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Apportionment for the 1970s

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The 1968 Election in Montana

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The system of legislative representation which prevailed in Montana before 1966 emphasized direct personal responsibility and continuity of service by state legislators at the expense of proportionality to population. Able and popular legislators gained impressive experience in the art of representing fewer and fewer constituents.

The 1965 apportionment revolution everywhere required proportioning of representation to population, and some short-run disruption of continuity in service was inevitable. But in Montana the apportionment scheme worked out by a three-judge federal court sacrificed, beyond necessity, the value of direct personal responsibility between voter and legislator. Current arrangements also suggest that legislators from less populous regions of the state may be able to acquire seniority only between decennial apportionments.

If the 1971 reapportionment is left to hasty legislative improvisation or defaulted again to a federal court, the following consequences may be expected:

1. Many or most of the multi-county districts by which less populous regions are represented will have to be reshuffled to meet permissible limits of divergency among their populations. Outside the few principal urban counties stability of districts can be maintained from decade to decade only by allowing departure from county lines at the edges, in order to preserve the main substance of the districts. Legislation is required to effectuate such districting.

2. The reshuffling of whole small counties from district to district each ten years will dislocate voter-legislator relationships and destroy chances for continuity and seniority of legislative experience in these counties.

3. For urban centers to recapture the direct responsibility and stability of representation inherent in single-member districting, specific legislative provision must be made for subdividing populous counties. A federal court left to its own devices will not develop that sort of innovation in 1971.

(Continued on page 4)

The 285,892 Montanans who cast their ballots on November 5, 1968 behaved in typical electoral fashion. The plurality they gave to Richard Nixon preserved the state's reputation as a reliable political weathervane—its electoral votes have been in the winning column nationally of all presidential elections in this century with the exception of those of 1900 and 1960. Montana's reputation for split-ticket voting was sustained in the state and district-wide contests. Forrest Anderson, the Democratic nominee, was elected to the office of governor, thus ousting incumbent Republican Tim Babcock. The incumbent congressman, Democrat Arnold Olsen in the first district and Republican James Battin in the second, won reelection to fifth terms. The pattern of split-ticket voting was evident in other contests, as voters chose a Republican house of representatives and a Democratic senate to share lawmaking responsibilities in Helena beginning in January. Finally, in the remaining state-wide contests, four Republican and three Democratic contenders were successful, producing in toto equal division of state elective offices between Democrats and Republicans.

The Republican presidential nominee, Richard Nixon, defeated Hubert Humphrey, his Democratic adversary, by a comfortable margin of nearly 25,000 votes but short of the more decisive victory which had been expected. The contest generated a relatively small turnout when compared to presidential races in the past twenty years. Nixon ran ahead of fellow Republican candidates for governor and first district congressman, but fell behind Republican James Battin's strong performance in the second district. Both Governor Babcock and Congressman Battin were preconvention Nixon supporters.

Neither Humphrey nor Nixon visited Montana during the election campaign, although Nixon had been in the state earlier in the year. The Republican vice presidential nominee, Spiro Agnew, made one campaign stop in Billings. Both major party presidential nominees were actively supported, however, by an array of out-of-state and local speakers of some political prominence. While indirectly affected, Montanans were aroused by the issue of law and order. Viet Nam, which had divided Democrats in the pre-

convention period, was not extensively discussed, but the election outcome indicates substantial opposition to the manner in which the war is being conducted. George Wallace polled about seven percent of the vote state-wide and made his best showing in rural counties (over 12 percent of the vote in a few instances) and his poorest showing (six percent or less) in the urban counties.

Congressman Arnold Olsen, the four-term Democratic incumbent, defeated his Republican opponent Dick Smiley, who also had run in 1966, by a 10,000 vote margin. Olsen's liberal voting record (he consistently scores highly on both the ADA and COPE scales) strongly endeared him to the ranks of labor. Olsen attacked the conservative state legislative voting record of Smiley and employed the slogan "Keep the First District First". Olsen called for a continuation of the liberal policies of the Johnson Administration and for a phase-out of the United States involvement in Viet Nam. Smiley, on the other hand, attacked Olsen's record and stressed that he would be a more effective representative for the district. He criticized much of the foreign aid program and advocated a more hawkish policy in Viet Nam. Smiley was confronted with a formidable task, given the four terms of his Democratic opponent, and the district's strong tradition of preferring Democrats (Republicans have won only three contests out of 26 since the establishment of the district).

A contrasting pattern emerged in the Second District, where incumbent Republican James Battin was opposed by Democrat Robert Kelleher. Battin, who was first elected in 1960, had little trouble as he defeated Kelleher by the decisive margin of 44,000 votes, the largest plurality won by a candidate in that district in more than twenty years. Battin has compiled a conservative record in Congress, with high scores on the Chamber of Commerce (CCUS) and Americans for Constitutional Action (ACA) scales. Of the twelve votes in the United States House of Representatives selected by *Congressional Quarterly* as the most significant of 1967, Battin and Olsen were recorded on opposite sides in ten, voting together only on the exclusion of Congressman Adam Clayton Powell and on the question of using defense funds to carry the war to North Viet Nam.

Battin campaigned on the slogan "Return to Reason", expressing his opposition to foreign aid and federal control of firearms. He was recorded as voting against the three major Civil Rights Bills that have been enacted during his tenure in Congress. Strongly in Battin's favor were: (1) the seniority status he has attained on the powerful House Ways and Means Committee; and (2) the diligence with which he has pursued the interests and needs of his constituents. Battin's opponent, Robert Kelleher, has lived in Montana since 1952 and is a Billings attorney. He has made two unsuccessful races for the state legislature, in 1956 and 1962. Kelleher based his campaign on the need to protect the public lands, charging that a Nixon victory would mean the disposal of much public domain to private interests. He stated that he would work for lower freight rates and collective bargaining for farm labor.

Governor Tim Babcock, the Republican incumbent,

lost his bid for a third term to his Democratic opponent, Attorney General Forrest H. Anderson, whose plurality exceeded 34,000 votes. The most discussed issue of this campaign was the proposed sales tax, which was advocated by Governor Babcock as a means of financing the rising cost of state government and opposed by Anderson. Governor Babcock and his supporters calculated that an additional \$50,000,000 would be needed in the biennium to meet budgetary requirements and proposed a three percent sales tax, with food, clothing and drugs exempted.

(Continued on Page 4)

1968 GENERAL ELECTION

State Totals				
Office & Candidates	Winner's Plurality	Democrat Vote	Republican Vote	Other
President				
Humphrey		114,117		
Nixon	24,718		138,835	
Wallace				20,015
Others				1,437
Representative in Congress, First District				
Olsen	10,112	74,974		
Smiley			64,862	
Representative in Congress, Second District				
Kelleher		39,752		
Battin	44,136		83,888	
Governor				
Anderson	34,049	150,481		
Babcock			116,432	
Montgomery				11,199
Lt. Governor				
Judge	22,205	146,527		
Selstad			124,322	
Secretary of State				
Murray	61,208	159,922		
Guffey			98,714	
Attorney General				
Daly		128,605		
Woodahl	10,956		139,561	
State Treasurer				
Cannon		122,951		
Stephenson	17,927		140,878	
State Auditor				
Omholt			212,339	
(unopposed)				
Railroad & Public Service Commissioner				
Anderson		121,323		
Steel	19,099		140,422	
Supt. of Public Instruction				
Colburg	11,973	138,200		
Cox			126,227	
Non-Partisan Judicial: Supreme Court				
		Plurality	Vote	
Associate Justice No.1.				
Adams			102,104	
Bonner		34,401	136,505	
Associate Justice No. 2				
Haswell (unopposed)			188,616	
Constitutional Amendments				
		Plurality	For	Against
Permit pay increase during term of office		50,560	87,027	137,587
Increase legislative session to 80 days		40,060	92,093	132,153
Allow six amendments in one election		1,553	105,918	107,471
Referendum #65		38,229	127,625	89,396
Initiative #66		87,694	70,497	158,191

Party Preference of Montana Counties for President, Governor, U.S. Representative, 1960-1968

County	1960			1962	1964			1966	1968				
	Pres.	Gov.	Rep. ¹	Rep. ²	Pres.	Gov.	Rep. ³	Rep. ⁴	Pres.	A.I.P.	Gov.	New Reform	Rep. ⁵
	Kennedy (D) Nixon (R)	Nutter (R) Cannon (D)			Johnson (D) Goldwater (R)	Babcock (R) Renne (D)			Nixon (R) Humphrey (D)	Wallace	Anderson (D) Babcock (R)	Montgomery	
Beaverhead	57R	63R	59R*	64R*	54R	64R	67R*	65R*	61R	11	51R	6	64R*
Big Horn	53R	56R	51R	56R	63D	52R	55R	64R	54R	6	51D	4	69R
Blaine	55D	50R	56D	53D	64D	53R	50D	53R	49R	6	60D	3	66R
Broadwater	52R	62R	52R*	57R*	51R	65R	55R*	60R*	54R	10	48D	4	52R*
Carbon	52R	52R	52D	51R	58D	53R	52R	60R	55R	7	55D	3	66R
Carter	64R	72R	60R	70R	56R	65R	64R	67R	62R	11	50D	4	77R
Cascade	54D	54R	55R	55R	66D	57D	54D	52R	50D	6	58D	3	63R
Chouteau	50D	51R	52D	58R	56D	58R	53R	60R	54R	8	55D	5	68R
Custer	55R	57R	50R	56R	55D	60R	61R	66R	58R	6	50D	3	71R
Daniels	56D	53D	59D	50D	57D	55R	51R	55R	52R	4	55D	3	64R
Dawson	54R	58R	54R	58R	58D	60R	59R	67R	58R	5	54D	3	72R
Deer Lodge	70D	67D	76D*	70D*	77D	71D	62D*	67D*	69D	5	75D	5	74D*
Fallon	61R	62R	53R	58R	52R	59R	57R	64R	63R	6	57D	2	71R
Fergus	52R	58R	52D	58R	52D	54R	53R	64R	56R	10	51D	4	71R
Flathead	53R	54R	51D*	51R*	56D	52D	51D*	52R*	52R	11	55D	5	52D*
Gallatin	65R	68R	59R*	59R*	50R	57R	55R*	57R*	62R	6	53R	4	56R*
Garfield	59R	57R	53R	64R	57R	73R	67R	74R	64R	13	49R	3	80R
Glacier	56D	53D	61D	52R	60D	50R	51R	51D*	47D	8	61D	4	55D*
Golden Valley	57R	57R	55R	57R	58D	55R	54R	63R	60R	5	51D	2	71R
Granite	55R	58R	52R*	52R*	55D	57R	53R*	56R*	50R	11	53D	5	51R*
Hill	54D	51R	57D	53D	68D	53D	55D	53R	51D	5	62D	3	62R
Jefferson	51R	54R	54D*	51D*	59D	50R	52D*	52D*	46D	9	57D	4	56D*
Judith Basin	54D	51R	54D	54R	55D	53R	54R	59R	53R	7	54D	4	68R
Lake	57R	56R	53R*	60R*	53D	57R	56R*	60R*	56R	11	49D	6	56R*
Lewis & Clark	55R	63R	52D*	51D*	55D	55R	54D*	52R*	56R	5	52R	4	50D*
Liberty	54R	61R	52R	59R	54D	60R	61R	52R*	59R	7	54D	5	55R*
Lincoln	58D	61D	66D*	60D*	67D	63D	63D*	59D*	46D	13	67D	6	64D*
Madison	59R	64R	57R*	59R*	53R	68R	59R*	61R*	56R	11	50D	4	57R
McCone	50D	53D	57D	52D	59D	51R	53D	56R	52R	6	62D	2	64R
Meagher	58R	65R	61R	68R	55R	70R	65R	67R*	63R	12	51R	5	66R*
Mineral	55D	56D	65D*	64D*	71D	62D	66D*	62D*	49D	9	64D	7	62D*
Missoula	54R	60R	52R*	52R*	61D	50D	52D*	51D*	48R	8	48D	9	54D*
Musselshell	50R	51D	54D	51R	59D	54R	53R	56R	51R	6	57D	2	61R
Park	59R	58R	52R	55R	52D	60R	57R	57R*	57R	9	51D	3	52R*
Petroleum	54R	58R	50R	56R	52D	60R	58R	64R	63R	8	51D	3	75R
Phillips	50R	50D	57D	55R	56D	56R	55R	59R	51R	7	58D	3	67R
Pondera	53D	53R	56D	52R	61D	55R	53R	52D*	53R	7	58D	5	50D*
Powder River	60R	65R	59R	67R	59R	68R	68R	69R	65R	11	54R	2	78R
Powell	50D	51D	57D*	53D*	62D	51R	53D*	50R*	47R	8	58D	6	56D*
Prairie	66R	65R	62R	66R	53R	67R	67R	71R	68R	3	51R	2	76R
Ravalli	56R	60R	54R*	52R*	58D	54R	53R*	59R*	53R	12	51D	5	56R*
Richland	56R	59R	51R	54R	56D	52R	52R	64R	59R	6	57D	2	71R
Roosevelt	54D	52D	59D	51R	60D	51D	54D	55R	50R	4	60D	2	64R
Rosebud	58R	61R	54R	58R	52D	63R	59R	53D	56R	10	52D	4	71R
Sanders	50R	53R	57D*	54D*	61D	51R	55D*	53D*	49R	10	55D	5	55D*
Sheridan	56D	55D	64D	59D	69D	60D	58D	52R	49D	4	68D	2	61R
Silver Bow	65D	60D	63D*	71D*	74D	68D	67D*	65D*	64D	6	70D	4	68D*
Stillwater	58R	60R	54R	60R	50R	65R	62R	69R	61R	8	49D	4	73R
Sweet Grass	68R	68R	64R	67R	57R	72R	70R	73R	70R	7	55R	3	79R
Teton	50D	55R	51D	57R	57D	53R	53R	50R*	55R	6	53D	4	52R*
Toole	53D	59R	53D	56R	57D	56R	58R	50R*	52R	9	59D	5	54R*
Treasure	53R	56R	51D	59R	53D	62R	59R	50R	57R	8	53D	3	74R
Valley	55D	53D	62D	52D	59D	50D	53D	57R	49R	8	58D	2	65R
Wheatland	52R	54R	51R	51R	58D	56R	54R	60R	52R	8	56D	3	65R
Wibaux	52D	57R	53D	52R	58D	54R	51D	56R	53R	9	64D	1	64R
Yellowstone	61R	64R	58R	60R	52D	59R	60R	66R	59R	6	52R	2	70R
STATE TOTAL	51R	55R	53D*	53D*	59D	51R	54D*	51D*	51R	7	54D	4	54D*
			51R	55R			54R	60R					68R

* First Congressional District

1. Candidates. First District: Olsen (D), Sarsfield (R); Second District: Battin (R), Graybill (D)
2. Candidates. First District: Olsen (D), Montgomery (R); Second District: Battin (R), Graybill (D)
3. Candidates. First District: Olsen (D), Montgomery (R); Second District: Battin (R), Toole (D)
4. Candidates. First District: Olsen (D), Smiley (R); Second District: Battin (R), Melcher (D)
5. Candidates. First District: Olsen (D), Smiley (R); Second District: Battin (R), Kelleher (R)

Attorney General Anderson utilized the slogan "Pay More? What For!" He indicated that budgetary requirements would be closer to \$20 to \$25 million and suggested these amounts could be secured from an increase in existing revenue sources. Anderson stressed the need for greater efficiency in state government by a substantial reduction in the number of state agencies through reorganization or consolidation. He insisted that he was "opposed to the sales tax on principle" and promised to veto any sales tax measure adopted by the 1969 legislature. The New Reformist Party's candidate, Wayne Montgomery, received 11,000 votes and his candidacy had no appreciable affect on the outcome.

In sum, Montana voters preferred change in both the White House and the Governor's Mansion. But they returned a Democratic congressman to Washington to work with a Republican President and insured divided control of government in Helena by electing a Republican House and four Republican state officials to work with Democratic Governor-elect Forrest Anderson. Consistency in voting patterns prevailed in the continuation of a Democrat in the first congressional district and a Republican in the second. Consistent with past behavior Montanans followed national trends in presidential voting. But by electing Democrat Forrest Anderson governor they abandoned a recent tendency (except for 1948) of preferring Republicans in the state Executive Mansion.

Voting on Issues in 1968

There were five issues on the November, 1968 ballot and Montana voters rejected all of them but one, Referendum 65, which continues into a sixth decade a permissive six-mill state property levy for support of the university system. Its favorable margin was 38,000 votes, compared to a 5,000 vote margin ten years ago.

All three constitutional amendment proposals were defeated. One, to allow vote on six amendments instead of three in any general election failed by only 1,500 votes, receiving 49 percent of the vote on that issue. A proposal to lengthen the legislative session from 60 days to 80 days was defeated by 40,000 votes, and one to allow increase of salaries of public officials during their term was defeated by more than 50,000 votes. An initiative to reduce taxes on certain classes of personal property was defeated by a margin of better than two to one.

Little pattern was immediately apparent in the voting on the constitutional amendments, but closer analysis revealed a support factor which is presented here without attempt at explanation. Of the seven counties favoring, or least opposed to the amendments, six were counties which show a moderate to strong preference for the democratic party on an index of party preference prepared by the Bureau of Government Research; these counties were Lincoln, Big Horn, Missoula, Blaine, McCone and Sheridan. Of the seven counties which gave least support to the amendments, five are moderately to strongly republican in general party preference—Beaverhead, Meagher, Madison, Garfield and Park. But the county most strongly opposed to all the amendments was

democratic Silver Bow County, standing in a class by itself with a support score separated by two, five and seven percent from the next most opposed county on each amendment.

A group of conservative, republican former legislators conducted a rather extensive advertising campaign in newspapers throughout the state against the 80 day amendment—a kind of "more, what for?" echo of Governor Anderson's democratic campaign theme. Meanwhile, a state Citizens Committee on the State Legislature, like its national parent body, had consistently supported the notion of an annual session. Aside from these manifestations of interest, the amendments had little other open group support or opposition.

Apportionment . . .

(Continued from page 1)

4. Retention of countywide multiple-member districts in several urban counties will aggravate existing gerrymanders against party minorities and other minority interests within those counties.

5. Party sweeps in multi-member urban counties where partisan strength is narrowly balanced will expose all seats to capture from time to time, tending to reduce the chance for legislators in such counties to build seniority.

6. Progressive increases in the size of the legislative chambers (already too large) might prove an "easy way out" of districting problems, if there is no legislative expression of intent to the contrary.

None of these are inevitable consequences of representation apportioned to population. But they are built-in tendencies of the existing "mix" of apportionment factors in Montana. Singly and in combination they threaten some of the foundations of the "citizen-legislator" whose values are appreciated in the Treasure State. Some primary representative values can be preserved or restored in Montana only by explicit and forehanded efforts to preserve them. The interim between 1969 and 1971 affords an opportunity for such work in advance of the apportionment which must come in 1971.

Some of the preceding propositions may seem axiomatic, others less than self-apparent, and still others highly debatable or incapable of proof. Conceding all of these possibilities, the following paragraphs suggest some basis for the judgments about what may happen if the 1971 apportionment is conducted within existing arrangements. The purpose here is to raise questions and to anticipate problems, rather than to present solutions.

1. Districting by combination of whole counties.

The 1965 Montana apportionment demonstrated the necessity to combine counties of small population, if legislative chambers of reasonable size were to be retained. Several factors indicate major reshuffling of counties and districts in 1971 unless the Legisla-

tive Assembly acts to obviate the need. Federal courts appear to be developing the test that population may not vary more than 15 percent from a statewide norm; by that test five senate districts and eight house districts created in 1965 would be invalid measured by 1960 census figures. Using 1968 population estimates with the current apportionment plan, at least seven senate districts (5, 6, 16, 17, 19, 20 and 29) and at least nine house districts (1, 6, 10A, 16, 17, 21, 24B, 27 and 29) will probably be outside the allowable 15 percent population variance by 1970. It is primarily the multi-county districts which are losing population that face the problem in acute form. Adjustment of the statewide norm to perpetuate the least populous current districts would increase the senate to more than 60 members and the house to more than 120 members. Such an adjustment also would put a dozen or more districts more than 15 percent above the statewide norm. So new combinations must be found if whole counties are to be shifted about in the redistricting. The logic of numbers does not exclude the possibility that Treasure County might be attached to Yellowstone County, or Mineral County to Missoula County, or Judith Basin to Cascade County, as Granite County was attached to Deer Lodge County in 1965, in order to accomplish an otherwise reasonable set of districts.

Must district boundaries follow county lines? The state constitution does not explicitly set this requirement; but three provisions (Article V, §3; VI, §2(3); and VI, §3) touch on the problem. In the absence of express legislation to allow departure from county boundaries, coupled with the legislative adoption in 1967 of the 1965 court-devised apportionment, a federal court would be justified in implying such a requirement. Legislation to allow departure from county boundaries in order to keep the core of existing representative districts within allowable limits of population variance probably would stand a test of constitutionality. Districting within counties would be greatly facilitated by coincidence of local census enumeration districts with boundaries of election districts such as precincts, wards, school districts or tax districts.

2. Impact of reshuffling counties on continuity of service.

Great seniority is not inevitably a good thing but a reasonable amount of prior legislative experience is at a premium in a short-session "citizen-legislature." It enables the wheels to turn amidst substantial turnover of membership from session to session. We note below the extent to which the 1965 reapportionment reduced the overall amount of prior legislative experience among legislators elected in 1966. This was an obvious accompaniment of that change; but it may not have been so apparent that continued districting along county lines may require serious disruptions of continuity every decade.

The disruption is apt to be greatest for voters and legislators in the smaller-population, multi-county districts. Prior to 1966 senators and representatives from these more sparsely populated regions, elected from single-member, single county districts, had a

distinct advantage in building continuity of legislative service. In the 1965 senate, prior to reapportionment, seven senators from the seven most populous counties had an average of 5.6 prior terms of service, while 21 senators from the 21 least populous counties (under 5,000) had an average of 6.5 prior terms of legislative service.

In the 1967 Assembly, the first after reapportionment, 20 senators elected from single-member districts comprising 38 less-populous counties still had an average of 4.9 prior terms. Eleven of them had survived election in the new multi-county districts, but they had eliminated about an equal number of senior incumbents. Not a few of the currently experienced senators from these smaller-population counties may find themselves pitted against each other in a reshuffling of their districts in 1971, with consequent net loss of seniority again. District stability is one of the elements for building seniority, so the future advantage of continuity will lie with the urbanized counties where reapportionment will add (only occasionally subtract) one or two seats to the existing allotment of several seats.

3. Loss of direct voter-legislator responsibility in multi-member districts.

The respective values of single-member versus multi-member districts involve policy choices that are not simply resolved. But it seems axiomatic that the single-member district tends to sustain a more direct and intimate sense of responsibility between voter and legislator. The district will be smaller, the ballot shorter, the likelihood of personal identification and communication greater.

In any event the single-member district was a prominent and traditional value of the Montana Legislative Assembly until the 1966 election. All 56 senators and 41 of the 96 representatives were elected from single-member districts. In the judicial apportionment for 1966, subsequently adopted by the legislature for the 1968 and 1970 elections, only 11 of the 104 representatives and 20 of the 55 senators are elected from single-member districts. Another 12 senators and 34 representatives are elected from two-member districts, but responsibility may be substantially altered for voter and for legislator by any number of representatives more than one. So long as Montana retains a bicameral legislature it will be argued that at least one chamber (probably the larger one) should be elected primarily or entirely from single-member districts if the other is elected from county-wide, multi-member districts.

The federal court should not have undertaken to provide for subdistricting within its multi-member districts in the absence of any legislative clues that this would be desirable or about how it should be done. But the 1967 legislative adoption of the judicial apportionment may have established a presumption against single-member districting until the legislature expresses itself to the contrary. Nothing inherent in apportionment to population standards, nor in the Montana constitution since 1966, prevents such subdistricting if the legislature should desire to undertake it.

4. Gerrymandering by large multi-member districts.

A gerrymander is a drawing of legislative district boundaries to obtain partisan or factional advantage. The fundamental issue behind reapportionment in this decade was the fact that malapportionment to population had been a massive and deepening gerrymander against populous, under-represented constituencies. But apportionment to equitable population standards does not preclude other more conventional kinds of gerrymander. Any drawing of boundaries of representative districts contains some kind of gerrymander against some interests disadvantaged by those particular arrangements.

Obvious and almost notorious instances of partisan gerrymander exist within large multi-member Montana legislative districts. Laurel is a democratic enclave in Yellowstone County with little chance of electing its own representatives so long as republicans and Billings residents retain a massive electoral majority for county-wide elections. Republican enclaves in Silver Bow County have comparable problems. Rural residents of all urban counties may be under-represented. It is conceivable that with increasing concentration of population in the largest urban counties the virtual disfranchisement implied in such arrangements can become a major problem. It can also happen that a changing "mix" of partisan preferences may reduce the dimensions of some of these gerrymanders.

5. Party Sweeps in Multi-Member Districts

In the larger cities which have a strong party preference—Billings for republicans and Butte for democrats—legislators of those parties have the best chance to acquire seniority; their seats are not apt to be affected by decennial reapportionments and their slates are not much exposed to alternations of party favor at the polls.

The seniority problem is quite different in urbanized counties which have a closer balance among the major parties—notably Missoula and Flathead Counties and perhaps Lewis and Clark County. Although the electoral district survives reapportionments, county-wide multi-member slates expose the entire delegations to decimation by changes in preference, or in rate of voting, by fairly small segments of the electorate. Only legislators who can manage appeal across party lines can survive these alternations of party balance. Representative Tom Haines, R-Missoula, serving his ninth term, survived a democratic sweep of the rest of the delegation in 1964. Representative Fred Broeder, R-Flathead, survived democratic sweeps of the rest of his delegation in 1956 and 1958. In Lewis and Clark County no legislator has acquired real veteran status in recent decades.

There are neighborhoods and regions within these counties with strong and durable party preferences; single-member districting could protect legislators from such districts from defeat in county-wide alternations of favor by comparatively few "swing" voters.

6. Smaller or Larger Chambers by Reapportionment?

Most Montanans would probably agree that the state legislative chambers are too large. They got that way, like the United States House of Representatives, because it is easier to add seats than to take them away at reapportionment time.

Yet decennial reapportionments furnish the least painful occasion for reduction in size of the chambers, particularly since the impact of such reductions must be equitable to population. It also seems to be a function of particular populations in a given census, that apportionment is easier in some ranges of size than in other ranges. In 1971, for example, it might prove to be easier to apportion to a house of 80 or 100 members, than to a chamber of somewhere around 95 members.

Mathematics and computers can seek out the ranges of numbers which will give the best and most equitable "fit"; but neither a computer nor a court will choose a chamber sharply smaller than the present one, unless it is told to do so.

If the legislative assembly could declare as a general proposition that it favored some reduction in size of the chambers, the apportioning agency, whether legislative committee, or commission, or court, could work out details to accomplish that policy preference.

Preservation of some long-respected representative values in Montana depends upon foresight, research and even such administrative details as the boundaries of local census districts for the enumeration to be made in 1970. The problems raised here lend themselves to interim investigation and would be appropriate for the Legislative Council to study in advance of the 1971 legislative session. Sacrifice of traditional values in legislative representation may be anticipated in the absence of some such foresight.

Effects of 1965 Apportionment

The 1969 Montana Legislative Assembly is the second to be elected since a federal court reapportioned the state for legislative elections in 1965. Some short-run effects of that reapportionment on occupation and on experience of legislators have probably run their course, so that the 1969 legislature may suggest the pattern to be expected in the elections of the 1970s. But we have noted that imperatives of strict reapportionment to population may substantially alter the districts from which legislators are elected in the 1970s, working changes in the composition of the legislature which cannot now be anticipated. *As suggested above, the changes are apt to be greater in substance if they are left to accident, rather than to express legislative design.*

The 1965 reapportionment worked a fairly significant shift of legislative seats among three major economic regions of the state. Eleven western, pacific-slope counties gained seven house seats and six senate seats, while 19 northern cropland counties east of the continental divide gained five house seats and retained their regional share of senate seats. The rangeland region of 26 counties which forms the southern half of the state lost two house seats and

seven senate seats to the other regions. Each of the three regions has roughly a third of the state's population and the regional shares of seats in each house are within one percent of each region's share of the state's 1960 population.

The 1965 reapportionment appears to have had only minor impact on the curiously alternating pattern of party control in the legislative chambers. Each party has bases of traditional strength both in

REGIONAL LEGISLATIVE REPRESENTATION IN 1961 AND 1965 APPORTIONMENTS

	% Pop 1960	House of Representatives			
		Seats		Percent	
		1961	1967	1961	1967
Western	30.0	24	31	27	30
Southern	35.5	40	38	42	36
Northern	34.5	30	35	31	34
Total	100.00	94	104	100	100

	% Pop 1960	Senate			
		Seats		Percent	
		1961	1967	1961	1967
Western	30.0	11	17	20	31
Southern	35.5	26	19	46	34.5
Northern	34.5	19	19	34	34.5
Total	100.0	56	55	100	100

the regions advantaged and those disadvantaged by reapportionment. Local party gains or losses in the reapportionment seem to have cancelled out in their effect on statewide party control in the legislature. (See Waldron, "Reapportionment and Political Partisanship in the 1966 Montana Legislative Elections" Fall 1966 *Montana Business Quarterly*.)

Shifts of party control may be expected to occur from time to time as in the past. Shifts of control may have increasing significance for legislative policy if, as appears to some observers, party discipline is increasing in the Montana Legislative Assembly. Use of the majority party caucus as an instrument of party discipline by both parties has increased in recent sessions and may represent a durable trend. On the other hand it may prove to have been the particular short-run accompaniment of a polarization of party policies around the sales tax issue or it may have been a consequence of the fact that each party has controlled one chamber for a number of recent sessions.

Occupation of Montana Legislators

The proportion of ranchers, stockmen and farmers in the Montana Legislative Assembly declined perceptibly in 1967 and 1969, as compared to 1965, the last session before reapportionment to population; such a shift seems to be related fairly directly to reapportionment in that year. Yet self-declared agriculturists still comprise more than a third of the Montana legislature and will continue for some time to be the largest occupational group for at least two reasons: agriculture continues to be a primary economic activity, even if it occupies a steadily declining proportion of the population; and agriculturists have seasonal freedom beyond most other occupational groups to accept service in a short-duration, winter-season legislature. The basic conditions which

shaped American legislative bodies in a predominantly agricultural society two centuries ago still facilitate such service by representatives of the agricultural segments in the political system. The most urbanized counties continue to elect some farmers and ranchers to represent them.

There has been a noticeable increase in representation from the professions of law, teaching and medicine since 1965. Nine percent of the membership in each chamber were lawyers in 1965; this increased to 15 percent in the senates of 1967 and 1969 while the proportion of attorneys in the house remained more nearly constant. The teaching profession has gained representation by both classroom teachers and administrators in recent sessions. In 1969 there are four educators in the senate and eight in the house compared to one in the senate and two in the house in 1965.

Meanwhile the proportion of merchants has declined in the past two sessions. Other occupational groups account for relatively minor segments of the legislature and no significant shifts of proportion seem apparent for these smaller groupings in recent sessions. Except for agriculturists, none of the other shifts in occupational group are directly or obviously related to reapportionment; all of these matters invite detailed examination which is beyond the scope of this study.

Statistics in the following table are based on the first occupation declared by each legislator for listing in various rosters of the session. No effort has been made to "second-guess" these declarations, although some judgment was exercised in assigning some declared occupations to one of the major groupings listed.

OCCUPATION OF MONTANA LEGISLATORS 1965, 1967, 1969

Shown as Percentage of Chamber

	1965		1967		1969	
	Senate	House	Senate	House	Senate	House
Agriculture	48	39	42	32	42	34
Professions	20	17	29	18	24	24
Merchants	16	17	8	13	9	10
Services	4	6	4	10	4	9
Industry	9	13	5	14	11	10
Financial	2	6	9	8	5	8
Other	2	1	4	5	4	5

Legislative Experience of Montana Legislators

It is axiomatic that a state legislator needs at least one session to discover the nature of the legislative business and of his place in it. Substantial displacement of experienced legislators seemed inevitable in 1966 as urban areas gained new seats and rural counties lost seats which had been occupied in some instances by senators or representatives of impressive seniority. Even so, the proportion of freshman legislators was smaller in 1967 than in 1961 when republicans wrested control of the house from the democrats.

Displacement of experience by reapportionment was minimized in the senate by the fact that experienced house members sought new senate seats in urban counties, while there was an abundance of experience among competitors for a reduced number

of seats in the new multiple-county districts.

Eight percent of the 1965 senate lacked prior legislative experience, but 24 percent of the senators in 1967 were serving in the legislature for the first time. By 1969 the proportion of senators without prior legislative experience had declined to 18 percent.

Almost half of the 1967 house were freshman representatives but in 1969 this proportion had dropped to about one-fourth of the membership, the smallest proportion of first-termers in modern times. By contrast, more than 56 percent of the 1961 house were freshmen.

Meanwhile the proportion of truly veteran legislators had declined somewhat in the senate and increased slightly in the house. If four prior sessions be the norm for veteran status, more than half of the senators were veterans in 1965, while only about 40 percent have such seniority in 1969. That is none the less an impressive amount of experience in a state legislative assembly.

The house has not had more than a small contingent of true veterans in modern times, but the proportion increased from 10 percent in 1965 to 15 percent in 1969.

Veteran status, like freshman status, is distributed more or less equitably among the two parties, although the democrats hold the seniority edge in the 1969 senate. Yet there are four republicans and four democrats in the 1969 senate who have served in more than seven prior sessions. David Manning, D-Hysham, has not missed a session since he entered the house in 1933. Carl Lehrkind, R-Bozeman, was first elected in 1936 but has missed three terms in the intervening years. David James, D-Joplin, is serving his 16th session; Robert Cotton, D-Glasgow, is serving his 13th term; and William Mackay, R-Roscoe, is back for his tenth session. Senators Eugene Mahoney, D-Thompson Falls, Fred Broeder, R-Kalispell, and Ben Brownfield, R-Glendive all are serving their ninth session in 1969. In the house, Tom Haines, R-Missoula, began legislative service in 1951 and serves his tenth consecutive term there. Ronald Holtz, D-Flowerree, was first elected to the house in 1948 and has served there in eight of the last eleven sessions.

In this analysis sessions rather than terms have been counted and service in either house counted toward total experience.

**LEGISLATIVE EXPERIENCE OF MONTANA
LEGISLATORS**

Percentage of Chamber Serving:	1965		1967		1969	
	Dem	Rep	Dem	Rep	Dem	Rep
Senate						
First Term	4	4	13	11	11	7
2nd - 4th term	16	21	18	24	18	22
5th (or more)	39	16	22	13	25	16
House of Representatives						
First Term	25	7	15	31	12	14
2nd - 4th term	30	28	18	26	26	34
5th (or more)	5	5	4	6	7	8

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University of Montana
Ellis Waldron, Director
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