2) and (5) supra.
been developed with 1971 in mind. Such a course was often recommended by the consultant to individual Congressmen. However, such a realignment would have required shifts for virtually everyone, and the use of estimates would have inspired arguments to say the least. From what today seems to be a 1971 perspective, the elimination of the 23rd C.D. (Democratic, held by a Republican) would have eased problems for Los Angeles Democrats and boosted their constituencies to require little adjustment in 1971. In turn, Republican Clawson might have found a better permanent base in an entirely new district.

On the other side of the political coin one might argue that more marginal districts ought to have been created, but the Democratic landslide in 1964 and the Republican landslide in 1966 must naturally have caused doubts. When a party has confidence in future success, marginal districts have appeal, but under other circumstances such districts are double-edged swords. Despite the principle of representative government, the political situation and the temporary nature of the redistricting both mitigated against the alternatives.

Factors in the Reapportionment: Many articles in periodicals have discussed the factors that should enter into the creation of a representative system. Some of them, as well as court opinions, have alluded to the political factors that play a role in the reapportionment process. Without pretending to give an exhaustive analysis (such as will be found in other articles), an attempt will be made to point out some realities.

It is generally understood that population, geography, legal requirements, and socio-economic interests should be considered. To varying degrees each of these factors was weighed; nevertheless, for each of them a violation could probably be cited. Each proponent used a factor to support his case, or unearthed a prior factor that deserved more consideration. Each opponent could do the same. This reveals that if a priority of factors is not agreed

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upon in advance, the reapportioners can jump from one factor to another with immunity. Among the conflicting opinions the promoter is always one jump ahead.

The evolution of several plans that varied from 1 percent to 15 percent plus others built around the earliest ones has provided a unique opportunity to see the less obvious political factors in operation. The shifts made generally gave Democratic incumbents an increase of Democratic constituents from Republican districts, and vice versa.

Not all the other factors at work are obvious. One special aim of an incumbent was to retain or gain large factories within his district. Because of this the pressure to unify a city might stop at a factory gate. In one case a large facility was divided between districts so as to encourage dual campaign contributions. Of equal interest to other Congressmen was inclusion in their districts of military installations, especially if they were on armed service committees or other committees dealing with the military.

While a California state legislator is legally required to reside in his district, Congressmen were less concerned with inclusion of their homes in their districts. Just the same, an effort was made to include the incumbent’s home in his district, but if the choice was between the home or a good district, the latter had priority. It seemed important to Congressmen to make sure that their expanded districts did not force the shifting of the main electoral base of an old district. This concern regarding the 4th C.D. has already been cited. Similar problems would have existed if the 9th C.D. had extended over mountains into the San Joaquin Valley; if more of Orange County had been included in the 25th C.D.; if more of Orange County had been included in the 32nd C.D.; or if the 26th C.D. had crossed the Hollywood Hills into the San Fernando Valley.

At the same time that expansion was taking place, it was possible to reshape a district in anticipation of 1971. Few Congressmen demonstrated such foresight or even concern, but some were aware that, if they should be firmly established in certain areas the 1971 reapportoners would be less likely to disturb the situation. Moreover, underpopulated Democratic districts could have been expanded to the maximum variation, not only establishing a broader base but also allowing an incumbent to solidify his support in marginal areas before 1971. Again few Congressmen chose that

alternative, preferring a minimum change. When the consultant justified a move in those terms one older Congressman cheerfully called him an optimist.

Several Democrats were anxious about racial or ethnic balances within their districts, because it is generally thought that a 35% Negro population might create a primary fight for an incumbent. Some Congressmen sought additional “red-neck” (lower income white with former Southern Democratic ties) territory to balance Negro concentrations. Other Congressmen desired ethnic areas favorably disposed to Democrats, or they relished the balancing of Mexican-American, Jewish, or Italians against other groups. Republicans were seemingly not plagued by the ethnic and racial balances, a point that probably reflects that party’s composition.

Sometimes the loyalty factor appeared and was especially crucial to some Democrats. Party loyalty is defined in a variety of ways, but basically it means the extent to which voting behavior measures up to the registration figures. One could expand into a Democratic area without accomplishing the purpose of a better registration, if the Democrats failed to vote Democratic. One Congressman was delighted with a shift made between him and a fellow Democrat, because he had unloaded “bad” Democrats (nonvoting, or Democrats who voted Republican) in exchange for “good” Democrats. His registration percentage dropped, but he anticipated a heavier vote.

One surprising dispute over realignment occurred between a Democrat and a Republican over a territory that had a general Republican persuasion. It happened to be a money area in which the few wealthy Democrats among the Republicans contributed substantially to party causes. The Republicans there were also known to give generously to their party.

Almost everyone paid lip service to the idea of community, but what constitutes community? Differences of opinion allowed wide variations of interpretation and adjustments. The inclusion of a whole city could justify a change in boundaries, while the splitting of a city might mitigate against a proposed alteration. Frequently the wandering city boundaries invited splitting, and the political interests could always rationalize that the breaking of city lines was a wise action.
Finally the reluctance of the politicians to say "good-by" should be noted. Often the Congressman would agree to changes in principle, but when he had to name the area he would relinquish the choice was difficult. At times a Congressman hesitated to make a statement about the area he wished to dispose of, for fear he might retain the area and have his willingness to give it up used against him in the next campaign: "He didn't want us, so we don't want him." A surprising number of solutions were rejected on the grounds that someone special lived in the area (mother, campaign manager, a fat cat, college friend, great worker). The reverse was the case when some ardent worker was more trouble than she was worth: "Draw her out of the district!" This more normally occurred where a potential opponent or former opponent resided. Some Congressmen also claimed "They love me there," often an interpretation from the last election results. When a politician says "They love me," the consultant recalls a 1961 experience when he tried unsuccessfully to persuade an incumbent to change his district. They loved him so much that they ousted him in the next primary.

What the Shifts Accomplished: Only time will tell whether the political cartography has paid off for the participants. The previous records of California reapportionment indicate that a party cannot cement itself solidly enough to prevent change. On the other hand, judicious reapportionment can aid a party by means of its incumbents' interests. The Congressional picture since 1961 is one of safety, with only minor shifts from one party to another. Considering that the state has undergone two opposite landslides in a brief period, the stability of opinion in the Congressional districts is remarkable. Such results are to be attributed to redistricting practices. For example, in 1964, in state after state, the Democrats picked up additional seats in the landslide, but this was not true in California because in 1961 the Republican strength had been concentrated. There were few Republican marginal districts. With the tendency to increase the registration advantages of incumbents by the redistricting of 1967, the trend can be expected to continue. The major modification was the allowance for Republican advantages as a result of the 1966 elections. Three normally Democratic districts (the 6th, 27th, and 25th) became heavily Republican in voting behavior. Others were modified to Republican advantage (33rd, 23rd, 18th) but not beyond the range of Democratic victory. These changes, in turn, improved Democratic advantages in marginal districts, significantly in the 22nd and to lesser degree in the 34th and 38th. Other districts might show democratic increases (e.g., the 1st and the 12th) but with little potential for Demo-
ocratic victory. Similarly, some Democratic districts dropped in registration (the 31st, the 30th, the 17th, and the 26th) without significant Republican advantages.

Though safety is the pattern and the trend, the electoral record since 1960 is significant. In the 1964 Democratic landslide, Republicans Clawson and Reinecke won Democratic districts (60 percent plus). In 1966, Democrats Hanna, Corman, and Tunney won marginal districts in the face of a Republican onslaught while districts with heavy Democratic registrations (the 18th and 25th) fell to the Republicans. Those examples, plus a long past record, suggest that factors other than registration figures may be important. In particular, the personal factor is crucial, along with the ability to keep the district happy and to continue to work the area.

The writer is inclined to believe that 15 of the 38 districts are still marginal, considering the incumbent of each and his political operations. If that estimate be accurate, it would compare favorably with reapportionment practices in Britain and other nations. Everything else being equal, the incumbents in 1967 may have done themselves a favor, but the outcome is far from certain.

Another aspect of Congressional redistricting worth mentioning is that it seems more permanent than state legislative realignment. Though the Republicans lost control of the state legislature in the 1950s, their Congressional advantage was retained. Likewise, the Democratic fortunes in the State Legislature have declined while the Congressional advantage has been maintained. One explanation may be that Congressional redistricting is at least one step removed from the state legislative arena.

State legislators create electoral districts—their own and Congressional districts. In the former, each participant is vitally concerned with his district. The reapportionment struggle breaks down into the Establishment vs. the outsiders. That may be a party division, a rural-urban, or pressure-group alliance vs. other groupings, etc. Normally the two houses of the state legislature operate on a quid-pro-quo basis—you take care of your districts and we'll take care of ours. The hope of advancement (to the State Senate or to Congress) may be present in the aspirations of some, but the vast majority of legislators are concerned with their own bailiwicks. The party may be the integrative force to channel
personal interests into a package that appears to be a party measure but in essence is composed of the desires of individual incumbents. In the legislature the power structure, whether party or pressure-group in nature, must be very careful with a reapportionment measure because the aim is to perpetuate its base. Naturally that interest tends to orient toward the status quo, though sometimes the leadership attempts, to eliminate the noncooperators or, in a more subtle fashion, to send them off to Washington.

When the state legislature undertakes a Congressional reapportionment the involvement is more remote. It is generally recognized that Congressional districts are the business of Congressmen, in the same quid-pro-quo manner mentioned above. Besides, the advantages of seniority in the national legislature are acknowledged. Some state legislators may aspire to Congressional positions, but their number is slight. Furthermore, the opportunities are not great in states with large numbers of state legislators and few Congressional seats. In California the ratio of opportunity is greater, but in 1967 the interest was limited.

The reapportioners are therefore personally less interested in the Congressional reapportionment, and they allow a political vacuum to exist. The legislators are content to let someone else put the package together. Inasmuch as people voting on the measure are seldom personally involved, the party may be the integrative device for teamwork. Because the affected (Congressmen) are not voting, the organizer has more freedom for party action and manipulation. In other words, the district can be reshaped on the basis of interests other than the district’s own; hence, the Republicans in the 1950s and the Democrats in the 1960s were able to better protect their Congressional seats.

If the disinterest of the state legislators allows a leader to package a party program, it also allows a Congressional delegation to organize for making its wants known. If a strong party organization exists, the incumbents’ interests may be secondary but, needless to say, strong parties do not exist in California. Individual districts tend to be feudal domains of incumbents who identify themselves by party names but who operate independently. Where strong pressure-group alliances dominate the political life of a state, the interest is on the state legislature level, not so much on the Congressional level; hence again an opportunity for a Congressional delegation initiative. Also the state legislative leadership may be more effective in the major realignments following the census or when strongly in control. In 1965 the state legislative leadership was able to disregard Congressional desires, but in 1967 the pre-
carious balance between parties and branches of government in California offered a new game. The Congressional delegation was ready.

A Delegation in Action: It is notable that in 1967 (and 1965) a large congressional delegation, reflecting a multitude of attitudes, presented a program that was largely adopted after many months of effort. The key was a definite program—the Congressional delegation's program—that somewhat protected them from the whims of state legislators three thousand miles away.

As in the case of any reapportionment (or any bill), someone must take the initiative to organize support. In this instance Congressman Burton played a decisive role. His badgering forced action, not always in line with his desires; indeed, reaction against his ideas was common; nonetheless there was action. In 1967 leadership and direction became diffused at the expense of efficiency and intelligence. At times many participants may have wondered whether there would be any culmination. Certainly some were doing their best to prevent action.

From today's view it should be apparent that the program made it possible for the Congresional delegation to get most of what it wanted. A careful perusal of lines (from the several plans) shows that the Congressional proposal was basic all the way. Possibly this is best demonstrated by the Kern County line in the 27th C.D. That line was fundamental to control of the ripple from north to south, and most programs followed it from 1965 onward. As concisely as possible the Congressional delegation, with the exception of a few endrunners who sought other channels of influence, was saying, "This is what we want." As a unit, the bipartisan delegation was more effective than might have been thirty-eight separate pleas handled by someone in Sacramento. What would have happened if the Congressional delegation had not been prepared? Well, someone would have filled the vacuum—the Speaker, the Republican Party leadership, the court, or some other integrative force. This may have been what some people hoped for, but the Congressional delegation in its own way outfoxed the foxes.

CONCLUSION

Many articles have sought to analyze re-districting actions from the court case viewpoint and/or from the statistical perspective.
The conclusions have often been that poor or good legal precedent was followed or that the variation of district population was too great or better than the previous pattern, or to put the situation in the crazy quilt context, the patches do or don't make an aesthetic pattern, or the pieces vary considerably in size or are about equal. This article has sought to approach the redistricting process from several perspectives how a bill was created; what the pressures and desires of the political actors were, and; how the governmental system responded to the legal challenges. Most of the potential agents of authority in California got into the act—The congressmen, the Governor, the state legislators, the judges, and even the bureaucrats. Each participant had his turn at the quilt and fulfilled his role as he saw it—generally from his own viewpoint and with his own comfort in mind. The result may be a crazy quilt from a legal evaluation, but what can one expect from a quilting bee? If the courts undertake their own redistricting program with the assistance of computers and objective criteria the product may not be a crazy quilt, but will the mechanically contrived designs be more pleasing to the eye?