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Constitutional Amendment for Legislative Representation Reapportionment

City Club of Portland (Portland, Or.)

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Report on
**CONSTITUTIONAL AMENDMENT
 FOR LEGISLATIVE REPRESENTATION
 REAPPORTIONMENT**

PURPOSE: Amending sections 2, 4, and 6 of Article IV, of Oregon constitution, requiring legislature to reapportion representation decennially and increasing senate to 36 members. Each county to have at least one representative. Remaining representatives apportioned by method of equal proportions. Senatorial districts shall be entitled to at least one senator and embrace not more than three counties. Ratios are used in determining number of senators. No county to have more than one-fourth of total legislative seats. If legislature fails to reapportion, the secretary of state shall act. If secretary fails, supreme court shall take jurisdiction and compel compliance upon application.

314 YES, I vote for the proposed amendment.

315 NO, I vote against the proposed amendment.

To the Board of Governors
 The City Club of Portland:

Your committee authorized to study and report on the above proposed amendment to the Constitution of Oregon submits the following findings:

History of Apportionment in Oregon

The Oregon constitution, adopted in 1859, authorized a maximum of 30 senators and 60 representatives in the State Legislature, and provided with respect to apportionments:

"The number of senators and representatives shall, at the session next following an enumeration of the inhabitants by the United States or this State, be . . . apportioned among the several counties according to the number of white population in each."

The State of Oregon has never made an actual enumeration of its inhabitants, so the effect of the above language is to require reapportionment of the legislature after each federal census. The reference to "white" population has been wholly disregarded, even in the State's early history; therefore while the elimination of the word is of course desirable, it is of no practical significance.

The above constitutional provision has remained intact since its original adoption and is in effect today.

Your committee has not made an independent study of the early changes in the size and apportionment of the legislature. It is sufficient to say that the present apportionment is based essentially on the 1900 census, the House of Representatives having been set up in its present form in 1903 and the Senate apportionment dating from 1907. Since that date there has been no general reapportionment.¹

The present apportionment of the legislature, stemming from the 1903 and 1907 reapportionments of the House and Senate respectively, with minor changes above, are set out in Table I.

(1) Minor changes were made in 1921. These consisted mainly of what might be called paper changes, to take account of the division of the formerly large Wasco and Crook counties into the present Wasco and Hood River counties in the one case, and into the present Crook, Jefferson and Deschutes counties in the other. Other changes made were in the apportionment of the House as follows:

One representative was taken from Marion county, in order to increase Multnomah from 12½ to 13½ representatives; a joint representative formerly shared by Tillamook and Yamhill was given to Tillamook exclusively; and the Eastern counties of Malheur, Klamath, Lake, Crook, Jefferson and Deschutes gained a total of 2 representatives which were taken from Linn, Jackson and Douglas in the Western part of the state.

Further minor changes were made in the House in 1931, and in the Senate in 1933. In 1931 changes increased Deschutes from 3/5 to 1½ representatives, and Klamath from 3/5 to 2 representatives. These increases were accomplished by taking one representative from Washington county, and a total of 1 3/10 in various minor fractions from Crook, Gilliam, Jefferson, Lake, Sherman, Umatilla and Wheeler counties. The other 1931 changes were that joint representatives formerly shared by Polk and Lincoln and by Union and Wallowa, were given to Lincoln and Wallowa respectively; and ½ of a representative was taken from Clatsop and given to its neighbor, Columbia.

The only change made in the Senate in 1933 was that a senator formerly shared jointly by Washington, Yamhill, Tillamook and Lincoln was given exclusively to Lincoln and Tillamook.

A 1945 statute attempted to give additional representative to Klamath county, but need not be discussed here because it has never taken effect.

But while the apportionment of the Oregon legislature has remained substantially static, the population of the various counties has increased or decreased at varying rates. Table I also provides a comparison of the population of each county in 1910 with its population in 1950. (See p. 126.)

An examination of those figures will show that the population of the state as a whole increased approximately 125% during the forty years from 1910 to 1950. But this increase was far from uniform. Sherman county suffered an actual decrease of 47%, Gilliam went down 25% and Baker 9%. Crook and Wasco counties also show decreases but these are accounted for at least in part by decreases in their areas. In contrast with these decreases, Klamath county increased 391%, Lincoln increased 279%, Lane is up 270%, and a total of 16 other counties had increases in excess of 100%. It will be noted that Multnomah county's increase was 107%.

A similar variety of changes is shown by comparing the 1940 and 1950 figures. Baker, Gilliam, Sherman and Wallowa counties lost population during this period, while the following counties increased by the high percentages shown:

<i>County</i>	<i>1950 Increase over 1940</i>
Jefferson	169%
Clackamas	133%
Douglas	110%
Lane	81%
Lincoln	76%
Multnomah's increase during the decade amounted to 32%.	

The combined result of these varying rates of growth in the different counties of the state, and of the failure to reapportion the legislature, is that the more rapidly growing and heavily populated counties do not have the legislative representation to which their population entitles them under the present constitution. Thus a single senator serves 8,355 people in the 18th Senatorial District, consisting of Gilliam, Sherman and Wheeler counties, whereas in the 17th District, consisting of Klamath, Lake, Deschutes, Crook and Jefferson counties, one Senator serves 84,771 people. The representative from Wallowa county has 7,212 constituents, whereas the three representatives from Lane county have 124,948, or an average of 41,649 each. In brief, as measured by the present constitution the sparsely settled counties are over represented in the legislature.

To correct this situation, State Senator Richard L. Neuberger of Multnomah county introduced a bill, known as Senate Bill 86, at the 1949 session of the legislature. This Bill would have required a reapportionment on the basis of population, according to the so-called "equal proportions" method, after every federal census, and would have directed the Secretary of State, or on his failure to act, the Supreme Court, to make such an apportionment if the legislature failed to do so. This Bill was defeated 19 to 10 on the floor of the Senate.

After the 1949 Legislative Session, the CIO and AF of L drafted and proposed a constitutional amendment requiring mandatory apportionment on a population basis, and advanced their proposal as an initiative measure. The Young Republicans and the Young Democrats supported this proposal in its earlier stages, but the Young Republicans withdrew from it after their 1949 Convention. The supporters of this measure failed to obtain the necessary signatures, and the proposal therefore will not appear on the ballot November 7, 1950.

At their annual convention last year, the Young Republicans appointed a committee and directed it to draw up a constitutional amendment providing for a compromise plan, to be based partly on population and partly on area representation. This committee of Young Republicans drafted the so-called "Balanced Plan," the measure which will be on the ballot of this election and which is the subject of this report.

Synopsis of "Balanced Plan" Provisions

1. With respect to apportionment of the Senate, the Balanced Plan
 - a. Increases the number of Senators from 30 to 36;
 - b. Directs that after each Federal census the number of inhabitants of the state be divided by the number of Senators, to obtain what is called the "ratio" for a Senator; gives one Senator to each county with a population exceeding three-quarters of such ratio, and an additional Senator for each additional ratio "or major fraction thereof," to a maximum of one-fourth of the total number of senators; and directs that a county not having

three-fourths of a ratio may either (1) be joined with not more than two adjoining counties, each of which also lacks three-fourths of a ratio, or if there is no such adjoining county, with a county entitled to one or more senators; or (2) ignoring its population be constituted a senatorial district in itself and so be given the right to elect its own senator; all of the foregoing being subject to the requirement that all senatorial districts shall be "as nearly equal in population as possible";

c. Retains four-year terms for Senators, but provides (1) that "at the first legislative assembly under this Constitution," the seats of "the Senators-elect" shall be divided into two equal classes, the terms of the first class to expire after two years and those of the second class after four years, so that one-half, "as nearly as possible," shall be chosen biennially; and (2) that in case of a change of the number of Senators in, or in the boundaries of, a senatorial district, resulting from reapportionment, the seats of "the Senators involved" shall be assigned by lot to the above two classes and the terms of such Senators shall expire with the day of the general election next following such reapportionment.

2. With respect to the House of Representatives, the Balanced Plan:

a. Gives each of the 36 counties at least one representative:

b. Directs that the remaining 24 representatives shall be apportioned on the basis of population, according to "the method of equal proportions" (a well-established mechanical formula for apportionment), except that no county may have more than one-fourth the total number of representatives.

3. With respect to enforcement, the Balanced Plan provides that if the legislature fails to make a reapportionment, the Secretary of State shall do so; and if the Secretary of State fails to act, the Supreme Court, upon application by any qualified elector, may order and compel him to do so.

Effects of Adoption of Balanced Plan

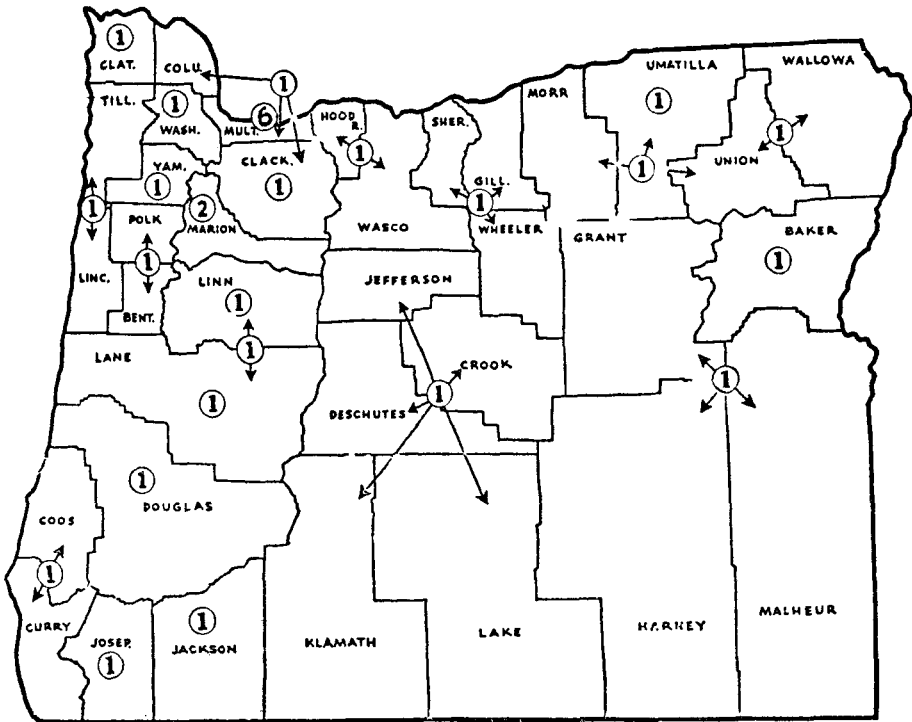
The "Balanced Plan" can best be analyzed in terms of its effect upon the representation in the legislature of the various counties. The provisions contained in the "Balanced Plan" for the apportionment of the Senate are rigid, but they are not completely directory so that a certain amount of discretion is left to the apportioning body as to how the state shall be districted. The proponents of the "Balanced Plan" have worked out a districting of the state and their apportionment is used in this report. The opponents correctly state, however, that this is not the only possible apportionment under the proposed amendment, and they even claim that it is possible that the legislature when districting the state could create 36 senatorial districts, one for each county. No such difference of opinion exists as to an apportionment for the House of Representatives, both sides agreeing that the proposed amendment is clear and mandatory.

To facilitate an understanding of an apportionment based upon the "Balanced Plan," three maps are printed herewith which were furnished by its proponents. Map A indicates the senatorial districts as they are now constituted with the number of senators accorded to each district. Map B indicates the districts as they appear under the apportionment advanced by the proponents of the "Balanced Plan." Map C shows the number of representatives awarded to each county under the present apportionment (black numerals on white) and the number of representatives which would be accorded to each county under the "Balanced Plan" (white numerals on black).

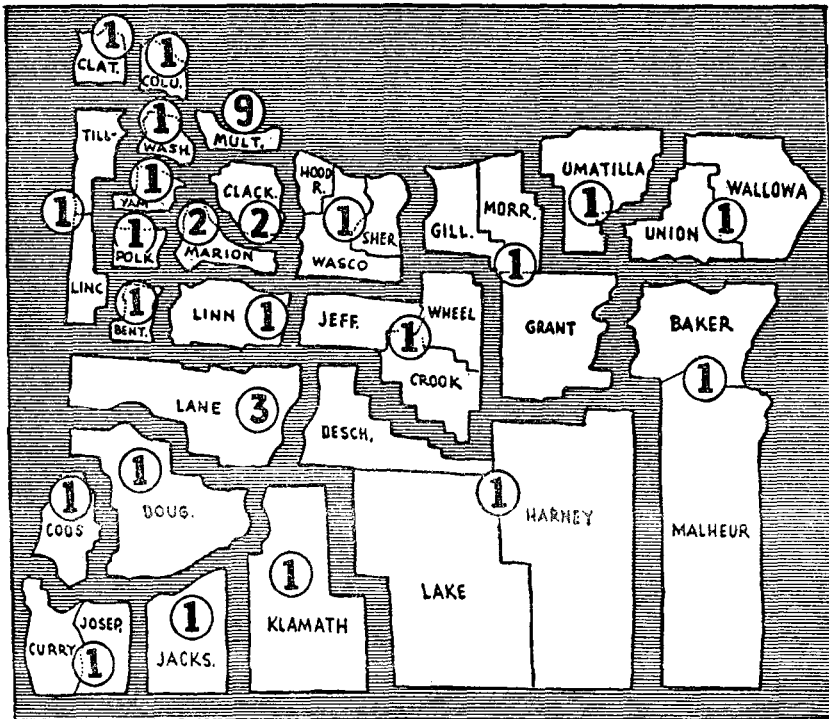
Table I lists the thirty-six counties showing their 1910 and 1950 populations and the number of senators and representatives given to each of the counties under both the present apportionment and the "Balanced Plan."

As shown by the accompanying table, an apportionment of the House of Representatives under the "Balanced Plan" is far more out of harmony with the 1950 population figures than the present apportionment, which has not been materially changed since 1907. A member may represent anywhere from 2,260 people to 42,014 people, depending upon the county. Thus, 35,817 people who live in the block of counties consisting of Sherman, Gilliam, Morrow, Wheeler, Grant, Jefferson and Crook have seven representatives in the lower house while 41,176 people who live in neighboring Umatilla County have only one representative. This example is typical of the results achieved by the "Balanced Plan" because of its arbitrary delegation of at least one representative to each county.

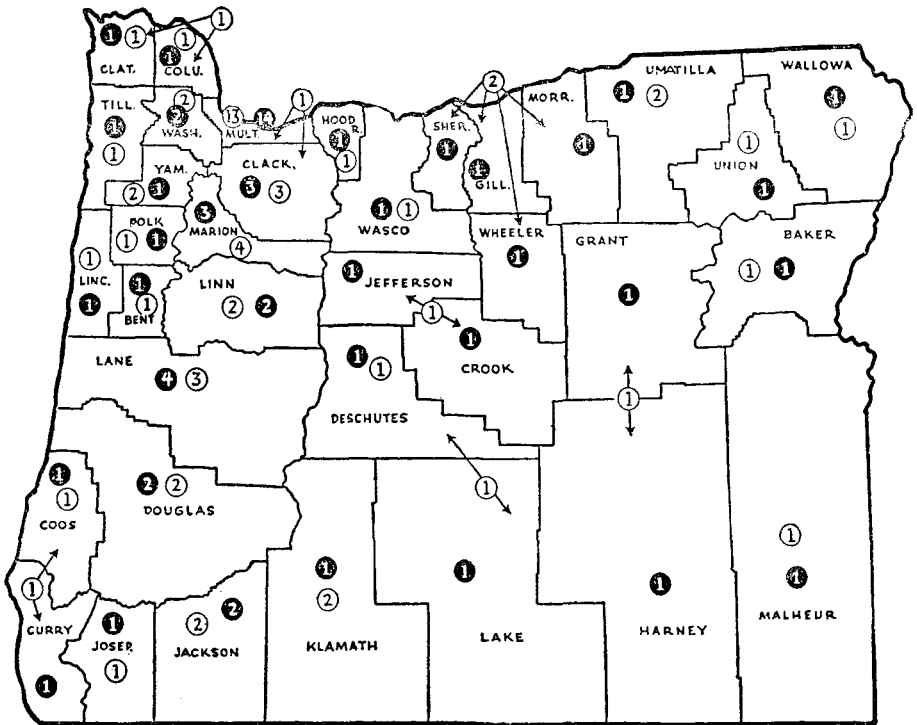
Under the "Balanced Plan," the Senate would be so apportioned as to give more equal representation to population than is the House. One senator would represent any-



Present Senatorial Districts



Senatorial Districts — Balanced Plan



Legend: Representatives at present — Black numerals on white
 Representatives, Balanced Plan — White numerals on black

where from 15,821 people in the Gilliam-Morrow-Grant district to 61,221 in the Washington County district. This is a ratio of approximately 1 to 4 as compared with a similar ratio of 1 to 19 which would be found in a "Balanced Plan" apportionment of the House.

The changes made under the "Balanced Plan" in the Senate apportionment must be viewed, however, in the light of the increase in the membership of the Senate from 30 to 36. Thus, Douglas County, which would retain its one senator under the "Balanced Plan," would actually lose proportionate representation. Whereas it now elects one-thirtieth of the members of the Senate, it would under the "Balanced Plan" elect only one-thirty-sixth. This result is emphasized when considered in the light of the county's increase in population from 19,674 in 1910 to 54,064 in 1950.

An analysis of the table contained herein reveals that the "Balanced Plan" fails in a large degree to give increased representation to the rapidly growing counties. Washington County which grew in population from 21,552 in 1910 to 61,221 in 1950 would receive the same number of representatives under the "Balanced Plan" as it now does, while Gilliam County which dropped in population from 3,701 to 2,897 in the same period would receive increased representation. Yamhill County would actually lose one of its two representatives even though it increased in population from 18,285 to 33,410 in the forty-year period. At the same time, Sherman County would receive an increase in its representation while experiencing a decrease of 47% in population. Marion County's population gained in number from 39,780 to 100,379, but it would lose one of its four representatives.

Many similar instances can be found in the Senate. Umatilla County more than doubled in population in the period from 1910 to 1950, and yet it would actually lose one of its two senators, because it would lose the senator it now elects jointly with Morrow County which has only one-ninth the population of Umatilla. Linn County which increased in population from 22,662 to 53,623 also loses a jointly elected senator. These results are accentuated when considered in the light of the further proportionate loss of representation occasioned by the increase in the membership of the Senate from 30 to 36.

TABLE I

COUNTY	Population 1910	Population 1950	HOUSE OF REPRESENTATIVES		SENATE	
			Apportionment* Present	Plan Balanced	Apportionment* Present	Plan* Balanced
Baker	18,076	16,067	1	1	1	1/2
Benton	10,663	31,524	1	1	1/2	1
Clackamas	29,931	86,574	3 1/2	3	1 1/3	2
Clatsop	16,106	30,571	1 1/2	1	1	1
Columbia	10,580	22,725	1 1/2	1	1/3	1
Coos	17,959	41,588	1 1/2	1	1/2	1
Crook	9,315	8,941	1/2	1	1/5	1/3
Curry	2,044	5,997	1/2	1	1/2	1/2
Deschutes	9,662 (1920)	21,706	1 1/2	1	1/5	1/3
Douglas	19,674	54,064	2	2	1	1
Gilliam	3,701	2,807	1/2	1	1/3	1/3
Grant	5,607	8,275	1/2	1	1/3	1/3
Harney	4,059	6,068	1/2	1	1/3	1/3
Hood River	8,016	12,761	1	1	1/2	1/3
Jackson	25,900	57,831	2	2	1	1
Jefferson	3,211 (1920)	5,505	1/2	1	1/5	1/3
Josephine	9,567	26,313	1	1	1	1/2
Klamath	8,544	42,014	2	1	1/5	1
Lake	4,658	6,637	1/2	1	1/5	1/3
Lane	33,783	124,948	3	4	1 1/2	3
Lincoln	5,587	21,180	1	1	1/2	1/2
Linn	22,662	53,623	2	2	1 1/2	1
Malheur	8,601	23,136	1	1	1/3	1/2
Marion	39,780	100,379	4	3	2	2
Morrow	4,357	4,739	1/2	1	1/3	1/3
Multnomah	226,261	468,571	13 1/2	14	6 1/3	9
Polk	13,469	26,184	1	1	1/2	1
Sherman	4,242	2,260	1/2	1	1/3	1/3
Tillamook	6,266	18,536	1	1	1/2	1/2
Umatilla	20,309	41,176	2	1	1 1/3	1
Union	16,191	17,897	1	1	5/6	1/2
Wallowa	8,364	7,212	1	1	1/2	1/2
Wasco	16,336	15,511	1	1	1/2	1/3
Washington	21,552	61,221	2	2	1	1
Wheeler	2,484	3,290	1/2	1	1/3	1/3
Yamhill	18,285	33,410	2	1	1	1
			60	60	30	36

*Fractions denote joint districts composed of the number of counties shown in the denominator of the fraction. Thus the figure "3 1/2" appearing in the column indicating the present apportionment in the House of Representatives for Clackamas County means that Clackamas elects three members by itself and when joined with one other county elects one more representative.

Other States

Your committee investigated the constitutional provisions in the other 47 states pertaining to the basis for the apportionment of the legislatures. It was found that the upper houses of 27 states were directly apportioned according to the population of the state or some similar figure such as number of legal voters, and that the lower houses of 22 states were apportioned on the same basis. In other cases provisions were usually found either limiting the number of representatives or senators which would be awarded to any one county or else directing that each county should be given at least one representative or senator.

Your committee did not feel that statistics obtained concerning other states were of particular value because each state has its own particular problems to meet and because there was no way of ascertaining without great effort the efficacy of the procedures used in each of the other states.

Legal Aspects

The Committee has attempted not to be overly legalistic in its analysis of the proposed

measure. However, it believes that it must be legalistic when considering proposed amendments to the Constitution which, upon adoption, become the basic law of the State of Oregon.

The questions here discussed concern the validity and workability of the measure.

Section 2 of Article IV of the proposed amendment provides: "The senate shall consist of 36." Since the amendment would go into effect in the latter part of November or the early part of December,² we would have a Constitution providing that the senate shall be composed of 36, long prior to the assembly of the 1951 legislature. At the time the 1951 legislature assembles we would, by virtue of the present Constitution, have but 30 elected and qualified senators. The first question which occurred to the committee was how we would get the additional six senators and whence would they come?

Under the proposal it will be the duty of the legislature to create senatorial districts and to apportion 36 senators among them. Until that is done there will be no vacancies to be filled by six additional senators.

There is no way under the present Constitution to provide the six additional senators prior to the assembly of the 1951 legislature.³

The second question is: Can there be a valid legislative assembly comprised, in part, of a senate consisting of 30 members at a time when the Constitution says that the senate shall consist of 36?

There seems to be no room for interpretation of the language used in the proposed amendment and there is no enabling or postponing provision. Had the proposed amendment said that the senate should be composed of not more than 36 or had it contained a clause to the effect that after reapportionment the senate should be composed of 36, this problem would not have existed. Your committee and the members of the Bar contacted by it believe we could not have a valid legislative session in 1951 if the amendment were strictly construed. If so, then each and every act of the 1951 legislature, including any reapportionment it might do, would be invalid. There seems to be no way out of this dilemma unless we assume that because of the very enormity of the result, the Supreme Court would close its eyes to the undisputed meaning of the words and say in effect, that even though the Constitution provided that the senate shall consist of 36, it would still be all right if it was composed of only 30. Your committee anticipates that if this constitutional amendment is approved this question will be carried through the courts for final determination by the Supreme Court, and that the question can be raised by any party who feels aggrieved by an act of the 1951 legislature.

Section 4 of the proposed amendment also poses its difficulties from a legal standpoint. It is thought by your committee that the difficulties with this section result from the retention of a substantial part of the language of the present Constitution and also from the failure to take into consideration that at the present there is an elected acting legislature. The first sentence provides, in part, as follows:

(2) Article XVII, Section 1, Oregon Constitution, provides in effect that amendments to the Constitution go into effect after a canvass of votes by the Secretary of State and proclamation of the Governor. A review of the effective dates of the amendments adopted in the past reveals that it takes approximately three weeks for the canvassing of votes by the Secretary of State and the issuance of the proclamation by the Governor so that the amendments have usually gone into effect the last week in November or the first week in December.

(3) Section 3 of Article IV of the Constitution provides that any vacancies in the legislature from any county or district shall be filled as provided by law. Pursuant to this section the legislature enacted Sections 94-109 a and b O.C.L.A. which, as amended, provide for the filling of any vacancies from any county or legislative district due to (1) death, (2) resignation, (3) recall, and (4) disqualification; the vacancies to be filled by the County Courts of the counties in the legislative district.

It would seem that the provision of the Constitution above cited as Section 3, Article IV, is not applicable in relation to the proposed amendment for the reason that there would be no vacancies prior to the assembly of the 1951 legislature from any county or district, but rather just six additional senatorial seats which had not yet been allotted to any district or county. Sections 94-109 a and b would not be applicable for the additional reason that the vacancy, if it could be properly called that, would not be caused by any of the matters enumerated in that section.

Section 17, Article V of the Constitution provides in effect that the Governor shall issue writs of election to fill vacancies in the legislative assembly. Section 81-2001 O.C.L.A., enacted to effectuate this provision, provided that if a vacancy arose and no general election was had prior to the next session of the legislature, the Governor should issue a writ of election to the sheriff or sheriffs of the counties comprising the district in which the vacancy occurred commanding a special election. Here again we are faced with the difficulties that prior to reapportionment there is no vacancy in any county or counties comprising a district. The above cited Section 17 was a part of the original Constitution, while Section 3, Article IV ante, which is an apparent conflict with Section 17, was adopted by referendum in 1930. Opinions of the Attorney General 1930-32, page 63, hold that there was either a repeal or modification by enactment of Section 3, Article IV; therefore Section 17, of Article V and Section 81-2001 O.C.L.A. were ineffective.

Section 16 of Article V contains the general appointive powers of the Governor. It now stands as amended by referendum, effective November 26, 1926. Since that amendment was earlier than the one to Section 3, Article IV, it would seem that the reasoning of the Attorney General relative to repeal by implication would apply to this section.

"The senators elect at the first legislative assembly under this Constitution shall be divided into two equal classes and the seats of the senators of the first class shall be vacated at the expiration of two years and those of the second class at the expiration of the fourth year, so that one-half, as nearly as possible, shall be chosen biannually . . ."

The choice of the term "senators elect" is unfortunate in that upon the assembly of the legislature after the adoption of this amendment there will be no senators elect.⁴ We assume that the term "senators elect" will be interpreted as meaning newly elected senators. We have fifteen senators who are holdovers, with terms expiring in 1952. At the November election this year there will be fifteen senators elected, making a total of 30. If upon the assembly of the legislature the newly elected senators are to be divided into two equal classes, we have a division of seven and one-half with terms expiring in 1952, which added to the fifteen holdover senators, whose terms expire in that year, make a total of twenty-two and one-half senators, as opposed to seven and one-half who would presumably serve until 1954. This is not an equal division for the purpose of choosing an equal number each two years.

It was argued to the committee that the provision above mentioned has been carried over from the original Constitution and that therefore it relates to the first legislative assembly under the original Constitution and not to the first legislative session following the adoption of Section 4 as amended. Your committee recognizes a possibility of difference of opinion on this point, even though it is in disagreement with the argument of the proponents in that regard. If the provision, due to the passage of time, now means nothing it should not be included in the proposed amendment. In such a situation the usual procedure of a court of last resort is to attempt to give effect to each and every provision of an act. To say the least, the incorporation of the provision may result in litigation requiring final determination by the Supreme Court. This is particularly true since it affects the tenure of office of seven and one-half senators, if it means anything at all.

The last sentence of Section 4 provides that in case of a change of numbers of senators in, or in the boundaries of a senatorial district resulting from reapportionment, the seats of the senators involved shall be assigned by lot to the aforesaid classes and the terms of office thereof shall expire with the day of the general election next following such reapportionment. The proponents of the measure have assumed, without discussion, that the term "seats of the senators involved" means that all senatorial seats are involved when there is any change in a district or in the number of senators from a district. For example Multnomah County is by the proposal given additional senators. Can it be said or assumed with any degree of certainty, that all of the senate seats in Multnomah County, new and old, are involved, or is it not just as reasonable to interpret the provision as meaning that only the additional senate seats are involved? Certainly the matter may be argued either way and your committee believes it will be not only argued but litigated, particularly when some of the senators elected for a four-year term are told that their terms expire in two years. Considering the population tables of the various counties as well as the seats of the senators which are not affected by either interpretation, one can arrive at a variety of results. It is difficult for your committee to see how an equal division can be made into the two classes. The opponents of the measure point out to your committee that more than three-fourths of the senate might well be elected each presidential election year. The fact that expiration of the terms of one-half of the senate each two years might not be achieved under the measure would not in the opinion of your committee render the measure invalid for the language "as equal as possible" might well be interpreted to mean that even a thirty to six division complied with the intent of the voters if that was the most even division possible under the measure.

The above questions were not determined in the case of *State of Oregon ex rel. vs. Earl T. Newbry*, decided by the Supreme Court and filed with the Clerk of the Supreme Court October 10, 1950. There were other questions raised as to the sufficiency of the ballot title and the consequent invalidity of the proposed amendment. The court did not pass upon the sufficiency of the title, but cited, with approval, the case of *State ex rel. vs. Kozer*, 126 Or. 641, in the following language:

"We held the words 'legally sufficient,' as used in the statute, meant no more than that all of the provisions of the statute for the initiation of the proposed measure had been complied with. The words had no reference, we said, to the question whether or not the measure if adopted would be constitutional."

(4) True, there will be newly elected senators, but they will not be senators elect for upon their assembly they will be senators and there would be, strictly speaking, no "senators elect" to divide into classes.

It would seem that the Supreme Court has reserved its decision as to the validity of the measure because of the matters raised in the above litigation and that those matters may well be raised at some future time if the measure is passed.

Assuming that the questions are raised and determined so as to give Oregon a valid legislative session and that the tenure of office of the different members is determined by the Supreme Court, there will still be a period of uncertainty during which time those engaged in a variety of transactions will not know whether or not those transactions are affected by legislation. There may well be a period of time during which uncertainty exists as to who are the senators and how long their terms extend.

Some members of your committee are of the opinion that because of defects in draftsmanship, the measure is unworkable. All members of your committee agree that, to say the least, adoption of the measure invites questions which can only be determined by the Supreme Court.

Organized Proponents

The organized proponents of the measure are: Farm Bureau Federation, Non-Partisan Committee for Balanced Apportionment and Young Republican Club of Oregon. The Republican State Central Committee in its statement in the *Voters Pamphlet* endorses the plan.

Organized Opponents

Organized opponents to the measure are: Oregon State Federation of Labor, Oregon State Industrial Union Council, C.I.O., Oregon State Farmers Union, Committee for Voters' Rights, and Democratic State Central Committee.

Appearing Before Committee

In favor of the measure there appeared before the committee A. Freeman Holmer, author of the measure, Secretary of Non-Partisan Committee for Balanced Apportionment, and an officer of Young Republican Club of Oregon; Marshall Swearingen, Chairman of Non-Partisan Committee for Balanced Apportionment and Executive Vice-President of Farm Bureau Federation; and Rudie Wilhelm, member of the Oregon Legislature. Opposed to the measure there appeared before the committee Kelly Loe, representing Oregon State Federation of Labor, who stated that the views he presented were also those of the Oregon State Industrial Union Council C.I.O., and with some modifications the Oregon State Grange; Walter H. Dodd of Eugene, Oregon, sponsor of a strictly population plan and representing Committee for Voters' Rights and Senator Richard L. Neuberger.

Arguments Advanced for Amendment

The amendment:

1. Requires that areas, as well as population, be represented in legislature, because representation by population solely results in:
 - a. Too little attention to and representation of problems of sparsely populated areas (representatives from larger cities have insufficient knowledge of problems of outlying areas),
 - b. Too much concentration on problems of densely populated areas and consequent domination by them of legislative time and attention,
 - c. Representatives having to travel too great distances to have necessary access to all constituents,
 - d. Less effective vote of person in sparsely populated areas since he can only contact one representative whereas city inhabitant can contact many representatives.
2. Forces the legislature to make a reapportionment and future decennial reapportionments, by providing means for so doing if the legislature fails to act.
3. Eliminates possibility of gerrymandering (i.e., apportioning state on such a basis as to give political advantage to party in power).
4. Prevents any county from dominating the legislature, by limiting any county to a maximum of one-fourth of the members in either house, regardless of population.
5. Increases the Senate from 30 to 36 members to expedite the work of that body.

Arguments Advanced Against Amendment

The amendment:

1. Violates democratic concept of majority rule by requiring reapportionment on other than population basis.

2. Increases present inequality in representation arising from failure of legislature to reapportion, because under measure:

- a. Sparsely populated areas gain in representation whereas densely populated areas lose or remain unchanged.
 - b. Rapidly growing areas (particularly down state) are denied present or prospect of future additional representation, whereas areas losing population or well behind rate of state population growth gain in representation or remain unchanged.
 - c. Over three-fourths of rural farm population loses in representation, numerically or proportionately; and more than one-half of persons in Eastern Oregon are represented by only one-fifth of Eastern Oregon's representatives.
 - d. Persons and areas carrying greatest share of tax burden are considerably under represented.
3. It is so ambiguously and loosely written as to be unworkable, particularly since it:
- a. Casts doubt on legality of all 1951 legislation, since Constitution would call for 36 members but senate would only have 30 members.
 - b. May result in the election of 33 or 34 senators in Presidential election years and lose continuity of senate membership.
4. Enlarges number of senators when no increase warranted.
5. Gives too much discretionary power to Secretary of State if legislature fails to act.
6. Freezes existing county lines so as to hinder any future county consolidation.

The proponents of the amendment stated that its purpose is to effect a compromise between representation by population and representation by area. They recognize the importance of population as a measure of apportioning the legislature and seek to combine this measure with one of area representation. Your committee believes that population should be the primary basis for representation. Your committee also believes that there should be some deviation from the strictly population basis to take into account, among other considerations, problems peculiar to areas, accessibility of legislators to constituents and constituents to legislators. Your committee believes that its views as to what should be the basis of representation is similar to that claimed by the proponents of the balanced plan. It seems apparent, however, upon analysis of the measure, that it fails in its announced objective.

Conclusions

1. Enactment of the measure will place the apportionment of the House of Representatives farther out of line with the 1950 population figures than it now is.
2. The Senate would be more closely apportioned to population than the House of Representatives, but there would still be considerable variance from a true population apportionment.
3. The measure is weighted too heavily in favor of attempted area representation.
4. The measure does not provide a proper balance of representation from areas.
5. From a legal standpoint the measure is of questionable validity and workability and would undoubtedly invite litigation.
6. The balanced plan does not remedy most of the claimed defects in the present apportionment and in many respects intensifies them.

Recommendation

Your committee therefore recommends that the City Club go on record as opposing the proposed "Balanced Plan" apportionment measure and that the vote be 315 X NO.

Respectfully submitted,

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