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Reapportionment: 101

After 2010 Census, process begins to divide congressional seats and redraw legislative districts for 2011

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As we move into the latter half of 2008, the politicians among us begin to think ahead to reapportionment and redistricting. How has the nation's population migration of the last decade affected the shape and contour of the United States Congress? Will Mississippi lose another seat? And if so, why?

While congressional realignment - the apportioning of the 385 available U. S. congressional seats among the 50 states - is the fodder of reapportionment, local variations in population contribute to a need for redistricting of state houses.

In Mississippi, we need merely think back over the past decade to Katrina migrations, lost manufacturing jobs, new economic growth around Lee County and the Golden Triangle, and the extensive growth in DeSoto County and contiguous areas to recognize that the 2010 census results may cause significant realignment in Mississippi's Senate and House districts. Will coastal representation be diminished? How many seats will be added to northwest Mississippi? Will southwest Mississippi's districts be enlarged, shifted, and numerically reduced in order to account for other population growth and shifts?

Until 1962, the judicial branch of government had steadfastly removed itself from intervention in what it considered a "political question." But in the 1962 landmark case of *Baker v. Carr*, the U.S. Supreme Court abandoned its historic policy against intervening in congressional reapportionment and state legislative redistricting. The court abandoned its deference to the legislative branch in the resolution of such questions by recognizing that "every voter has a right to have his vote counted equally with every other voter's" and determined that this right was a justiciable cause of action covered by the equal protection clause of the 14th Amendment to the U.S. Constitution.

At the outset, it is important to distinguish between reapportionment and redistricting. Reapportionment refers to an allocation of seats among various units; Americans reapportion the available seats in Congress after every decennial census. Redistricting refers to the redrawing of boundaries of election districts, required to be done by the state legislatures after every census, and required intermittently as a result of annexations of municipal boundaries, changes in forms of government which require a different number of selectmen, and the like.

The undertaking of political issues as a justiciable cause of action is an awesome charge for courts to assume.

What is mandated is giving effect to the "one man-one vote" principle. The aim, while lofty, is illusory, in the sense that population flux is constant, while the census results that are utilized to conduct

apportionment and redistricting tasks are frozen in time.

Thus, there will never be a moment in which my vote may count precisely as much as yours, or that ours may count precisely as much as our friend's vote in Alabama or New York. For example, as a result of the 2000 Census, seven states were authorized only one seat in Congress.

But the population of the most populous of these states, Montana, was 905,316 while the least populous of these states was Wyoming, with a population of 495,304. Nevertheless, the method that attempts to assure the concept of one man-one vote to the extent possible has been put in place over time by judicial decision.

The problem with apportionment and redistricting is reflected by the difficulty in measuring population in various districts. All federal congressional districts are single member; as are our state legislative districts in Mississippi.

In single-member districts, the first matter to be dealt with is the identification of the "ideal" single member district. This is defined as the total population divided by the total number of districts. In federal reapportionment, the questions would be posed this way:

- What is the total population?
- What is the total number of districts?
- After you divide the total population by the total number of districts, what is the ideal population?

While it sounds simple, it is actually a more confusing procedure. For example, in the reapportionment of Congress, we know that of the 435 seats, each state is allowed one member of Congress, just as each state is allowed two senators.

Senate positions are created at large; thus, no reallocation of Senate seats based on population is necessary following the decennial census. The remaining 385 seats in Congress are allocated among the 50 states based on population.

The census purportedly counts total population; the census does not limit its count to the voting-age population, nor registered voters, nor eligible voters. A state's population, for apportionment purposes, includes a state's resident population plus all of the state's military and civilian personnel employed by the federal government and their dependents who are abroad on April 1 of the census year. The resident population is comprised of all persons counted in the census, including legal immigrants (citizens and non-citizens) and illegal immigrants.

The total population of the entire country, as determined by the Census, is divided by 385 (the number of congressional districts available to apportion among the population) and the result is the number of residents in the "ideal" district. The numerical population content of the "ideal" district allows the secretary of commerce to make recommendations to the president relative to the number of congressional seats to be aligned to each of the 50 states for the coming decade.

As we remember all too well, Mississippi lost a seat as a result of the 2000 Census. This has less to do with Mississippi's population than with the population migration of other states. While Mississippi's population growth was relatively stable during the 1990s, other areas of the country experienced significant population growth which impacted on Mississippi, making it a less populous area for purposes of apportioning a limited number of congressional districts. This is anticipated in the future as well, although in incremental margins.

For example, as a result of the 2000 Census, Mississippi ranked as the 31st most populous state with a population of 2,844,658. Census projections established as a result of interim census data and

published by the Census Bureau in calendar 2008 suggests that by the 2030 Census, Mississippi will rank as the 33rd most populous state with a projected population of 3,092,410.

Incremental population growth while losing rank will ultimately result in Mississippi losing another congressional seat at some point in time in the future.

As a result of the 2000 Census, the average size of a congressional district was 646,952; in 1990 the average district size was 572,466. The result of the 2000 Census was that 12 seats were shifted among 18 states, with eight states gaining one or more seats, while 10 states lost one or more seats.

As a result of the 2000 Census, over 150 lawsuits were filed. Mississippi had its share.

Local redistricting in our state house works from a similar concept. Once again, the requirement is to measure the "ideal" district by dividing population by number of districts in order to assess the "ideal" district - a district containing a particular number of residents.

Extant districts are then redrawn in order to create legislative districts that are as close to the "ideal" as possible, thus creating the illusion that each of us has a vote which carries as much weight as our neighbor's.

This process seems complicated enough, for the deviation between districts (congressional or legislative) must be minimized as much as possible in order to attempt to create that illusory sense that "my vote is equal to your vote."
