CARVING UP CALIFORNIA:
A HISTORY OF REDISTRICTING, 1951-1984

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PREFACE

"What's all this I hear about reapportionment?" the mythical Emily Litella of the old "Saturday Night Live" television show might have asked. Reapportionment is among the most bewildering of issues to the average citizen, and yet no more personal issue faces a legislator. Briefly described, it is the process of adjusting district boundary lines to account for changes in population. Constitutional rules require that legislative and congressional districts have equal populations. But people move around, so at the beginning of each decade -- just after the national census -- boundaries must be redrawn to reflect population shifts.

What could be simpler? In Great Britain they have been redrawing their parliamentary constituencies for centuries by use of a non-partisan boundary commission, and there has been little fuss about it. But in this country, redistricting has meant violent political confrontation ever since 1812, when Elbridge Gerry, Governor of Massachusetts, rearranged Senate districts in that state to diminish the power of the Federalist Party. One district resembled a salamander and, for that bit of chicanery, Gerry gave his name to the process of manipulating voting districts: gerrymandering.

For four decades, since the Republicans first used it in 1951, gerrymandering has been at the heart of reapportionment practice in California. Jesse Unruh employed it effectively to become Assembly Speaker in 1961; it was used to derail the Reagan Revolution in Congress in 1981. In no state has the battle over drawing districts lasted as long or been as bitter as in California.

Technically, reapportionment is the shifting of congressional seats among states, or of legislative seats among counties; and redistricting is the actual changing of the boundary lines. The words, however, are largely interchangeable. But it is not the technique that is important, rather it is the effect. The rules for moving units of population -- generally census tracts -- from one

district to another are sufficiently vague that the clever mapmaker can achieve endless political variations. Districts consist of blocs of voters whose political behavior varies with their economic, social and ethnic character. The success or failure of a political candidate very often depends on the voters who constitute his district. Thus, the clever shifting of voters decides who wins an election, and winning is the first law -- some would say the only law -- of politics.

Reapportionment must also be understood in terms of what it is not. It is not about representative government. For all that has been written about representation and reapportionment, the two are only very loosely connected. Reapportionment is not merely the mathmatical exercise of redistributing people among electoral districts. Indeed, reapportionment is not even about reapportionment: it is about politics. Gerrymandering is an attempt to determine next year's election results on the basis of last year's voting behavior. So reapportionment can decide who wins election to office, which party holds a majority in a legislative body, which groups receive favored treatment from legislators, and which don't. In American legislatures, political power is in organization. Either Democrats or Republicans will have the power to organize a body, and thereby determine the legislative agenda. The balance of seats between the parties determines this legislative leadership, and reapportionment decides that balance.

Reapportionment is also a very human process: it is not just numbers, it is the deciding of political fates. Those who are favored in the process continue in office and in power; those who fall from grace may likewise fall from office. Both political parties have fought some of their longest and bitterest battles over reapportionment. In 1951 the Republican Party, sensing its time was running out, gerrymandered California to keep itself in power. In 1961 Democrats repaid the deed by doing the same to consolidate their power. Interestingly, neither party succeeded in holding power for the decade. In 1971,

the reapportionment process deadlocked; in the 1980s, a frustrated minority party took the issue to the people on four separate occasions.

California's modern political history begins in the 1950s, with the resurgence of the two-party system. At the same time begins the story of political reapportionment. The last chapter has not yet been written. In the meanwhile, numerous politicians, technicians, academics and plain citizens have dabbled in -- or become captives of -- the reapportionment process. This is an account of that process as a political act. I have dealt very little with the technical side of reapportionment, and refer simply to each individual proposal to adjust the lines for a particular legislative house as a "plan." I have made a judgement as to whether a "plan" is a "gerrymander" based on its impact on political groups.

In this work there is no effort to cast aspersions on the motives or conduct of any politician: each acted in his own interest, or in the interest of his political party. Reapportionment is politicians being political: it is to twentieth-century California officeholders what poisoned mushrooms were to the Roman Caesars, beheadings to medieval kings, and coups d'etat to less enlightened societies everywhere. In other words, it is politics at work.

Of one politician, though, special note must be made. No individual dominated the reapportionment process, or better mastered its complexities, than the late Congressman Philip Burton of San Francisco. He first discovered the process when his own Congressman was a victim of a gerrymandered district in 1951. In the 1960s, he helped shape Democratic Party strategy as a legislator and, in the 1970s and 1980s, he personally shaped reapportionment politics. No one came close to matching his effective and masterful use of political power in redistricting, and no one understood the possibilities of the process better than he. Lin Piao once said that to understand Chinese communism at work one had to understand Chairman Mao. To understand the manipulation of political power

in modern-day California, one should study the achievements of Phil Burton.

Reapportionment is the essence of hardball politics: it is crude, crass and selfish, but it is also fascinating and enlightening. And most of all, it is the political process at work. This is its story over four decades in California.

INTO THE POLITICAL THICKET:

CALIFORNIA'S 1951 REAPPORTIONMENT

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Introduction

In one of the most poignant moments in the film of John Steinbeck's The Grapes of Wrath, the Joad family comes over a hill and gazes down upon a lush green valley. They have traveled a thousand miles from their home in the Oklahoma dust bowl, across mountains and desert, camping in Hoovervilles under the most dreadful conditions. Now, suddenly, before them lies their destination: acres of fragrant citrus groves, miles of vineyards, rolling green foothills and sparkling mountain streams. The Joads have come to California.

Steinbeck's fictional Joads symbolized one of the greatest movements of people in America history, the migrations westward to California that began in the mid-1930s and continued unabated for four decades. Before the migration slowed, California's population had increased from 5.5 million in 1930 to nearly 20 million in 1970. During these four decades several waves of people came to California. In the Depression years, many new arrivals were "Okies" and the dirt poor of the Plains states, whose worlds had blown away in the great dust storms. In the 1940s, thousands of GIs passed under the Golden Gate and through Los Angeles and San Diego on their way home from the war in the Pacific. In the brave new post-war world, paradise by the Pacific seemed more attractive than a return to Detroit or Cleveland or the farm in Kansas; so veterans sent for their wives or sweethearts to join them for a new life in the Golden State.

In the 1950s, thousands more abandoned the decaying cities and bitter winters of the east and moved westward to California. In this decade alone, California's population increased by 5 million. A popular song of the period promised every newcomer a little white frame house in the San Fernando Valley. Black people, rejecting the segregated life in the states of the Old South, joined the great migration. Retired people, escaping harsh eastern winters, packed up

and came west. New aerospace and electronics industries in California attracted upwardly mobile Americans. Communities that had been no more than crossroads in the orange groves, such as Santa Ana and Anaheim, became substantial cities overnight. Not until the Watts riots and the campus violence of the 1960s did the migration to California slow down.

As they flooded in, these millions of immigrants fundamentally changed the character of the state. California's chain of freeways and its water project became wonders of the contemporary world. Some of the immigrants inevitably clashed with those who were already here. In the 1930s a frightened California legislature passed a law making it a crime to bring into the state "any indigent person." This law, popularly called the anti-Okie statute, was declared unconstitutional in a landmark ruling of the U.S. Supreme Court in 1941.[1]

The steady inflow which began in the 1930s posed a special problem for the California political establishment. Prior to the Depression, California was essentially a one-party state. From 1900 until 1930, in fact, nearly all elected officials were Republicans; as late as 1928 all but eleven of the state's 120 legislators were Republicans, as were all but one of California's Congressmen. The influx of new people changed that. Whereas three-quarters of the state's voters identified with the Republican Party in 1920, by the mid-1930s California had a Democratic majority. As a result, California elected in 1938 its first Democratic governor and lieutenant governor in four decades.

The emergence of two-party politics in the 1930s did not, however, entirely wash away California's fundamentally Republican character. In the first postwar election, in 1946, Republicans swept all statewide offices, as well as two-thirds of the legislative seats and fourteen out of twenty-three congressional contests. This was not by accident: the Republicans had a special weapon to assure themselves an electoral majority despite the Democratic edge in voter

registration. This was the complex election provision known as cross-filing.

Although cross-filing has been gone from California politics for more than a quarter of a century, some Republicans still recall it fondly as the key to the GOP's golden age and would like to see it revived. Actually, cross-filing did not assure a Republican electoral majority as such. Instead, it assured dominance by the established political order and, until 1958, that establishment was Republican. Cross-filing was a deceptively simple practice. It meant that a candidate could run in the primaries of both parties. If he won his own primary, he could also win the primary of the other party, and then run unopposed in the general election. More important, though, was the fact that the candidate did not have to indicate his own party membership when he ran. Thus many Republican politicians, who had already been in office when the migrations began in the 1930s, simply continued running in both primaries in election after election, and won double nominations even though their districts had changed from Republican to Democratic. Thousands of Democrats faithfully voted for their incumbent legislators in the Democratic primary, blind to the fact they were actually voting Republican incumbents back into office.

In these circumstances, Republican candidates in California continued to win elections on the basis of their personal appeal, while effectively concealing from many voters their party affiliation. The Democratic Party thus found it almost impossible to take advantage of its majority in voter registration, for it was difficult to appeal to party loyalty. A few Democratic office-holders did manage to win Republican nominations; in the main, however, it was the Republicans who were successful in winning Democratic votes -- usually on the basis of nonpartisan, personal appeals. As Carey McWilliams wrote of the cross-filing system: "It made a shambles of party regularity and party discipline in California."[2]

Cross-filing was a tremendous boon to incumbents. In 1944, for instance, 90 percent of the State Senate seats and 80 percent of the Assembly seats were won in the primary election through dual nominations. Cross-filing protected incumbents from any general election challenge. Even in those years when the nation as a whole experienced a major anti-incumbent trend, California hardly felt it. In 1948, for example, the unexpected Truman victory cost the Republican Party across the country dozens of congressional districts; in California, however, only one Republican seat was lost. Otherwise vulnerable GOP candidates had already won re-election in the primary. One such beneficiary of cross-filing in 1948 was Congressman Richard Nixon, who won the nominations of both parties in the spring primary. Nixon, who ousted a long-time Democratic incumbent in a marginal district in 1946, might well have lost in the Dewey debacle of 1948 -- had he not already won re-election months before.

The cross-filing system did not serve California poorly. It may have protected the political establishment, but it also helped prevent the rise of political machines in the state. Most of the corruption traditionally associated with eastern political organizations stems from the control of local and state government by party-controlled big-city machines. California had none of this, because California had weak parties. And while it is true that the political vacuum resulting from that weakness may have contributed to a different form of corruption -- notably lobbyist influence in the legislature -- on the whole, the cross-filing system provided California with a less corrupt government than was the case in many other large states.

The outstanding characteristic of cross-filing was nonpartisanship. Proponents of cross-filing justified it as a deterrent to the political corruption that might come with strong parties. California's unique one-party system, they said, was really a no-party system: it awarded political success to individuals based

upon their own abilities rather than on their party labels. And, indeed, one could hardly argue but that the giants of the cross-filing era -- Hiram Johnson, Earl Warren, and William Knowland -- were outstanding public servants.

Yet nonpartisan government does have its limits, and it was perhaps inevitable that partisanship would eventually become a strong force in California politics. But the surprising fact is that it was the Republicans -- the historic beneficiaries of cross-filing and nonpartisan government -- who struck the first blow against the cross-filing system. That blow was the reapportionment of 1951, the first effort in California history to draw congressional and legislative district lines for the political benefit of one political party. This reapportionment -- an obvious gerrymandering of districts to favor the Republicans -- led in 1952 to one of the greatest Republican landslides in history. But before the decade of the 1950s was over, the Republican legislative majorities were gone and, along with them, both cross-filing and the era of nonpartisan state government.

Background of the 1951 Redistricting

The 1951 redistricting is important because it marks the dividing line between the years of nonpartisan government in California and the highly partisan political climate of today. The drift towards partisanship, now evident even in judicial and local government elections, had begun well before 1951, but 1951 marked the first time that partisan judgments were applied to the drawing of district lines. Legislative apportionment is fundamental to legislative policy. Leroy Hardy, who wrote his doctoral dissertation on the 1951 redistricting, said of the results of that process: "Voting strength facilitated by the 1951 reapportionment has bearing upon every piece of legislation until the next reapportionment. The outcome may be determined for legislation in 1955, 1957, or 1961 by the 1951 reapportionment."[3]

No longer could one legitimately speak of a nonpartisan legislature in California -- cross-filing notwithstanding -- when the legislators' own district lines were determined by partisan considerations. The long-dormant Democratic majority, although denied many potential gains by the 1951 reapportionment, could not be restrained forever. The Republicans went into the 1952 elections holding forty-seven Assembly districts and came out holding fifty-four, largely as a result of effective line drawing and the Eisenhower landslide. But within six years Republican representation had been reduced to only thirty-four seats, and it has not climbed above forty-one seats since that time. Despite the short-term advantage of the 1951 gerrymander, the long-term result of introducing partisanship into legislative districting has been permanent minority status for the Republican Party.

The Republicans' minority status in voter registration was the underlying cause of the GOP effort to gerrymander legislative and congressional districts in 1951. Of the 5.2 million registered voters in California in 1950, only 1.9 million were Republicans. This amounted to only 37 percent of the total, against 57 percent for the Democrats. The Republicans also realized that the dichotomy between their minority of registered voters and their majority in the legislature would not last forever, cross-filing notwithstanding. The imbalance in voter registration was, of course, a direct result of the great migrations of the thirties and forties, which had jammed the California voting rolls with Democrats from the South and from the big cities of the East. Had small-town Republicans instead of dust-bowl Democrats come to California in these years, the registration statistics would have been very different. But Republican leaders from Governor Earl Warren on down could read the numbers: without some positive action by Republicans, the days of GOP domination in California were numbered. Favorable district lines might just prove the needed lift, although there was also

the danger that a partisan redistricting might spur the Democratic majority to greater electoral effort.

A second reason for partisan redistricting was related more to national party politics than to conditions within California. California state government might still be nonpartisan, but its relationship to national politics had a clear partisan flavor. The state had just witnessed the bitter partisan brawl between Richard Nixon and Helen Gahagan Douglas in the 1950 Senate race. California's premier Republican, Governor Warren, had been embarrassed by the defeat in California of the Dewey-Warren ticket in 1948 -- a result of yeoman work by California labor on behalf of Truman and the Democratic ticket, in retribution for the Republican-backed Taft-Hartley Act. These developments might not have had much effect on the 1951 reapportionment were it not for the fact that California gained seven new congressional seats after the 1950 census. Even if it were still possible to draw nonpartisan legislative district lines, it would be extremely difficult to keep partisan considerations from influencing the new congressional district lines.

Nationally, the Republicans had come out of the 1950 elections with 199 House seats, compared with 236 for the Democrats. The GOP thought it had a good opportunity to capture the House in 1952, and those seven new seats in California might prove crucial to Republican hopes. Most of the new California seats represented losses, due to population shifts, of Democratic-held seats in the Old South and the East. If they were recreated as Republican seats in California, reapportionment might prove just enough to bring about a Republican Congress after the next election. Whatever restraints the nonpartisan tradition in California exerted on Republican map-drawers in 1951, the desire for additional GOP congressional seats was stronger. Very early in the process, it became clear that a primary goal of the 1951 redistricting was the creation of additional

Republican seats in California's congressional delegation.

A provision in the State Constitution tying congressional district lines to legislative lines meant that partisan line drawing for Congress would necessitate similarly partisan lines for the Assembly. The California Constitution provided that, "In dividing a county, or city and county, into congressional districts, no Assembly district shall be divided so as to form a part of more than one congressional district, and every such congressional district shall be composed of compact, contiguous Assembly districts."[4] This meant that any attempt to draw congressional districts for partisan advantage would first require the creation of partisan Assembly districts. Those Assembly districts, once drawn, would then be combined to form congressional districts. This meant that drawing the congressional lines to partisan advantage would affect the fate of Assemblymen. Few Assemblymen had any fundamental interest in their overlapping congressional districts, but all had a personal interest in their own Assembly district lines.

Despite the impact on the legislators' own careers, GOP strategists decided to use their muscle in the Assembly to accomplish their congressional aims. While neither legislative house displayed much partisan rivalry in these years, the Assembly had shown itself more attuned to partisan realities than the Senate. Too, there would be no Senate reapportionment in 1951 because Senate districts consisted of whole counties -- an apportionment known as the "Federal Plan." Senate districts did not relate to congressional districts. So the 1951 redistricting fell to the Assembly.

The redistricting process began in the summer of 1950, shortly after the primaries in which, as was usually the case, most Assemblymen had won automatic re-election. Republican Assemblyman Laughlin Waters of Los Angeles was given the assignment of chairing the legislative committee that would draw

up the redistricting plan. He had a broad mandate from the Republican leadership: satisfy all incumbent Republican Assemblymen and as many incumbent Democrats as possible, but maximize GOP opportunities for winning the seven new congressional seats. The 1950 elections gave the Republicans forty-seven of the eighty Assembly seats, and an even larger margin of twenty-nine to twelve in the Senate. Although Waters's original goal was to satisfy Democratic legislators as well as Republicans with his plan -- in order to insure strong majority support in the Legislature -- this was not really necessary: the Republican-dominated Legislature and the Republican governor ensured enactment of any redistricting plan GOP leaders wanted. Party strategists had no doubt Governor Warren would sign any bill they placed on his desk, for the Earl Warren of one man, one vote was still years in the future.

Assemblyman Waters was given adequate tools to do his job. A special reapportionment committee was formed at the beginning of the 1951 session, consisting of eight Republicans and five Democrats. Waters made it clear that he would control the redistricting process: individual legislators would not be allowed to horse-trade on district lines. Indeed, the reapportionment bill would be prepared with minimal input from other legislators except for their own district lines. Assemblyman Waters and his close allies would hire the staff and control the data. In the end, only one legislator other than Waters had significant influence on the overall plan: Republican Assemblyman Charles Conrad of Hollywood, who had a technical interest in the field.

The technical staff of the Assembly Elections and Reapportionment Committee began working on the redistricting plan early in 1951. Technical work on the plan required careful examination of population and political trends. The first thing the staff did was determine the populations of existing congressional and Assembly districts. The congressional populations varied from 261,000

to over 600,000.

The mean population of a congressional district was 352,000, which meant that some districts had almost twice the mean district population. The primary technical job, then, was to pare down the oversized districts while creating seven new districts. The census figures indicated that those regions of the state most deserving of new Congressmen were the San Fernando Valley, southern Los Angeles County, and the counties east of San Francisco. The existing north-south apportionment in 1950 gave northern California eleven of the state's twenty-three congressional districts; southern California had twelve. The 1950 census revealed that 54 percent of the state's population now lived in the south, and 46 percent in the north. So, the Waters committee decided on a division of the districts that awarded fourteen seats to northern California and sixteen to the south. Of the seven new seats, three were to be formed in the north and four in the south. More specifically, the Assembly committee determined that two new districts should be formed in the Bay Area suburbs, one in the Central Valley, one in the San Fernando Valley, two in the Los Angeles suburbs, and one in either Orange or San Diego County. Once this decision was made, the politicians and the technical staff immediately went to work drawing the state's thirty congressional districts on a map, aiming to conclude their efforts in March of 1951.

The Republican strategy of 1951 differed considerably from the methods used in past reapportionments. Legislators had struggled over the redistricting issue throughout the 1920s, but the battle then had been between the north and the south and between the rural areas and the urban areas. The deadlock of the 1920s had been broken by creating a rural-dominated Senate controlled by northern Californians, and an urban-oriented Assembly with control in the south. Partisan factors had played no significant role in that decision, or in the 1931

redistricting, although it resulted in the election of seventy-three Republicans to the Assembly. In 1941, the governor was a Democrat and the Democrats narrowly controlled the Assembly. The Senate, however, was heavily Republican, and this required a nonpartisan redistricting plan. Accordingly, the 1941 redistricting was accomplished with minimal party squabbling.

But the 1951 redistricting shaped up differently. Waters and his staff -- the latter headed by UCLA professor Ivan Hinderaker -- operated mostly in secret. Although five statewide hearings were conducted to gauge opinion in affected communities, public input was kept to a minimum. Potential districts were not made public while the committee conducted its work; and, other than in San Francisco, where a decline in Assembly representation seemed inevitable, there was little public or press discussion of the redistricting plan. The Waters committee did consult individual Assemblymen, but only as the plan affected their own personal districts. No Assembly members -- and certainly no Democrats -- were allowed to affect the overall state picture. While the Waters committee sought satisfaction among neighboring incumbents, member-initiated line shifting was kept to a minimum.

Waters's strategy was to assure a firm majority of members, satisfied with their own districts, who could be counted on to pass his plan without allowing floor amendments. Careful consideration was given to the need for making certain almost all individual Assemblymen -- Democrats and Republicans both -- were happy with their own districts. Waters's objective was two-fold: he wanted carte blanche to draw the congressional districts as he saw fit, and he also wanted an unchallenged majority which would support his plan throughout the legislative process. Although his plan was carefully structured to favor the Republican Party, he wanted individual Democrats to support it. Democratic Assemblymen would be kept happy by drawing a few extremely favorable

districts. As for Republicans, they would be kept in line by appeals to party loyalty and, if necessary, by threats of reprisals from party leaders if individual Republicans did not cooperate.

Thus the Waters plan began to take shape with the creation of a handful of heavily Democratic Assembly districts, and corresponding congressional districts. The initial stages of the plan also featured a number of marginal districts with Republican incumbents. In creating these districts, Waters employed a classical reapportionment model. The legislative minority party (Democratic) seats were concentrated in areas with large numbers of party loyalists, thus leaving the marginal seats for the majority party (Republicans). This meant concentrating the Democrats and dispersing the Republicans, with the result that the Republicans had a far better opportunity than the Democrats for winning a majority of the legislative and congressional seats -- even if their statewide vote dropped below 50 percent. Individual Republicans might complain that their own districts were not as advantageous as they might be, but they could not question the fact that the GOP as a whole was better off. The concentration of Democratic seats in a few extremely safe districts also tended to mitigate the impact of the recent population increase on the state's politics, and to compensate the Republicans for the unfavorable voter registration figures -- all to the GOP's advantage.

Leroy Hardy, in his dissertation, identifies four types of districts found in the Waters plan, each of which was designed to benefit the Republican Party. Hardy defines these district types as: (1) the concentration, (2) the shoe-string, (3) the elimination or isolation, and (4) the dispersal. Hardy described the methods of forming these districts:

> Concentration districts grouped an opponent's strength in as few districts as possible, which assured the election of political rivals in such districts but did not "contaminate" other districts. . . . A shoestring, elongated or rambling

> district was one which . . . broke the community of interest in an area, usually for the purpose of concentration. . . . Dispersal districts divided an opponent's strength to weaken his position. . . . A variation of the dispersal form was the elimination district, which stripped a candidate or incumbent's strong areas from his district for the purpose of defeating the individual.[5]

The Waters strategy worked so well that not a single incumbent Assemblyman of either party lost his seat in the 1952 general election, although Republicans picked up nearly all of the newly-created districts. The Democratic districts were formed using the concentration, shoestring, and elimination models. Most Republican seats were carefully drawn to disperse GOP voting strength among as many districts as possible. The Waters lines were so effective in protecting incumbents that all but five of the thirty-one Assemblymen in Los Angeles County avoided general election races altogether by capturing the nominations of both parties in the primary. Of the six seats that were contested in the general election, only one was decided by fewer than 5,000 voters, and that one was an open seat.

Incumbent Democrats had little to complain about as far as their own districts were concerned. That the Republicans could win more seats than was justified by their percentage of the vote hardly seemed important to the lucky handful of Democrats who occupied the safe Democratic districts. Overrepresentation of Republican areas, however, was the most obvious -- and intended -- consequence of the Waters plan. In 1954, as the state edged toward true two-party politics, the Democrats managed to win 49 percent of the statewide vote for the Assembly, but only 40 percent of the seats. In Los Angeles County, the GOP won a majority of the seats in 1954, even though Republicans received considerably less than 50 percent of the overall county vote.

The political nature of the Waters plan was nowhere more apparent than in some of the Los Angeles congressional constituencies. Hardy's "shoestring

district" model, for example, was best illustrated by L.A.'s 26th congressional district. This had been the district of Helen Gahagan Douglas until her unsuccessful 1950 Senate race, and it was probably the most liberal -- and one of the most Democratic -- districts in the state. The incumbent in 1951 was maverick Democrat Sam Yorty. The 1941 lines had shaped a compact district, then numbered the 14th, in west-central Los Angeles; this 14th congressional district consisted of four overlapping Assembly districts. The 1951 redistricting planners, however, eliminated three of the old Assembly districts and added two new ones. They then elongated the congressional district so that it began in the black Democratic precincts of Watts, wandered through south-central Los Angeles, and then struck westward to the coast to take in Culver City, Venice, and a number of other Democratic strongholds. One arm of the district went north almost to Hollywood, causing the 26th congressional district to envelop the Republican 15th district on three sides like a huge claw. And, as it was redrawn, it gained more and more population, until it contained about 434,000 people -- 81,000 more than the mean congressional district population of 353,000.

The 26th congressional district was an example of an elongated district that concentrated Democratic voters; in so doing, it protected the neighboring 15th and 16th districts, both of which were marginally Republican. Few other districts were such obvious gerrymanders, although one that came close involved the sole California Congressman who lost his seat as a result of the 1951 reapportionment. This was a small, mousey seven-term Democratic Congressman from San Francisco named Franck Havenner, and he was the occupant of the sole elimination district in the 1951 congressional plan. Franck Havenner's fate was sealed by the 1951 district lines.

San Francisco was traditionally a Democratic town. For decades, its

politics had been dominated by Irish Democrats, who also supplied most of the city's policemen, firemen, and Roman Catholic clergy. The Democrats had won most of the city's legislative districts since the Depression, but the two major parties had often split the two congressional districts. As drawn in 1941, these two districts offered partisan advantage to neither party: each contained large blocs of both liberal and conservative voters. By 1950, however, one of the districts -- the 5th -- was considered safe for popular Democrat John Shelley; the other district -- the 4th -- was slightly more conservative on paper, and was occupied by a much less entrenched Congressman, Democrat Havenner. He had first won the seat in 1936, but had barely retained it in recent elections. In 1948, Havenner was re-elected by only 5,000 votes. By 1951, Republicans had determined that they wanted one San Francisco congressional seat, and Havenner's was the obvious target.

Both San Francisco congressional districts contained four entire Assembly districts, and both were within the required population range for a congressional district -- 360,000 people in Havenner's district and 400,000 in Shelley's district, according to the 1950 census. Although San Francisco would have to lose two of its Assembly districts, it was possible to leave the congressional lines undisturbed. Republicans, however, could see a potential congressional victory here, to be obtained by removing liberal and Democratic precincts from Havenner's district and adding conservative ones. The mapmakers did exactly that. The 1941 lines, which ran roughly east-west, were dramatically shifted so that the line dividing the two districts ran roughly north-south. The 4th district was rotated counterclockwise, and the populations of the two districts were made approximately equal.

The new San Francisco districts were compact, and one could argue that communities of interest in the city were enhanced rather than divided. The new

lines united the heavily Republican Marina and Presidio precincts with the traditionally conservative Richmond and Sunset areas, and also encompassed the Republican areas in southwest San Francisco. All these went into the revised Havenner district. What remained -- the minority areas and Chinatown, and all of the precincts south and east of Mission Street -- went into Shelley's district. The political effect was to assure re-election of the popular Democrat Shelley by even larger margins than he had enjoyed in the past; but the new lines placed nearly every conservative precinct in the city in Havenner's marginal district. While this may not have been a gerrymander in the classical sense, it was clearly an attempt to eliminate a Democratic Congressman. It was also a case where compactness and the unity of communities of interest worked to a partisan advantage. The net effect was to concentrate San Francisco's safe Democratic neighborhoods into the already safe Democratic district, while making the marginal district even more marginal. This was bound to cause a reaction from displeased Democrats, and such a reaction was not long in coming.

Congressman Havenner himself called the GOP reapportionment "a political monstrosity." Noting the population variations between districts around the state, he accused the Republicans of "slashing up" the state: "They do not even make a pretense or semblance of establishing uniformity in population."[6] Havenner asked his Democratic colleagues in Washington for help, and Rep. Emmanuel Celler (D-N.Y.), Chairman of the House Judiciary Committee, announced plans for a hearing to look into the California redistricting. Eventually a lawsuit was filed in an attempt to overturn the 1951 redistricting, but neither the lawsuit nor Celler's hearings brought any changes in the plan, although most of the Democrats in the San Francisco Assembly delegation voted against the Waters reapportionment.

Havenner's complaints did have something of a hollow ring, in that his

political troubles -- even in his old district -- had been evident for a number of years. All the Republicans had done was to create a district where his existing problems were magnified. He would be seventy years old by the time of the 1952 election, and perhaps somewhat out of touch with his constituents. On the positive side, the GOP plan had created two homogeneous congressional districts in San Francisco. That this redistricting might result in the defeat of a senior Congressman was, in the view of many Republicans, simply a reality of politics.

The redistricting in San Francisco bore fruit for the Republicans on election day. Although the new district still contained more Democrats than Republicans, Democratic loyalty was greatly weakened. In 1948 Havenner had defeated his GOP opponent, William Mailliard, 73,700 votes to 68,800. Mailliard had not run in 1950, and Havenner had increased his victory margin to 37,000 votes against a weaker Republican opponent. But Mailliard was back for a rematch in 1952, and this time he prevailed with a vote of 102,300 to 83,700. It may be true that the Eisenhower landslide and a strong GOP opponent would have cost Havenner his seat even in the old district; it was clear, however, that he had no chance at all in the new one.

The elimination of Havenner did have one interesting side effect. Among those who went out to walk precincts for Havenner on election day in 1952 was a young San Francisco political activist, but he was informed his home was no longer in the Havenner district because the lines were changed. The young activist swore to learn more about this redistricting process. His name was Philip Burton.

The 1951 Congressional Redistricting: The Republican Majority

The 4th and 26th congressional districts were just two examples of the partisan considerations that went into the 1951 reapportionment. The other

partisan moves were more subtle. Although a majority of those who migrated to the state during the 1940s were registered Democrats, the areas experiencing the fastest population growth were the suburbs, particularly those in southern California. The Republicans drew the seven new congressional districts in such a way as to over-represent the suburbs (which probably would, after all, continue to experience the fastest population growth during the coming decade) and, in so doing, maximized Republican opportunities to win the new seats.

The Republicans had a particular advantage in drawing the seven new districts. The fact that the state's population had grown so dramatically meant that the new districts could be carved out of oversized current districts, without unduly affecting any incumbent Congressmen. There was, for instance, no need to combine the districts of any sitting Congressmen. Therefore most incumbents had little reason for personal involvement in the redistricting process, since their own districts could be shaped to their liking without much trouble. Thus not only were Republican incumbents assured that no GOP Congressman would be endangered by the reapportionment; but there was also the certain knowledge that oversized GOP districts would be divided, wherever possible, in such a way that the new seats, too, would have a Republican flavor.

Republicans had another useful tool: congressional districts were to be apportioned on the basis of population, but the districts did not have to be equal in population. The Constitution required that congressional districts be composed of whole counties and whole Assembly districts. This necessitated population variance among congressional districts, since the geographic limits of counties have nothing to do with their populations.

The Assembly district provision of the Constitution proved a useful tool for gerrymandering districts. The map-drawers found it easy to create oversized Assembly districts and form even more oversized congressional districts. In Los

Angeles County in particular -- with thirty-one Assembly districts to be divided into twelve congressional districts -- the opportunities for mischief were almost unlimited. Twelve, of course, does not readily divide into thirty-one; therefore some congressional districts would have to include three Assembly districts, while others might consist of only two. Thus it was possible to combine three homogeneous Assembly districts into an extremely safe but oversized congressional district, while combining two other marginal Assembly districts into an undersized but politically advantageous congressional seat. Republican map-drawers found the temptation to create such districts too great to resist.

And nowhere did the Republicans wield a sharper partisan scalpel than in Los Angeles County. The population of the county had increased from 2.7 million people to 4.1 million during the decade of the 1940s, and this growth justified three additional congressional seats for Los Angeles County. The GOP plan was to create three new seats that would return Republicans, although some problems were apparent. Of the nine incumbent Congressmen in the county, four were Democrats: Sam Yorty, Cecil King, Clyde Doyle, and Chet Holifield. All of these men had safe districts, and all were likely to seek re-election. Even more disturbing to Republican planners, these four Democratic districts comprised some 1.9 million people, which meant that at least one new Democratic seat might be created from their excess. However, the Republican planners took a close look at these four districts and determined that, while all four were now in the hands of strong Democrats, not all their territory was Democratic.

The four districts occupied most of the southern half of Los Angeles County. King's and Doyle's districts, which had a combined population of 1.2 million people, included most of the growth areas in the southern part of the county. Within these two districts there was sufficient population for the creation of one additional district and part of another. Clyde Doyle, who

represented Compton, Downey, and Long Beach, had been opposed for re-election in 1950 by a Long Beach Republican named Craig Hosmer, who ran a strong race for the seat. Republicans therefore decided to create a district for Hosmer by drawing one of the county's three new districts in Long Beach. Doyle's old number, the 18th district, was given to this seat, and Hosmer won it in 1952 and held it handily until 1974.

Clyde Doyle's district was given a new number and his constituency was reduced to the Democratic area around Compton. Chet Holifield's district, although undergoing some population trade-offs, was left safety Democratic, as was Cecil King's. Yorty's seat, renumbered the 26th district, became the wandering district, combining all the Democratic areas GOP line-drawers could find in south and west Los Angeles.

All four of the districts held by these Democratic incumbents were left oversized by the redistricting, each averaging more than 400,000 people. Hosmer's new district, by contrast, had only 270,000 people -- and this was no accident. Each of the four Democratic districts was made up of three Assembly districts, most of them large Assembly districts. Hosmer's constituency, on the other hand, consisted of only two Assembly districts, one of them safely Republican and the other marginally Republican. Thus most of the Democratic voters in Los Angeles were jammed into the four oversized districts already held by Democrats. That left the eight other districts in Los Angeles to be created by combining various Republican strongholds. This was the heart of the 1951 Los Angeles gerrymander.

Five Republican Congressmen represented the rest of Los Angeles County, but two of them held seats that were only marginally Republican. Congressman Norris Poulson had won his district from a Democrat in 1946. It consisted of three Assembly districts lying just north of downtown Los Angeles, in the area of

Eagle Rock, Highland Park, and Silver Lake. Lying immediately to the west and south was GOP Rep. Gordon McDonough's district, which encompassed another three Assembly districts in Hollywood, Hancock Park, and Baldwin Hills. It may be surprising that two Republican Congressmen represented this area. Now most of this part of Los Angeles is overwhelmingly Democratic. But in the 1940s these were the affluent Los Angeles suburbs, the "nice areas" close to downtown Los Angeles. Not only did two Republican Congressmen represent the area, but six of the seven Assemblymen in the area -- including the two reapportionment Assemblymen, Laughlin Waters and Charles Conrad -- were also Republican.

Despite their apparent strength in this part of Los Angeles County, Republicans knew in 1951 that in the near future they would face severe difficulties in these congressional and Assembly districts. In the years after the war, migration patterns were gradually but steadily changing the character of north and west Los Angeles. A black migration westward from Watts, across Vermont, Normandie, and Western Avenues, was slowly displacing the white families who had settled there in the 1920s and 1930s. Among the displaced whites were Los Angeles Jewish families who were moving farther to the west, turning Protestant Republican neighborhoods into Jewish Democratic ones. North of the city's center, a movement of Hispanics had begun that would eventually transform places like Echo Park and Highland Park into Hispanic political strongholds. Here, too, the Republican voters were moving away, leaving their Republican Assemblymen with a choice of either moving along with them or facing eventual defeat by the incoming Democratic tide.

Realizing this, the Republican planners decided to deal with the problem by extending their congressional and Assembly districts as far from the Democratic migrations as possible. It was not an easy task to try to save two GOP Congressmen and six Assemblymen in an area of declining Republican strength;

and it certainly could not be done without some tortuous lines. The Republicans went about their work with energy and care.

The need to save these endangered Republicans explains the oddly-shaped lines of the heavily Democratic 26th district. Its predecessor, the old 14th district, was a neatly-shaped downtown district. The new 26th, however, was intended to encompass both the black neighborhoods of south-central Los Angeles and the Jewish precincts to the west near Fairfax Avenue. All the Republican neighborhoods in the Wilshire district, and around MacArthur and Hancock Parks, were then jammed into Gordon McDonough's district, giving him and the three incumbent Republican Assemblymen a much better chance at re-election.

Saving the congressional seat of Norris Poulson proved a somewhat easier task for the Republicans, although here too they had to create a gerrymandered district. To Poulson's north lay the heavily Republican city of South Pasadena. South Pasadena was given to Poulson, while the Democratic neighborhoods around Lincoln Park were detached. His district, with a population of just 265,000 (75,000 below the norm for a congressional seat), was thus compressed into two Assembly districts covering South Pasadena, Eagle Rock, Highland Park, and Silver Lake. Poulson's Democrats were shifted into Chet Holifield's safe Democratic seat, which emerged with a population of 451,000 people.

The GOP reapportionment strategists had a relatively easy time protecting the other three Republican Congressmen in Los Angeles County. Immediately north of Poulson's district was the heavily Republican district of Carl Hinshaw. It included the cities of Pasadena, Arcadia, Glendale, and Burbank, together with most of the northern San Fernando Valley. This was an area of tremendous growth, its population having soared from 350,000 in 1941 to 650,000 in 1951. Nearly the entire area was solidly Republican.

Just to the north of Hinshaw's district there was one Assembly district which since 1941 had been attached to the San Bernardino County congressional seat. In 1951, Waters's mapmakers decided to reunite this Assembly district, which included Lancaster, Palmdale, and the northern tip of the San Fernando Valley, with a Los Angeles congressional seat. They then took the resulting area, which included a population of some 800,000 people, and divided it into two and one-half congressional districts.

First Hinshaw's district was formed, and his huge constituency was reduced to just the cities of Glendale, Pasadena, and half of Burbank -- a safely Republican seat. Then a new 21st district was created, including the San Fernando Valley communities of Chatsworth, Northridge, Pacoima, Sun Valley, and the rest of Burbank. This district then ran through the mountains, dipping down to absorb the foothill towns of Arcadia, Sierra Madre, and Monrovia. Geographically the district was huge, but it had only 396,000 people. Although it was not heavily Republican, the district did include areas of Republican growth. In 1952 it was hotly contested between Democratic Assemblyman Everett Burkhalter and Republican businessman Edgar Hiestand, with Hiestand emerging the winner.

Hinshaw's old district still left room for a portion of another congressional constitutency, and GOP planners carefully drew another Republican-leaning district, this one entirely in the San Fernando Valley and western Los Angeles. Small portions of two other districts were added to this new seat, and the resulting 22nd congressional district included part of Hollywood as well as the Valley towns of Studio City, Sherman Oaks, Reseda, and Canoga Park. The district was marginal, but Republican candidate Joe Holt was strong enough to win the seat in 1952. Holt held the seat until his retirement in 1960.

The 22nd congressional district was another undersized Republican district

created in 1951. It was comprised of only two Assembly districts and had a combined population of only 229,000 people. The same thing was done in the West Los Angeles district of Republican Donald Jackson. It had a population in 1950 of 478,000 but, in the remapping, one of its three Assembly districts was removed, and its population was reduced to 228,000. The district used to extend out into the San Fernando Valley; now it was confined to Beverly Hills and West Los Angeles.

The final district needing adjustment in Los Angeles County was the 12th congressional district, which lay in the San Gabriel and Pomona Valleys. Republicans considered it a safe district, although prior to the GOP landslide of 1946 it had had a Democratic incumbent, Jerry Voorhis. Voorhis lost to Richard Nixon in 1946, and when Nixon went on to the Senate in 1950 he was succeeded by the Republican Patrick Hillings. To make sure that Hillings would have no further problems, the GOP planners in 1951 detached some Democratic territory in the San Gabriel Valley. Although the district also lost the Republican city of South Pasadena, it retained the Republican strongholds of Alhambra, San Gabriel, and Whittier. With a population of 378,000 it was one of the few districts in Los Angeles where population did not vary significantly from the mean.

The Republican gerrymander of Los Angeles County was a masterful job of combining existing jurisdictions -- in this case, Assembly districts -- for maximum political effect. Much of the Republican success depended on the clever use of population disparities. Republican neighborhoods were spread about among smaller congressional districts, thus giving maximum advantage to the county's minority of Republican voters. Moreover, as Leroy Hardy has pointed out, overpopulated Democratic Assembly districts were generally grouped in threes to form congressional districts, underpopulated Republican

districts in pairs. This circumstance, Hardy says, helped bring about the anomalous situation of 1954, when Republicans received only 49 percent of the congressional vote in Los Angeles County, but won 66 percent of the seats.[7]

Even more essential to the GOP success than the manipulation of population disparities, however, was the practice of combining nearly all Democratic neighborhoods into heavily Democratic districts, while leaving most Republican seats marginal. This tactic worked well for the GOP for the remainder of the decade. In 1952, 1954, and 1956, Republicans won eight of the twelve congressional seats in the county. Even when the Republicans suffered an electoral debacle in California in 1958, they still managed to win seven of the Los Angeles County seats -- a feat they repeated in 1960. And all the while Los Angeles County was heavily Democratic in registration.

The differences between the Republican and Democratic districts in Los Angeles County under the 1951 reapportionment are dramatically underscored by an examination of the make-up and population of the respective Republican and Democratic districts.

Democratic Congressional Districts, Los Angeles County

District	Population	Assembly Districts
17th District - King	409,334	46, 67, 68
19th District - Holifield	451,332	40, 45, 51
23rd District - Doyle	436,250	52, 55, 69
26th District - Yorty	434,295	61, 62, 66
Total	1,731,221	Assembly Districts: 12

Republican Congressional Districts, Los Angeles County

District	Population	Assembly Districts
15th District - McDonough	410,306	58, 63, 65
16th District - Jackson	288,712	59, 60
18th District - Hosmer	270,185	44, 70
20th District - Hinshaw	231,185	43, 47
21st District - Hiestand	396,879	41, 42, 48
22nd District - Holt	229,389	57, 64
24th District - Poulson	274,811	54, 56
25th District - Hillings	378,522	49, 50, 53
Total	2,479,989	Assembly Districts: 19

After the 1952 elections, the Republicans held twice as many Los Angeles County congressional seats as the Democrats, even though the eight Republican districts contained only about 700,000 more people than the four Democratic districts. It is little wonder, then, that the Democrats cried foul over the Republican redistricting plan. "I consider this program to be one conceived by the vice chairman of the Republican State Central Committee (Laughlin Waters) for the political benefit of Republicans," asserted a miffed Assemblyman Julian Beck, the Assembly Democratic leader.[8] In 1958, Democratic congressional candidates in Los Angeles County received a total of almost 1.2 million votes to only about 870,000 for Republicans, yet the GOP won seven seats to only five for the Democrats.

The rest of southern California was not as controversial as Los Angeles County, although there was one bit of gerrymandering left to do. San Bernardino County maintained its one congressional district, and the Orange-Riverside-Imperial County seat was reduced to Riverside and Imperial Counties. That left

Orange County, with a population of 216,000, as the nucleus for the fourth new district in southern California.

San Diego County was represented by Democrat Clinton McKinnon, whose district consisted the entire county. With a population in 1950 of 535,000, San Diego County was well over the norm for a congressional district. The obvious solution was to detach an Assembly district from San Diego County -- which, after redistricting, had four -- and to combine it with Orange County. In this instance, the Republicans again wielded the gerrymander knife. It would have been logical to detach the northernmost San Diego Assembly district for the Orange County seat, but that would have created an overwhelmingly Republican seat in Orange County, while leaving San Diego County with a marginally Democratic seat. Since McKinnon was known to be considering a race for the U.S. Senate against William F. Knowland in 1952, the Republicans decided to encourage him to vacate. Thus, the Assembly district used for the Orange-San Diego seat was an Assembly district located in Democratic southern San Diego County. This Assembly district was arched from Democratic neighborhoods in National City through the sparsely populated northern part of the county and attached to Orange County to form the new 28th congressional district. True to Republican intentions, the seat was carried by Republican James Utt in 1952, and became more strongly Republican as the decade progressed. Clinton McKinnon did indeed vacate his San Diego congressional seat to run for the Senate in 1952, and Republican Bob Wilson succeeded him. Wilson remained in Congress until 1980, the last member of California's "Class of 1952."

The reapportionment of California's fourteen northern congressional districts was accomplished with less gerrymandering. In one way it was harder to gerrymander in the north as districts there consisted of whole counties, not, as in Los Angeles, whole Assembly districts. County lines were fixed and could not be

adjusted for partisan purposes.

Two rural districts were created along the coast and in the northern Sacramento Valley without unnecessarily disturbing the incumbent Congressmen. A third district, that of Republican Congressman Leroy Johnson, was overpopulated by 300,000 people, making possible the creation of a new "Floor of the Valley" congressional district around Sacramento, which was numbered the 3rd district. Johnson chose to run for re-election in a new 11th district, just to the south in Stockton and Modesto. He was easily re-elected.

There were "good government" aspects to this arrangement. The 1951 lines improved on the 1941 plan by creating districts that were essentially homogeneous. The old Johnson district had been a hodgepodge of towns running from Napa to Stockton; now the new 3rd district took in the communities of the northern Sacramento Valley, while Stockton and Modesto went into the new 11th district. The district boundaries in this part of the 1951 plan also resulted in the creation of marginal seats. The coastal 1st District was captured by the Democrats in 1958, while GOP Congressman Johnson survived in his new seat for two elections before being ousted in 1956 by Democratic Assemblyman John McFall. As for the new 3rd district, the heart of which was the Democratic stronghold of Sacramento, it gave the Democrats one of the two new seats that they acquired in 1952. Democrat John Moss, bucking the Eisenhower landslide, won a narrow victory, and the district has remained safely Democratic ever since.

Thus the essentially nonpartisan redistricting of this part of California resulted in a net gain of one seat for the Democrats in 1952. And, as it turned out, the ripple effect from drawing these rural lines brought forth a second Democratic gain -- this one something of a surprise. Contra Costa County was part of a district dominated by southern Alameda County, but Contra Costa had

Republicans to gain winnable seats for themselves, of other Republicans to lessen the effects of the reapportionment plan on future GOP hopes, and of Unruh to round up enough votes to win the Speakership. Among those Republicans who went into the back room and came out with a better seat was Assemblyman Charles Conrad, one of the authors of the 1951 plan. Like Assemblyman Collier, he had almost been defeated in 1958 and 1960, but was ensconced in a safe district after 1961.

GOP Assemblyman Glenn Coolidge of Santa Cruz saw his underpopulated district combined with that of colleague Allan Pattee of Salinas. But then the Democrats created that one Republican congressional seat along the central coast, and it seemed tailor-made for Coolidge. He, too, became an advocate for the Democratic plan -- as did Pattee.

Other Republicans explained their support for the Unruh plan by looking back to the 1951 GOP gerrymander. "I'm voting for the bill," said Assemblyman James Holmes of Santa Barbara. "It's probably no worse that the 1951 Republican bill, and anyway I'm treated very nicely." [2] Three other Republicans got safe seats as a result of trade-offs with neighboring Republican districts, although the neighboring districts then became Democratic. Assemblymen Milton Marks and John Busterud, two San Francisco Republicans, were thrown together; the seat favored Marks, and he voted for the plan. Assemblymen Walter Dahl and Don Mulford were thrown together, and Dahl, who also had the better part of the deal, gave his vote to the plan. Assemblyman Carl Britschgi of Redwood City, got a much safer seat when Hillsborough was taken away from his fellow Republican, Louis Francis, and given to him. Francis was left with almost no Republican base, and had to retire; Britschgi, however, voted for the bill.

On May 25, 1961, after a bitterly emotional debate on the floor, the

were poring over maps and drawing the district lines. The Democratic strategy of concentrating Republicans into a few safe GOP districts -- thus reversing the 1951 Republican strategy -- meant that certain members of the opposition party who formerly held marginal seats would suddenly end up with dream districts. One such lucky member was John "Bud" Collier of Eagle Rock.

Collier had a seat that was centered in Highland Park and included a good deal of Republican territory in Eagle Rock and South Pasadena. Highland Park, however, was rapidly becoming Democratic. Collier had first gone to the Assembly in 1946, and had been virtually unopposed for re-election until 1954. From 1956 on, however, his re-election margins had been very thin. In 1958, Collier was re-elected by less than 1,300 votes, in 1960 by only 9,000. One more election, Unruh and Crown indicated, and he might be gone. Then they showed him their plan for his seat: a district with a 62 percent Republican registration that would be his far into the future. It was unfortunate that in the process of creating this seat, the districts of GOP colleagues Montival Burke and Bruce Reagan would be eliminated, and that another, Assemblyman Frank Lanterman, would be displaced. All Collier had to do, however, was support Unruh for Speaker, and vote for Unruh's reapportionment plan on the Assembly floor, and the safe seat would be his.

Collier did not hesitate long. He quickly became a defender of the plan, outraging some of his fellow Republicans but assuring himself of continued tenure in the Assembly. (Ten years later Frank Lanterman still fumed over Collier's "sell-out" and the fact that Collier had purloined some of the best territory from his district.) Collier explained, "I am interested in salvaging as much as possible for the party. I feel we will have 29 Republican seats in this house -- four less than now -- after the negotiations are completed." [1]

The "negotiations" to which Collier referred were the efforts of some

the loyalty of Democratic voters. The precinct results were manually overlayed with census tracts. With this data at hand, Democratic leaders began developing a redistricting plan.

Unruh and Crown had a dual political strategy. First of all, of course, there was the need to increase the number of California Democrats in Congress in order to help the Kennedy Administration. On the other hand, Unruh himself was subject to a very personal strategic consideration which guided Assembly reapportionment. He was not yet Assembly Speaker; that title rested with Ralph Brown, a long-time Democratic Assemblyman from Modesto. Governor Pat Brown, however, was about to name Assemblyman Brown to the Court of Appeals, and that would open up the Speakership. What better way for Unruh to gain the support he needed to be elected Speaker than by creating safe Assembly districts in exchange for Speakership votes?

Unruh first worked on the Democrats, many of whom were already committed to his potential rival for the Speakership, Assemblyman Carlos Bee of Hayward. Unruh saw to it that 45 of the 47 Assembly Democrats were given attractive districts. Only two Democrats lost their seats. Lloyd Lowery of Yolo County was placed in a district with a Republican, and the district of Charles Wilson of Los Angeles was shifted across town. However, both men had shots at open congressional districts and both wanted to go to Congress. In the end, the only vocal Democratic unhappiness was among black Democrats, who felt they had gotten too small a slice of the pie.

Even after satisfying Assembly Democrats, Unruh knew that Bee still had enough Democratic caucus support so that Unruh could not become Speaker without winning some Republican votes. So, after finishing with the Democrats, Unruh and Crown went to work on GOP members. One by one, Republicans were brought into the private chambers where Unruh, Crown, and the technical staff

of 27 by only two seats. This was a gain of nine new Congressmen for the New Frontier and the defeat of three incumbent Republicans. Again, the GOP percentage of the two-party vote in congressional races was up over their percentage in 1960. Given the nature of the reapportionment, however, this fact was irrelevant.

The 1961 Assembly Redistricting: Unruh's Victory

The 1961 Democratic reapportionment was a disaster for the Republicans from which they have never entirely recovered. Although the GOP did manage to regain a great deal of lost ground in the late 1960s, the impact of the 1961 Democratic gerrymander on California politics is still with us. The 1962 election was a searing experience for the Republicans. It radicalized the party, brought to the fore new GOP leadership, and led to the development of the so-called "California Plan" -- a GOP legislative strategy aimed at targeting weak Democratic seats and eventually regaining the majority.

What emerges as most remarkable about the 1961 redistricting, however, is the manner in which many Republican Assemblymen, while being led to their own slaughter, helped the Democrats by providing crucial votes in support of the Unruh-Crown plan, while keeping their own party from trying to scuttle the plan. Indeed, the political maneuverings involved in the passage of the 1961 plan are almost as interesting as the plan itself.

Unruh and Crown had followed the example set by Laughlin Waters and Charles Conrad in 1951. They hired a professional staff, headed by Professor Leroy Hardy of Long Beach State College, who had written his doctoral dissertation on the 1951 reapportionment. Hardy and his assistants gathered the relevant political and demographic data, including results by precinct of the 1960 presidential election and two recent ballot measures. Their objective was to test

But this was not the whole of the Democratic plan for Los Angeles County. Three incumbent GOP Congressmen -- Gordon McDonough in west-central Los Angeles, Edgar Hiestand in the San Fernando Valley, and John Rousselot in the eastern part of the county -- all had marginal seats. In 1960, McDonough had won by only 5,000 votes. Hiestand and Rousselot had done better, but they both represented tremendously oversized districts, and careful carving could reduce their Republican bases. The Democrats decided to eliminate these three Republicans by giving them nearly impossible districts.

As it turned out, the Democratic plan for Los Angeles County worked very well. Whereas in 1960 the Republicans had won seven Los Angeles districts to only five for the Democrats, in 1962 the Democrats won eleven and the Republicans only four. McDonough, Hiestand, and Rousselot all went down to defeat. Moreover, since it was constitutionally necessary in 1961 (as in 1951) that Assembly districts in the major counties overlap exactly with congressional districts, Unruh was able to eliminate many Republican districts as he went about creating new Democratic congressional districts. In 1951, the Republicans had managed to reapportion the congressional seats while keeping almost all of the Assembly districts safe for the incumbent party. The Democrats in 1961 showed no such politeness toward their Assembly colleagues. In the 1962 elections, several incumbent Republican Assemblymen found their districts either collapsed entirely or made so hopelessly Democratic that they had no chance for re-election. Whereas in 1960 the GOP had won 33 of the 80 Assembly seats, in 1962 they won only 28 seats. This was their worst showing in modern history, and it occurred despite the fact that the Republican share of the two-party vote was bigger in 1962 than in 1960.

On the congressional side, the Democratic lines in 1962 resulted in the election of 25 Democrats and 13 Republicans; the Democrats missed their goal

be three in northern California and five in southern California. This roughly reflected the breakdown in state population. Of the three northern seats, two would be placed in the Bay Area and would be carefully drawn so as to make them both Democratic. The other northern California seat would be on the central coast. It might possibly be made Democratic, too, although this could be done only by disturbing the rural Democrats in the Central Valley. In the end, the reapportionment chiefs decided against trying to squeeze out another northern Democratic seat, and allowed the new central coast seat to go to the Republicans.

In southern California, however, Democrats saw a way to win all the new seats. San Diego and Orange Counties both deserved additional seats, and the Democrats could draw the new districts in such a way as to insure the election of Democrats in these two Republican counties, while not disturbing Democratic incumbents in other southern California suburban counties.

It was in Los Angeles County, however, that the Democrats were to score their most spectacular gains. In 1951, the Republicans had so cleverly divided the county that the GOP throughout the decade had elected more Congressmen from Los Angeles County than the Democrats, even though the Democrats almost always outpolled the GOP. The Democrats were now ready for vengeance. Of the 5 million persons who had migrated to California during the 1950s, 2 million came to Los Angeles County. It was therefore decided that three of the eight new seats would be in Los Angeles County; moreover, all three of these would be safely Democratic. Unruh intended to accomplish this by turning to Democratic advantage a fact that had previously aided the Republicans. The 1951 reapportionment had made the four safe Democratic districts in central and southern Los Angeles very much overpopulated. Unruh created his three new seats out of their population excess.

his partisans clearly hoped that enough liberal Democrats would be elected in California so that the power of "Judge" Smith and other conservatives in the Democratic caucus might be broken. Then the President's liberal programs could go forward.

Just as Republicans had turned to Laughlin Waters in 1951 to find the additional seats they needed to control the House of Representatives, so Kennedy turned to his friend Jesse Unruh ten years later to find the Democrats he needed to get the New Frontier program passed. And Unruh knew exactly what was required of him.

The 1960 congressional elections in California had sent 16 Democrats and 14 Republicans to Washington, and this breakdown corresponded quite closely to the proportions of the total vote that had been won by each party (54 percent Democratic and 46 percent Republican). Unruh, however, assured the White House that new district lines could put as many as 11 new Democrats into the California delegation. Moreover, this would happen regardless of the two-party vote. Unruh's strategy would be to concentrate as many Republican voters as possible in just a few safe districts. Everywhere else, the districts would be either marginal or Democratic.

Of the 14 incumbent Republicans in the California congressional delegation, four could be weakened and probably be defeated through reapportionment. Of the eight new seats allotted to the state, Unruh and Crown believed that only one would have to go to the Republicans; the other seven could be drawn in such a way that they would be either safely Democratic or leaning Democratic. Taken as a whole, this meant that the present Democratic edge of 16 to 14 might be increased to the point where there would be 27 Democrats and only 11 Republicans. And virtually all the new Democrats would be Kennedy supporters.

The Democrats decided to divide the eight new seats so that there would

The Politics of the 1961 Redistricting

Much of the political consideration behind the 1961 Democratic gerrymander involved the man in the White House, Democratic President John F. Kennedy. When Kennedy came to the White House in 1961, there was a heavy majority of Democrats in both houses of Congress -- the result of the Democrats' 1958 electoral landslide. Despite this fact, however, Kennedy's New Frontier legislative program immediately ran into problems, because Democratic numbers did not always translate into Democratic votes. A minority of conservative Democrats -- almost all of them from the South -- formed a coalition with the Republicans in the House and Senate to frustrate a number of Kennedy's liberal initiatives. The White House therefore looked for ways to replace some of these recalcitrant Democrats with a more faithful variety, and to reduce still further Republican representation in Congress. Needless to say, this was a tall order given the entrenched constituencies of most southern Democrats and the already bulging Democratic majority in Congress.

Kennedy could not do much about the U.S. Senate, where the Finance Committee, controlled by the ancient Virginia Democrat Harry Byrd, bottled up much of his program. But Kennedy could do something about the House. The 1962 election would be a post-reapportionment election, and some eight districts were being shifted from other states to California. A number of these seats had formerly belonged to conservative southern Democrats. Kennedy had no interest in seeing the new California seats go to conservative Republicans. However, if these formerly conservative seats should now fall to California Democrats, Kennedy might well prove a big winner. Much of his New Frontier program was presently stymied by the conservatives who controlled the House Rules Committee, dominated by another Virginian, "Judge" Howard W. Smith, an 81-year-old conservative who had come to Washington before the New Deal. Kennedy and

of the Democratic coalition. When the coalition fell apart in 1966, and the Republicans romped to a smashing comeback, both rural and working-class white districts went over to the GOP. But not a single West Los Angeles district changed hands.

Democratic leaders knew that these four elements of the California Democratic coalition -- rural Democrats, blue-collar workers, minority voters, and liberals -- could be divided up in such a way that the Democrats would be guaranteed about two-thirds of the California Assembly and congressional seats for years to come. They made a count of potential districts and found that, of the 80 Assembly districts, 58 of them could be parcelled out among the various elements of the Democratic coalition. Under this scenario only 22 Assembly districts would contain too many registered Republicans for a Democratic candidate to win. On the congressional level, the numbers were even more pleasing to the Democrats. The 1960 census revealed that California was to gain an additional eight congressional seats, bringing the state's total to 38 seats. Democrats saw that if the coalition held the party could win up to 27 of these seats. Only 11 seats would be safely Republican.

If they were to achieve their goals with the 1961 redistricting, the Democrats would have to pack the small number of heavily Republican counties and precincts into a minimal number of super-safe Republican districts -- and thus deny the GOP its proportional share of the two-party representation. This was the strategy the Republicans had followed with the Democrats in 1951 to reduce Democratic representation, and the Democrats were perfectly willing to turn the tables in 1961. Too, the Democrats had a very strong political reason at the federal level for wishing to maximize their strength in the California Congressional delegation.

volunteer Democratic clubs and organizations dedicated to making Adlai Stevenson President. In 1953, these groups banded together into the California Democratic Council (CDC), which had Alan Cranston as its first state chairman. The power base of these liberal Democrats was the heavily Jewish west side of Los Angeles. As the Democratic Party revitalized itself during the 1950s, this liberal bloc grew increasingly strong; by the 1960s the CDC liberals were a force to be reckoned with in intra-party affairs.

Of particular importance was the impact of redistricting on Jewish Democrats. The 1951 GOP reapportionment had districted west Los Angeles in order to reduce Democratic representation. In the process, Jewish representation had also suffered. California Jews, whether they resided in the wealthy precincts of Beverly Hills or in the poorer neighborhoods along Fairfax Avenue, shared a common attachment to the liberal wing of the Democratic Party. The California GOP had virtually no ties with the Jews.

Jewish activists had a major interest in the fortunes of the Democratic Party, and hence a major concern with reapportionment. Unruh, for his part, was a product of West Los Angeles politics: he had close ties with Jewish Democrats, who provided much of the financial support for his own political endeavors, as well as for the political endeavors of the Democratic Party as a whole. Unruh's reapportionment chief, Assemblyman Crown, was Jewish himself, and both men were sensitive to the redistricting desires of West Los Angeles. Because of this sensitivity, the lines in a number of safe Democratic districts were drawn in 1961 to favor the nomination of more liberal and Jewish Democratic candidates. This is one reason why Jewish representation in the Democratic caucus since the 1960s has been greater than the percentage of the Democratic vote cast by Jews. This is also a function of the fact that Jewish voters are generally more loyal to the Democratic Party than are other elements

Despite these eventual successes, the 1961 reapportionment did not provide blacks and Hispanics the additional representation that their numbers warranted. After years of faithful service to the Democratic Party, they were denied the fruits of the first reapportionment conducted by the Democrats. The reasons for this were not racial, however, but political. By dividing the minority neighborhoods among several seats -- rather than uniting them into ethnic districts -- the Democrats were able to win more seats for the party. In 1962, Democrats won all fifteen of the Assembly districts in central Los Angeles. Thirteen of the fifteen contained significant minority populations, but only three of these districts were won by black and Hispanic candidates. White Democrats won the rest. Had the districts in question been drawn as the minorities wanted, as many as six or seven black and Hispanic Democrats probably would have been elected. But Republicans almost certainly would have carried the neighboring districts.

While the Democrats can be faulted for their treatment of this loyal bloc of Democratic voters in 1961, the Republican record in the 1951 reapportionment was hardly better. In later years, Republicans made quite a point about the need to create ethnic seats. But in 1951 they had largely disenfranchised blacks by creating oversized, "safe" Democratic districts in central and southern Los Angeles in such a manner as to dilute the black vote. Watts ended up in a district that actually stretched all the way to the seashore. The Republicans might talk a good line later about the need for proper ethnic representation, but when they had had their chance to perform, they had done no better than the Democrats.

The fourth voting bloc within the Democratic Party in 1961 was the ideological bloc; and if the minorities could be denied full representation in 1961, the ideological Democrats could not. Out of the 1952 Democratic presidential campaign had come the Stevenson movement, which in turn spawned dozens of

sional district for Augustus Hawkins would be easy, and they could also agree to the creation of a second black Assembly district. Hawkins's congressional seat, and the two Assembly seats, would all be located in the Watts area. But Unruh and Crown would not unite all black neighborhoods, thus diluting potential Democratic strength in neighboring white districts, in order to meet the rest of the blacks' demands. Throughout the 1950s, white Democrats had held every Assembly district bordering on the ghetto, but these districts had remained safely Democratic in part because each one contained a number of black precincts, where the Democratic nominee could depend on a majority of 80 or 90 percent. Unruh and Crown determined to keep the black seats to the minimum of one congressional seat and two Assembly seats, even though this meant facing down angry black leaders who felt they deserved more. In the end, south-central Los Angeles was apportioned among white Democrats. When the Assembly reapportionment was concluded, for instance, five districts bordered the ghetto, each containing a large number of black neighborhoods. In 1962, Democrats won all of these districts, including Unruh's own district in west-central Los Angeles -- and in every case, the Democratic winner was white. The white population in each of these districts was too large for a black to win the Democratic primary, but the eventual white nominee could depend on a solid Democratic vote from blacks to carry him to victory in the fall.

It should be pointed out, however, that eventually the population in this area shifted to give blacks their desired "two-four" division in central Los Angeles. Blacks accelerated their movement westward from Watts in the 1960s, and within a few years some previously white Democratic districts became predominantly black. In 1966, a third black Assemblyman was elected in the area, followed by a fourth in 1972. After the 1971 redistricting, a second black congressman was elected in central Los Angeles. A third was elected in 1980.

putty, to be shaped as necessary to maximize Democratic opportunities. The huge East Los Angeles area was to be divided among six Assembly districts, and in 1962 all but one of these would be captured by Anglo Democrats. The marginal nature of several of the Democratic victories, moreover, make it clear that the seats could not have been won without Mexican-American voters.

Black voters were a somewhat more potent political force than the Hispanics. During the 1950s, the booming defense and aerospace industries had attracted thousands of southern and urban blacks to California, and the black neighborhoods in south-central Los Angeles had grown immensely. Unlike Hispanics, however, blacks were not a passive voting bloc: they expected tangible rewards for their years of toiling in the Democratic vineyards. Early in 1961, when black leaders laid out their agenda, Unruh and Crown were made painfully aware of what black Democrats wanted from reapportionment.

They wanted black neighborhoods united in heavily black districts, and not divided among many white districts. In northern California, the only black legislator was Assemblyman Byron Rumford of Berkeley; they wanted his district strengthened, so that blacks could continue to hold it if and when the popular Rumford retired. (He was rumored to be heading for Washington to take a post in the Kennedy Administration.) In Los Angeles, blacks had even broader demands. Only one black served in the legislature from south-central Los Angeles, Assemblyman Augustus Hawkins, who went to Sacramento in 1935 and was the senior Democrat in the Assembly. Black leaders wanted a congressional seat for Hawkins and they wanted a second congressional seat as well. Moreover, they wanted to increase their Assembly representation from one seat to four, by dividing the expanding black ghetto into four predominantly black Assembly districts.

Unruh and Crown could not accept all the blacks' demands. A congres-

Unruh and Crown both represented Assembly districts with large working-class populations -- districts that had been Republican during the nonpartisan years, but were now solidly Democratic. They looked at their maps and saw how the 1951 Republican reapportionment had jammed working-class neighborhoods into a few overwhelmingly Democratic districts, and decided to undo this. They would spread out the blue-collar neighborhoods in such a way as to maximize Democratic electoral prospects without wasting Democratic votes.

The working-class vote had been loyal to the Democrats since the Depression, and in 1958 the Republicans had seemingly written off the blue-collar voter forever by embracing right-to-work laws. In response, the unions -- seeing right-to-work as a threat to their very existence -- had mobilized as never before; and the determined effort of California's labor movement had contributed greatly to the Republican thrashing at the polls in 1958. Democratic leaders could reward blue-collar loyalty to the Democratic party with greater representation for blue-collar constituencies -- particularly in the state's congressional delegation, where California Congressmen with labor backing would contribute mightily to labor's cause in the national capital.

The third bloc in the California Democratic coalition was made up of the state's racial and ethnic minorities. Like the blue-collar workers, the minority voters had come to the Democrats during Franklin Roosevelt's presidency, and their loyalty was unquestioned. Prior to 1960, however, black and Hispanic voters had not counted for much in California politics. Despite the state's large Mexican-American population, Mexican-Americans were not a political force at all. In 1960, not a single federal or state office in California was held by a Mexican-American. Spanish-speaking neighborhoods regularly returned huge Democratic majorities, but they exerted no political power of their own. So it was not surprising that Unruh and Crown saw such Hispanic neighborhoods as

The 1950s had been kind to rural Democrats. With the rise of party-line voting, Republican after Republican in rural areas went down to defeat. By 1961, it was possible to drive down Highway 99 all the way from the Oregon border to the Los Angeles county line without passing through a single Republican congressional district. Of the State's nine rural congressional districts, Democrats held eight; the only Republican rural district was located in a few counties along the central coast.

Unruh and Crown decided not to disturb the rural Democratic districts in the 1961 reapportionment. For one thing, the rural counties had not grown as quickly as the state's urban areas, so there was no reason to give them additional Assembly or congressional representation. The Democratic majority in the Senate was based on the rural counties, so -- although the Senate would not be reapportioned in 1961 because Senate seats were apportioned on a county basis -- Unruh wanted cooperation in the Senate when he moved his reapportionment bill through the legislature. Unruh saw to it that not one rural district would be redistricted in a manner that would upset a rural legislator. The serious redistricting in 1961 would therefore be limited to the other three Democratic blocs.

If the rural bloc had given the party respectability during the bleak years of the 1920s, the second bloc -- the urban, blue-collar workers -- had been the most loyal in the period from the 1930s through the 1950s. The latter decade marked the beginning of the defense buildup: American military industries boomed, and California was a particular beneficiary of defense spending. Along with defense, the new aerospace industry was also providing thousands of blue-collar jobs, as were the automobile and construction industries. A large percentage of the new migrants to the state during the 1950s had come looking for jobs in these industries.

Republicans and only 12 Democrats.

But then partisan voting replaced the old nonpartisan, cross-filing system, and Republican numbers in the Senate began to fall precipitously. Eighteen of the 28 GOP seats were lost during the 1950s, and by 1961 the upper house consisted of 30 Democrats and only 10 Republicans. This turnabout is easily explained: most counties in California are Democratic by registration, but most rural counties vote conservatively. Once people began voting their party, they found it easy to replace conservative Republicans with conservative Democrats.

Jesse Unruh and Robert Crown were determined to use this new trend in partisan voting to maximize Democratic electoral prospects in a state where registered Democrats outnumbered registered Republicans, 4.3 million to 2.9 million. They also hoped to draw the new legislative and Congressional districts in such a way as to entrench the Democratic majority for years to come.

This did not appear to be a difficult task. The 4.3 million California Democrats could be divided roughly into four distinct voting blocs. Although these four blocs did not always see eye to eye -- and often fought one another more than they fought the Republicans -- it seemed possible to apportion the Assembly and congressional seats among them in such a way that a Democratic statewide majority could be guaranteed.

The oldest partner in the Democratic coalition was the rural bloc. At one time almost the entire strength of the Democratic party in California was concentrated in rural areas. During the 1920s, the only Democrat in the California congressional delegation was Clarence Lea, who represented eleven rural counties in the area north of San Francisco. Tiny mountain counties like Plumas always returned Democratic majorities, even when central Los Angeles was voting Republican. This rural Democratic base went back almost to the Civil War.

during the 1950s, as millions of people poured into the state, particularly into the growing cities of Southern California. In 1950, the state had had a population of less than 11 million; the 1960 census showed that it now had a population of nearly 16 million. Los Angeles County alone had grown by almost 2 million people. The population of San Diego County had doubled during the decade. Once-rural Orange County had gone from 216,000 people in 1950 to 719,000 ten years later.

In terms of registered voters, California went from 5 million in 1950 to 7.5 million in 1960. In the process, the Democrats had increased their registration advantage from 1.1 million voters to 1.4 million, and claimed the allegiance of 57 percent of the state's voters. More significant was that the newly-arrived Democrats had a habit of voting their party. They had no experience with the old nonpartisan system. Cross-filing declined in the 1950s, and the general election ballot for legislative seats now showed two candidates -- one Democrat and one Republican. Many of the new California voters had little familiarity with their local representatives, so they simply voted their party. And the Democrats reaped the benefit of party loyalty.

The impact of partisan voting on California politics was tremendous. Not since the 1880s had the Democrats organized the California Senate. Even during the height of the New Deal, the Senate had remained in Republican hands. Seats in the California Senate were not apportioned on a population basis but, like the seats in the United States Senate, were apportioned on a geographic basis: no more than three counties could be included in each Senate district. Under this system, and with the cross-filing tradition, nonpartisanship worked beautifully for the Republicans in the State Senate. Senators cross-filed year after year, and Republicans almost always won elections in Democratic counties. This strategy was successful: in 1951, for example, the Senate consisted of 28

the most powerful Democrat in the legislature. And he was willing to wield the powers at his command -- both for his own benefit and on behalf of the new Democratic Administration in Washington. Moreover, Unruh began that session with the kind of opportunities most politicians only dream about. His party's majority in the Assembly -- 47 Democrats to 33 Republicans -- was the largest Democratic majority since the Depression. These Democrats would soon elect him to the post of Speaker, and in that office he would usher in a new style of legislative leadership. Unruh was already the Kennedy Administration's point man in California, and now he was about to do the new Administration a great favor. Among the duties that fell to the Democratic legislative majority in the spring of 1961 was the pleasant task of reapportioning both the California Assembly and the California congressional delegation.

For Unruh and his lieutenants in the Assembly, this was a moment to be relished. In their hands was the opportunity not only to undo what they saw as the dreadful Republican gerrymander of the 1951 redistricting -- which had kept the moribund GOP in power far beyond its days -- but a chance to insure Democratic domination of California government far into the future. Unruh saw to it that much of the responsibility for reapportioning California to conform with the 1960 census fell to his good friend, Assemblyman Robert Crown of Alameda. Together he and Crown set about fashioning new lines for California's Assembly and congressional districts; in the process they gerrymandered the state with one of the most partisan districting plans in its history.

Background of the 1961 Redistricting: The Voting Blocs

The state that Unruh and Crown were about to reapportion was very different from the California that Laughlin Waters and his Republican cohorts had carved up in 1951. The California population increased by fully 50 percent

the nation at large. In California, the defeat was hastened by the arrogance of power. The GOP had ruled both the legislative and the gubernatorial roosts in the state for sixteen years, and in the last years the party had forsaken cooperation for backbiting, and had rejected moderation for extremism. In 1958, it enraged California labor unions by embracing the unpopular issue of right-to-work. Sen. Knowland, ambitious for the presidency, had forced Governor Knight to abandon his office in order to run for Knowland's Senate seat, while Knowland himself sought the governorship. This "great switch" angered many voters, and in the end it helped carry the entire GOP ticket to ruin.

At the 1956 Republican national convention in San Francisco -- the last great event of the GOP's golden age in California -- the state's delegation was divided among California's three leading Republicans. Senator Knowland got almost a third of the delegates; Governor Knight got a third; Vice President Nixon got a third. Senator Thomas Kuchel, the other GOP Senator, got nothing. Within four years, however, Knight, Knowland, and Nixon were all out of office and the GOP's sole surviving major office-holder in California was Senator Kuchel, the man the party regulars ignored.

The 1958 election was a different sort of event for the victorious Democrats: for them, it was the dawning of a new and brighter day. But the Democratic triumph in 1958 was only a prelude to the greater heights of 1960, when the Democrats won the presidency and strengthened their hold on the California legislature. And there was a new power on the scene -- the mighty boss of the State Assembly, and the Kennedy Administration's key California contact, Assemblyman Jesse Unruh.

Unruh first came to the legislature in 1954, already educated by the political wars in Los Angeles. No one mastered the system faster, and by the beginning of the 1961 legislative session Unruh, although not yet Speaker, was

Introduction

It began that September in Maine. In the nation's earliest election, the Democrats, to everyone's surprise, won a majority of federal offices in the state for the first time in history. As Maine goes, so goes the nation. By the time everyone else voted in November of 1958, a landslide was apparent.

In Connecticut, the entire Republican delegation was defeated. As the tide rolled westward, ancient and venerable Republicans fell like bowling pins. Sen. John Bricker of Ohio -- the 1944 GOP vice presidential candidate -- was voted out of office, as were Republican governors in Ohio, Nebraska, and South Dakota. The tide was at its crest by the time it smashed into California: on the one day of November 4, 1958, the Democratic party swept away a half-century of Republican rule.

First to fall was U.S. Senator William F. Knowland, who was running for governor. An institution in California for two decades, a protege of Earl Warren, the former majority and minority leader of the U.S. Senate, and a man re-elected without opposition in 1952, Knowland was defeated by a million votes. Then there was the case of Goodwin J. Knight, who was running for Knowland's Senate seat. Knight had been governor for four years, after being elected by a landslide in 1954. In the 1958 senatorial race he was defeated by an obscure mountain-counties congressman. As for the rest of the GOP statewide slate, all but one were defeated. Three Republican congressmen lost their seats, and with them went the GOP majority in the state's congressional delegation. The Republican majority in the state legislature also disappeared, as ten Assembly seats and seven Senate seats were lost.

The election of 1958 was the Republican Party's most traumatic experience since 1912. The party was abandoned by its own voters both in California and in

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THE GERRYMANDERING ART:

CALIFORNIA'S 1961 REAPPORTIONMENT

Footnotes

1. Edwards v. California, 314 US 160 (1941).

2. McWilliams, Carey, California: The Great Exception (Santa Barbara: Peregrine Smith and Co., 1976), p. 193.

3. Hardy, Leroy, "The California Reapportionment of 1951" (unpublished Ph.D. dissertation, University of California at Los Angeles, 1955), p. 18.

4. California Constitution, Article 4, section 17 (as in effect in 1951).

5. Hardy, pp. 4-5.

6. San Francisco Chronicle, April 17, 1951.

7. Hardy, p. 28.

8. Sacramento Bee, March 27, 1951.

populations -- no longer available after the one man, one vote Supreme Court decisions -- the concentration of the opponent's constituencies is still a useful tool. In this way, one can effectively disenfranchise thousands of opposite-party voters by causing them to waste their votes.

The 1951 redistricting also showed that external constraints, such as the necessity of following county or other jurisdictional lines, can impede as well as advance gerrymandering. During the era of the one man, one vote judicial decisions, it became fashionable to dismiss jurisdictional requirements as archaic and inequitable. But because states have experienced much more extreme gerrymandering in the years since the one man, one vote decisions, it can be argued that these external controls actually enhanced fair representation because they hampered gerrymandering. One can imagine the extremes to which Republicans might have gone in 1951 in redistricting northern California had it not been for the need to maintain county integrity.

The final lesson of the 1951 Republican gerrymander -- although it did not become apparent for several years -- was that no districting in California can prevent a party from achieving an ultimate congressional and legislative majority if the political tide turns in its favor. Certainly the GOP leadership in 1951 did not expect that, within four elections, the Democrats would control both houses of the Legislature as well as the congressional delegation. But California has too many communities that are politically unstable, and too strong a tradition of independent voting, for one party's gerrymander of districts to control partisan fortunes forever. But this doesn't mean that the politicians will not keep on trying: partisan as the 1951 GOP redistricting was under Laughlin Waters, it paled in comparison to the gerrymander engineered by triumphant Democrats when the time for reapportionment rolled around again ten years later.

filing actually worked to the advantage of the Democrats. Partisan voting was on the rise in California. As a result, Democrats were able to use cross-filing in the 1950s to break the post-war Republican hold on many districts. In 1958, for example, eight of the twenty State Senators who were up for election successfully cross-filed, but five of the eight were Democrats. In the 1958 Assembly races, only two Republicans won Democratic nominations, while fourteen Democrats successfully cross-filed on the Republican side. After the Democrats won their landslide legislative majorities in 1958, the first thing the new Democratic legislature did in 1959 was to repeal cross-filing altogether. Constant reminders of the long history of "Republican nonpartisanship" were just too much to bear. Even though cross-filing was now helping them, the Democrats brought an end to this remnant of the nonpartisan era.

A Retrospective on the 1951 Redistricting

The 1951 reapportionment achieved the GOP's short-term goal of adding Republicans to the California congressional delegation in 1952. Over the long run, however, the 1951 redistricting failed to halt the trend toward Democratic supremacy in California politics. Political movement in the 1950s was toward the Democrats. Although the GOP gained some Assembly and congressional seats in suburban communities as a result of population movements, many more Republican seats were lost in urban areas than were ever gained in the suburbs. In Los Angeles County, for example, the Republicans carried twenty-one districts in 1952, but only thirteen districts in 1960.

The 1951 reapportionment taught California politicians several important lessons that would be valuable in future reapportionments. The first was that it is possible to gerrymander effectively by concentrating loyalists of the opposing party in oversized districts. Even without substantial variations in district

Democratic Counterattack: The End of Cross-filing

There is another reason that helps to explain the ebb in GOP fortunes as the 1950s progressed: the end of cross-filing. Just as the Republicans had managed to undercut nonpartisanship in state politics by their 1951 reapportionment, they also undid their great advantage in cross-filing with a ballot measure that they themselves proposed. In the 1952 election, Democrats -- still smarting from the Waters gerrymander -- decided to try to repeal the cross-filing system that generally gave a great advantage to Republican incumbents. To that end, they circulated and qualified for the ballot an initiative to do away with cross-filing. The GOP hierarchy -- acutely aware of what the end of cross-filing would mean to their party, given the Democrats' three-to-two registration edge -- responded by qualifying their own initiative. It proposed to retain cross-filing, but to provide for party designation of candidates -- something that had not existed before. Actually, the Republican initiative was intended to head off the Democratic measure, since the one receiving the most votes would become law. Ultimately it was the Republican initiative that passed, and it passed in time to take effect for the 1954 elections. Unfortunately for the GOP, the party's leadership had been too clever by half.

Putting party designations on the ballot did not prevent an incumbent from cross-filing; it did, however, make cross-filing largely irrelevant. Voters learned the political identity of their legislators, and Republicans could no longer win Democratic primaries once their party designations became known. In Los Angeles County, for instance, twenty-five Assemblymen -- mostly Republicans -- had successfully cross-filed in 1952 when there were no party designations. But in 1954, with party symbols accompanying each candidate's name, only three Assemblymen successfully cross-filed -- and all three were Democrats.

In the last years before its formal repeal by the Legislature in 1959, cross-

example, vacated their Assembly seats to run for the new Sacramento Valley congressional seat, and the GOP picked up both districts. Two other Democrats retired, and the GOP won these two seats as well. Finally, Republicans won three seats in 1952 as a result of counties losing districts in the reapportionment. Altogether, the Republicans won 67 percent of the Assembly seats in 1952.

It was remarkable, however, how quickly the overwhelming Republican advantage of 1952 was dissipated. A huge decline in the Republican Assembly vote during the decade brought about a drop in GOP seats from the 1952 high of fifty-four to just thirty-three after the 1960 election:

1952 vote:			Seats won:		
Republican:	2,660,000	(67%)	Republicans:	54	(67%)
Democratic:	1,306,000	(33%)	Democrats:	26	(33%)
1954 vote:			Seats won:		
Republican:	1,831,000	(51%)	Republicans:	48	(60%)
Democratic:	1,793,000	(49%)	Democrats:	32	(40%)
1956 vote:			Seats won:		
Republican:	2,331,000	(47%)	Republicans:	42	(53%)
Democratic:	2,664,000	(53%)	Democrats:	38	(47%)
1958 vote:			Seats won:		
Republican:	1,972,000	(41%)	Republicans:	32	(40%)
Democratic:	2,897,000	(59%)	Democrats:	48	(60%)
1960 vote:			Seats won:		
Republican:	2,754,000	(45%)	Republicans:	33	(41%)
Democratic:	3,358,000	(55%)	Democrats:	47	(59%)

By the end of the decade, the Republicans were actually winning a smaller percentage of Assembly seats than their percentage of the total Assembly vote. By 1960 the Republican suburban seats, which were generally underpopulated in 1952, had become greatly overpopulated. California gained 5 million additional residents during the 1950s, and most of them moved into the suburbs. These migrants gave a number of Republican-leaning suburbs a Democratic flavor by the end of the decade. All of this contributed to the GOP's decline.

winning both nominations through cross-filing -- Republicans won twenty-one Assembly seats in Los Angeles County, and the Democrats won ten. In 1954, a year when far fewer Assemblymen were successful in cross-filing, the GOP advantage showed up even more strongly. Although Democrats received 59 percent of the total Assembly vote, they won only fourteen of the thirty-one seats. Democrats won by enormous margins in oversized districts, while Republicans won by close margins in undersized districts. This imbalance continued throughout most of the decade.

San Diego County is the remaining area in which Assembly districts were drawn for political advantage in 1951. San Diego County picked up one seat lost by downtown Los Angeles, and the reapportionment committee wanted to insure that this would be a Republican seat. Therefore, it was placed in southeastern San Diego, but was extended to take in most of the desert areas as well as the rural northern part of the county, making it a marginally Republican district. The other three Assembly seats in San Diego County were all held by Republican incumbents in 1951. The reapportionment committee reshaped the lines to guarantee that the districts would stay that way, but this was not an easy task given the large areas of Democratic strength in the southern part of the county. Eventually, the lines were drawn to create one safely Republican district in Point Loma, La Jolla, and Mission Valley, and three marginal seats elsewhere. Republicans did manage to hold all four Assembly seats in San Diego County in 1952, but later in the decade the Democrats won two of the four.

Republicans went into the 1952 elections holding forty-seven of California's eighty Assembly districts, and they emerged controlling fifty-four. This was to prove a modern high for Republicans: since 1952 they have never come close to winning fifty-four Assembly seats. Most of these gains were the result of redistricting and Democratic retirements. Two Democratic Assemblymen, for

Assembly delegation.

Los Angeles County had to lose one seat as a result of the redistricting, and other seats located in the City of Los Angeles moved into the suburbs to achieve rough population equality. "White flight" had already begun in the 1940s, leading to a loss of population in the core areas of the city. Downtown Los Angeles lost two districts, with the two seats moving to the San Fernando Valley and to San Diego County. The seat selected for removal to San Diego was a Democratic one, while the seat intended for the Valley had a Republican incumbent. The Republican planners did not fear the loss of a Republican seat, however, since the new Valley seat would probably go Republican. All of the other Los Angeles County seats were rearranged in ways that satisfied their incumbents -- Democrats as well as Republicans.

The two Assembly districts that were moved from downtown were the 44th district and the 64th district. The 44th was moved to San Diego (although its number ended up in Long Beach). As for the 64th district, not only did the district move to the suburbs, but the incumbent Assemblyman moved along with it. The Republican incumbent in the old 64th was a jovial Irishman named Pat McGee, who had won the predominantly Democratic district when Sam Yorty moved on to Congress in 1950. McGee knew he had no chance to stay in the Assembly if he ran in one of the other downtown districts: they all had strong incumbents. So he simply followed his number. The new 64th was a marginally Republican seat in the fast-growing San Fernando Valley. McGee moved to the Valley, announced that he was the incumbent in the 64th district, and ran for re-election in 1952. He won not only his own primary but the Democratic primary as well, and was returned to the office that he was to hold for several succeeding elections.

In the first election after the redistricting -- with most incumbents

however, there was still a significant population of Republican families in the city. One Assembly district in the Marina and Richmond districts was historically Republican, and actually had a GOP majority of registered voters. The second Republican-held Assembly district lay south of Market Street in heavily Democratic wards, but it had a fifteen-year, cross-filing Republican incumbent named Tom Maloney. The reapportionment committee made certain that both of these districts were as safe as possible for their GOP incumbents. This left four districts in San Francisco for the six Democratic incumbents to fight over.

One of the two Democratic seats lost in San Francisco became a Republican seat in Contra Costa County, and the other became a Republican seat in San Mateo County. San Mateo County in 1951 had less than sufficient population for two seats, but it acquired a second district apparently because it was a growing and Republican county. The line dividing the county's two districts ran east-west between San Mateo and Belmont, creating one safe Republican seat in the south and one marginal seat in the north. This same basic pattern was followed in Santa Clara County, which also had two seats. The dividing line was east-west, cutting San Jose in half to create two Republican seats. The Democrats came close during the decade to winning each of these seats, but the GOP managed to hold both of them until 1962.

As was the case with the congressional redistricting plan, the most unusual and irregular district lines in the Assembly plan were found among the thirty-one districts in Los Angeles County. And, as with the Los Angeles County congressional districts, the Democratic Assembly districts tended to be larger, the Republican ones smaller. Of the five largest Los Angeles County districts created in the 1951 redistricting, all had Democratic incumbents; of the five smallest districts, four were held by Republicans. Republicans drew oversized Democratic districts in order to reduce Democratic strength in the county's

through cross-filing, so the committee made no attempt to defeat any incumbent Assemblyman by reshaping his district. The Republicans did see an opportunity to pick up seats, however, by shifting representation from counties with declining populations to growing counties. Under terms of the Constitution, Assembly districts could not cross county lines; this meant that districts could not stretch from a county of declining population into a county that was increasing in population -- a practice that was to become common later. Counties could gain or lose only entire seats.

The shift of seats among the counties in 1951 was as follows: San Francisco County -- loss of two Assembly districts, the districts going to San Mateo and Contra Costa Counties, which gained one seat each; San Joaquin County -- loss of one of its two seats, with the gain going to Kern County, which went from one to two seats; Los Angeles County -- loss of one seat to San Diego County, Los Angeles going from thirty-two to thirty-one seats, and San Diego from three to four seats.

The Republicans carefully chose the seats to be shifted, with the result that each Assemblyman whose district was shifted to another county was a Democrat. And, with one exception, every newly-created seat was won by a Republican in 1952. In Los Angeles County, the Waters committee also shifted two seats from the downtown area to the suburbs, and Republicans ended up winning both districts. The gerrymander scalpel was again wielded with great precision.

San Francisco County had had eight districts under the 1941 reapportionment, but lost two of them in 1951. The Republican planners made certain that the two losers were Democrats. And, since six of the eight San Francisco incumbents were Democrats, this was not a difficult task. Today, it is hard to find any part of San Francisco that could be called strongly Republican; in 1951,

This was a pattern that was to continue throughout the decade of the 1950s, as Republicans consistently won more seats than could be justified by their percentage of the total vote. The congressional percentages and seats won were:

1952 vote:			Seats won:		
Republican:	2,382,000	(54%)	Republicans:	19	(63%)
Democratic:	2,030,000	(46%)	Democrats	11	(37%)
1954 vote:			Seats won:		
Republican:	1,876,000	(48%)	Republicans:	19	(63%)
Democratic:	1,991,000	(52%)	Democrats:	11	(37%)
1956 vote:			Seats won:		
Republican:	2,466,000	(48%)	Republicans:	17	(57%)
Democratic:	2,664,000	(52%)	Democrats:	13	(43%)
1958 vote:			Seats won:		
Republican:	1,981,000	(40%)	Republicans:	14	(47%)
Democratic:	2,971,000	(60%)	Democrats:	16	(53%)
1960 vote:			Seats won:		
Republican:	2,855,000	(46%)	Republicans:	14	(47%)
Democratic:	3,336,000	(54%)	Democrats:	16	(53%)

One simple method of determining whether a state has been gerrymandered is to compare the percentages of the vote won by the two parties to the percentages of seats won. During the life of the 1951 reapportionment, only in 1960 did these percentages approximate one another.

The 1951 Assembly Redistricting: Keeping Everybody Happy

The gerrymander of California congressional districts in 1951 overshadowed what Waters's committee was doing to the legislative districts. The Republicans for the most part avoided an obvious gerrymander of the state's eighty Assembly districts, and, of course, there was no reapportionment at all of the forty Senate seats. But the GOP did have some opportunities in the Assembly redistricting, and the Waters committee made the most of them.

The vast majority of Assemblymen regularly won re-election in the primary

seats for the Republicans, but only one additional seat for the Democrats. The key to the Republican gains was their success in winning the newly-created seats, particularly in southern California. Of the seven new seats, Republicans won five; they also defeated one incumbent Democrat and took over one open Democratic seat. As for the Democrats, they won two of the new seats and defeated one Republican incumbent, but lost two of their own seats. The Republican advantage of thirteen to ten in the 1950 California congressional delegation was expanded in 1952 to nineteen Republicans versus eleven Democrats.

This mostly Republican "Class of 1952" was one of the largest freshman contingents ever to take its place in the California congressional delegation, and might have been a simple footnote in the history books were it not for one remarkable result of the 1951 California redistricting. Laughlin Waters's purposeful drawing of the new congressional districts to maximize Republican opportunities provided just the margin necessary for the GOP to capture the House of Representatives in 1952 -- the last Republican-controlled House in modern times.

Republicans had been just eighteen seats short of majority control after the 1950 election. In the 1952 election, they gained twenty-two seats -- most of them as a result of the Eisenhower landslide -- and this gave them a majority of 221 Republicans to 215 Democrats. This was a margin of just six seats, however, and the margin almost certainly would not have existed were it not for the election results in California -- which provided the GOP with six of the twenty-two congressional seats it gained in 1952.

In winning nineteen of California's thirty Congressional districts in 1952, Republicans came away with 63 percent of the state's seats in Congress. The GOP percentage of the total congressional vote, however, was only 54 percent.

neighborhoods of the Berkeley and Oakland Hills were safely Republican, and northern Alameda County also had a Republican Congressman, John Allen of Berkeley. The GOP reapportionment staff in 1951 decided to leave well enough alone and divide Alameda County into its Republican and Democratic parts, thus preserving the partisan balance that had existed in the county since the 1941 redistricting.

The redistricting pattern followed in Alameda County -- that of creating one Republican seat and one Democratic seat -- was repeated in San Francisco. Here, however, the division of the county into Republican and Democratic districts was done for a frankly partisan purpose, since the intended Republican seat was then occupied by hapless Democratic Congressman Havenner. Having gerrymandered Havenner's district, the GOP planners then found themselves with another opportunity for a Republican gain when they looked at the suburban counties south of San Francisco. San Mateo, Santa Clara, Santa Cruz, and San Benito Counties made up a single district, represented by long-time Republican Congressman Jack Z. Anderson. His district had a population that exceeded the mean by nearly a quarter of a million people, and the easiest solution was simply to cut it in two. That was done, and San Mateo County ended up with its own district, which went Republican in 1952.

Three other northern California seats remained unchanged, and the 1952 elections saw seven Republicans and seven Democrats elected in the fourteen northern California districts, with Democrats winning two of the three new congressional seats. Unfortunately for the GOP, the Republicans' success in the northern California districts in 1952 was the best they would do in that part of the state for the next quarter-century. By 1959, the Democrats held nine of the fourteen northern California districts.

The 1951 redistricting resulted in a net gain statewide of six congressional

experienced tremendous population growth and, with its population of just under 300,000, it could be combined with a nearby county. As it happened, adjacent Solano County was available, and so Contra Costa and Solano Counties were combined to form a new district. And again, a logical combination worked in the end to the advantage of the Democrats. Solano County, with a heavy blue-collar population in the city of Vallejo, was a Democratic stronghold. Contra Costa County also leaned toward the Democrats, since its major city, Richmond, was a working-class suburb. Contra Costa's Assemblyman, Democrat Robert Condon, ran for the new congressional seat in 1952 and narrowly bested a strong Republican challenger, John Baldwin. Like John Moss, Condon bucked the strong Republican tide for Dwight Eisenhower in 1952 and -- largely because of the Democratic nature of his district -- managed to emerge victorious. Interestingly, Condon -- who had once run for office on Henry Wallace's Progressive ticket -- turned out to be too liberal for his working-class, blue-collar district. He served only one term and was beaten by his former challenger, John Baldwin, in 1954.

Removing Contra Costa County from the south county district made reapportionment in Alameda County very simple. Alameda County had been something of a Republican stronghold until the Second World War, and had produced both Republican Governor Earl Warren and the state's senior Republican Senator, William Knowland. But the war years, saw a huge influx of blue-collar workers into the Kaiser Shipyards. Southern Alameda County, with its fast-growing working-class suburbs like Hayward, Fremont, and Union City, soon became safely Democratic. Northern Alameda County, consisting primarily of Berkeley and the Oakland hills, remained marginally Republican.

Today it sounds somewhat odd to speak of Berkeley and Oakland as Republican towns; but two Assembly districts wandering through the wealthy

Unruh-Crown plan passed the Assembly by a vote of 55-25. Ten Republicans -- Marks, Collier, Conrad, Coolidge, Holmes, Britschgi, Dahl, Pattee, Lou Cusanovich of Los Angeles, and William Grant of Long Beach -- joined 45 Democrats in favor of the bill. Only two Democrats, including black Assemblyman Byron Rumford, opposed it. In fairness, it should be said that the ten Republicans who supported the bill did receive assurances that the plan would be amended on the Senate side to assist a few of their colleagues.

Part of the Democratic strategy had involved carrot and stick tactics against the Republicans. For instance: four of the Republican Assemblymen most vocal in their opposition to the Unruh plan had found themselves united in the same Assembly district. Assemblymen Frank Lanterman of Pasadena, Howard Thelin of Glendale, Minority Leader Joseph Shell of Hancock Park, and Chet Wolfrum of Los Angeles, all lived in the new 43rd Assembly district. Furthermore, only one of them had a neighboring safe district to move into. Two senior Republican Congressmen, Glen Lipscomb and H. Allen Smith, were also thrown into the same district. Crown promised the ten Republicans who supported the bill that he would correct these aspects of the plan when it reached the Senate, and indeed he did so. Lipscomb and Smith got safe Republican districts, as did Lanterman and Thelin. Wolfrum, however, got a seat he had little chance of winning, and Shell's district was eliminated.

Despite Crown's conciliatory gestures, some Republicans remained fighting mad about the plan and enraged with the ten Republican Assemblymen who had voted for it. On seeing four GOP incumbents endangered, the party's congressional delegation fired off a telegram to the reapportionment chairman, claiming that the Elections and Reapportionment Committee, in reporting the bill, had "acted with reckless abandon against the best interest of the state of California." [3] During the debate on the bill, Assemblyman Bruce Allen of San Jose, a

bitter foe of Unruh, rose on the Assembly floor, looked at several of his GOP colleagues, and stated, "Any Republican who votes for these reapportionment bills, and I know there will be a few, will do so because he has been bought and paid for." An outraged Unruh shouted in reply, "I'm sick and tired of having this man stand up on this floor for six years and insult us." [4] As Allen moved down the aisle, paying no attention to Unruh, Assemblyman Holmes suddenly rose and shoved him. The two men nearly came to blows. (Allen, although he had a safe seat, chose to run for Attorney General at the next election; and Holmes, despite his vote for the 1961 bill in return for a supposedly safe seat, went down to defeat in 1964.)

The Republican chairman in Los Angeles County, Jud Leetham, said of the 1961 reapportionment plan that it "threatens the very existence of the two-party system in California." [5] State chairman John Krehbiel sent an angry letter to Assemblymen Coolidge, Collier, and Holmes, complaining that their support of the plan "seriously damaged the unity of the Republican party." [6] Coolidge replied, "Some of us have only been negotiating with the Democrats to see if we can save as many seats as possible for the party." [7]

During 1961, there was also some talk in the Assembly of trying to oust the two Republican leaders in the lower house, Assemblymen Shell and Busterud, because of their bitter statements about the ten GOP defectors. Both Shell and Busterud had lost their seats under the plan, and both would end up running the following year for statewide office, and they were furious at their colleagues who had broken the wall of GOP resistance to the reapportionment plan.

There were more reasons to be upset than just the loss of their own seats. When it became clear that the Democrats planned a broad gerrymander, the Republicans decided their only hope was a court challenge and a statewide referendum to get the plan repealed. Surely Governor Brown would not veto a

Democratic reapportionment, any more than Governor Warren had been willing to veto the GOP plan in 1951. And since only ten of the forty State Senators were Republicans, there was no hope of blocking the gerrymander in the upper house. Therefore, the Republicans put all their hopes on the thin threads of a court challenge and a referendum.

The ten defectors, however, snapped those last threads. There could be no successful challenge if the Assembly Republicans were themselves divided. Once those ten votes were cast for the Democrats' bill, the threat of a challenge ended. And that, of course, was a prime reason why Unruh and Crown had worked so hard to get some GOP votes for the bill. They had carefully created a division in the Republican ranks by promising safe districts to certain Republican Assemblymen who had faced tough races in the past. Their tactic had worked beautifully.

Given the defection of the ten Republican Assemblymen on passage of the bill, there was little that state GOP leaders could do but weep over their fate. State chairman Krehbiel declared: "Not only the Republican Party, but every man, woman and child in California will suffer from Crown's slaughter of Assembly and congressional lines." [8] The bitter Assemblyman Shell blamed things on Governor Brown, who, he said, had engineered the carving up of California into Democratic districts. "If the governor pleads ignorance, he is simply adding another absurdity to those he has already committed in abundance." [9]

Finally, word was heard from the prominent Republican whom Shell would face in the 1962 GOP gubernatorial primary -- former Vice President Richard Nixon. Just before the vote on the reapportionment bill in the State Senate -- where every Republican was announced in opposition -- Nixon called the Democratic plan "shameless and crude partisanship." Said Nixon:

> It (the redistricting plan) is the latest in a series of inept and bungling actions which have reduced Governor Brown's prestige to a new low.

> It is difficult to understand how Brown could have made such a blunder. He should have remembered that California voters, both Democratic and Republican, have always been independent in their voting habits. They resent cheap, ward-dealing political power plays. They believe in fair play.

Needless to say, it did not take the Democrats long to react to these words. "When the Republicans reapportioned the state in 1951," Brown replied, "Nixon as United States Senator never uttered a word about the immorality of bad reapportionment legislation." Brown went on to say that the latest reapportionment was as fair as it could possibly be; it simply undid some bad lines in the 1951 Republican plan.

Assembly Majority Leader William Munnell of Los Angeles was more direct in his reply to Nixon. He said criticism of the plan by the former Vice President "was an example of cheap Chotiner (Murray Chotiner, Nixon's aide) politics in a form which inevitably reminds us of the disgraceful campaign waged by this pair against Helen Gahagan Douglas, as Nixon ruthlessly sought to scale the political heights." [10]

When the rhetoric finally cleared, the Crown plan passed the Senate by a vote of 27 to 10, and was returned to the Assembly. There, Crown agreed to make some changes, like undoing the four-incumbent Assembly district, and strengthening two GOP incumbents. In return, he expected additional Republican support. And in the end he got seven more Republican votes on final passage -- from Assemblymen William Bagley of San Rafael, Clark Bradley of San Jose, Gordon Cologne of Riverside, Houston Flournoy of Claremont, Howard Thelin of Glendale, Bob Monagan of Tracy, and Chet Wolfrun of Los Angeles. With the ten original Republican votes, this made seventeen Republican Assemblymen in favor of the bill. The second group, however, made it clear they were voting for the plan only in exchange for better seats for several of their colleagues. [11]

As for Democratic fortunes, there can be little doubt that Jesse Unruh's

handling of the tricky reapportionment process was a key factor in his rise to the Speakership. In his bibliography of Unruh, Ronnie and Jesse, Lou Cannon writes:

> The victory of the Unruh-Crown reapportionment was an important rung on the political ladder for Jesse Marvin Unruh. When the session started, Unruh claimed the (Speakership) pledges of only half a dozen Assemblymen plus the sympathetic interest of perhaps a dozen more. The apparent consensus choice for the Speakership when the 1961 session began was Democratic Assemblyman Carlos Bee, a schoolteacher and a member of Unruh's freshmen class of 1955. Bee enjoyed substantial support from Republican members and from the Third House. His election seemed a foregone conclusion. At the beginning of the session Bee counted 37 pledges. He acquired only one more. It was one of the great con operations; said one veteran of the Unruh vote round-up, 'We told them they'd better hurry and get on the winning team.' "[12]

Unruh's pursuit of power may have been a great "con game," but the redistricting plan his lieutenant Robert Crown developed for California was certainly effective in accomplishing Democratic ends. In 1962, with Unruh safely in the Speakership, California voters returned one of the greatest Democratic Assembly and congressional majorities in history: 52 of 80 Assemblymen, and 25 of 38 Congressmen.

The 1961 Congressional Redistricting: Kennedy's Victory

In order to send to Congress those new, loyal Democrats whom John Kennedy wanted so badly, the Democratic redistricting plan cut up large and marginal Republican House districts, and then created new Democratic districts out of the pieces. Two of the three new seats in northern California were drawn using this technique.

The reapportionment technicians looked first at the Bay Area, where two neighboring districts, those of Republican Charles Gubser of San Jose and Democrat George Miller of Alameda, had great population excess. Together, they contained enough population for three seats. Miller's Alameda County district was solidly Democratic, but Gubser's seat was only marginally Republi-

can. Crown decided to take all of central and eastern Santa Clara County away from Gubser and to unite it with the southern part of Miller's district. Eastern Santa Clara County was heavily Democratic, and removing it from Gubser's district made his seat overwhelmingly Republican -- which really did not matter to Crown, since Gubser seemed likely to be re-elected no matter what happened to his district. Uniting eastern Santa Clara County with the Hayward area of Alameda County, however, created a new and heavily Democratic congressional district -- a district made to order for Hayward Assemblyman Carlos Bee, if he were to choose to run for Congress. As it turned out, Bee passed up the opportunity, and the new Democratic congressional seat was won by San Jose attorney Don Edwards.

It was no more difficult to create the second new Bay Area Democratic district. Again, it simply meant combining excess populations from two neighboring districts. Republican John Baldwin of Martinez represented the district encompassing Contra Costa and Solano Counties. Baldwin's district was basically Democratic, but Baldwin held it because of his personal popularity. The Democratic plan for the area was to take Solano County away from Baldwin, leaving him with just Contra Costa County. That made the district much safer for Baldwin, while leaving Solano County as the nucleus of a new district.

To the north of Baldwin's district was the solidly Democratic seat of Rep. John Moss of Sacramento. In 1961, Moss's six-county district was greatly overpopulated. It was, therefore, a simple task to remove all of Moss's rural counties and combine them with Solano County to create the second seat, leaving Moss with just Sacramento County. Thanks to the Democratic nature of Solano County, the new district had a Democratic registration of 63 percent. Vallejo Assemblyman Robert Leggett easily won this seat in 1962, defeating fellow Assemblyman Lloyd Lowery in the Democratic primary. The Moss and Leggett

districts had a population difference of nearly 200,000 people. This was justified, however, by the state constitutional provision that rural congressional districts be made up of whole counties. But there was really no community of interest in the new district. Vallejo in Solano County had nothing in common with Yuba City or Colusa in the rural part of the district. Democrats justified the seat in terms of the county requirement, but clearly politics played a role in the combining of counties.

Nowhere were the political considerations more evident than in San Francisco. In the city itself there was enough population for two districts. Democrats were still smarting from the 1951 GOP lines, which had resulted in the election of William Mailliard, the Republican Congressman who now easily held the seat in western San Francisco. In the 1961 reapportionment San Francisco had to give up one of its six Assembly districts, and to accomplish this the Democrats combined the city's two Republican-held Assembly districts into one seat. And since the city now contained five Assembly districts, and since congressional districts had to be constructed of whole Assembly districts, it was necessary that one San Francisco congressional district contain two Assembly districts while the other contained three.

The resulting division gave two heavily Democratic Assembly districts to Rep. John Shelley; Mailliard got the three-district seat. Mailliard's new seat, however, took in the heavily Democratic 23rd Assembly district, a hodge-podge of Democratic neighborhoods that included the Outer Mission area, Noe Valley, and Visitacion Valley. Thousands of Democrats were thus added to Mailliard's district, making him suddenly vulnerable -- particularly when the incumbent Democrat in the 23rd Assembly district, John O'Connell, announced that he would run against Mailliard for Congress.

Republicans had objected bitterly to the addition of these Democrats to

Mailliard's district, although in fact the Democratic action was remarkably similar to what the GOP line drawers had done in 1951 to Mailliard's predecessor, Democrat Franck Havenner to assure his defeat. The San Francisco Republican chairman said of the new 23rd Assembly district, created as part of the effort to defeat Mailliard, "This political bird is a vulture with its beak pointed at Park Merced, its square head in Saint Francis Woods, its neck and shoulders in Twin Peaks, its body in the Mission District and its talons in the Crocker-Amazon." [13] On the Assembly floor, Republican Assemblyman John Busterud offered amendments "to make this vulture extinct." The Democrats laughed at his characterization of the 23rd district, and then voted down his amendments. The vulture district remained.

As it turned out, however, the attempt to defeat Mailliard was one of the few failures the Democrats encountered in 1962. Mailliard easily defeated O'Connell, and then held his odd-shaped district without serious challenge until it was later changed.

The effort to defeat Mailliard through the 1961 reapportionment not only failed in San Francisco, it eventually cost the Democrats another seat. Along the coast north of San Francisco ran the 1st district, stretching all the way from Marin County to the Oregon border. Clem Miller, a Democrat, had won the seat in the 1958 landslide, and he had narrowly retained his seat in 1960. Miller wanted his district improved, and the only practical way to make it safer for a Democrat was to remove heavily Republican Marin County. The only place to put it was in Mailliard's district, but that would have made him safe -- something the Democrats did not want to do.

So Marin County remained in Miller's 1st district, and the only thing done to help him was the removal of tiny Lake County. In 1962, Miller faced a hard re-election challenge from Del Norte County supervisor Don Clausen. Miller

was slightly ahead in the polls when, in October of 1962, he was killed in a plane crash. Clausen immediately stopped campaigning out of respect for Miller, and the Democrats made a last-minute plea to the district's voters to re-elect the dead Clem Miller as a tribute to him. The voters responded, and Miller posthumously defeated Clausen by 3,000 votes. The dead man's win provided the Democrats with their 25th seat in the 1962 sweep. In a 1963 special election, however, Clausen won the seat for the Republicans, in part because of a heavy Republican vote in Marin County.

The Democrats made no other changes in the rural districts of northern California. Substantial changes were, however, made along the central coast, in order to create northern California's third new seat -- the only new Republican seat in the state. This district was tailor-made for GOP Assemblyman Glenn Coolidge of Santa Cruz and, as a result, Coolidge became one of the Republicans who favored the Democratic reapportionment plan. He never got his reward, however. Heavily favored to win the new seat, Coolidge died just before the 1962 election. He was replaced on the ballot by Burt Talcott of Salinas, who went on to win the seat and to hold it for the next fourteen years.

The Republicans escaped from the Democratic reapportionment in northern California with something of a standoff -- two new seats for the Democrats; one new seat and a pick-up for the Republicans. As had been the case in the 1951 redistricting, northern California was not too badly gerrymandered because of the constitutional provision that counties not be divided unless they contained two or more seats. This provision kept the reapportionment staff from drawing outrageous or elongated districts in the north. In the heavily populated counties of southern California, however, there were no such limitations. Here, the majority Democrats could and did wield the redistricting scalpel with deadly precision.

The most overpopulated district in California belonged to Orange County Republican James Utt. This district consisted of all of Orange County and one Assembly district in San Diego County and was overwhelmingly Republican. Its neighbor to the south, the San Diego County district of Republican Rep. Bob Wilson, was also heavily Republican and likewise overpopulated. It was clear that each of these two counties deserved an additional congressional district, and that two of the five new districts in southern California should be located here. Both counties, however, were strongly Republican in their voting patterns, so that a casual observer might have assumed that the Republicans would win one or both of the new seats. The Democratic map-drawers saw other possibilities. The existing districts of Utt and Wilson were reduced (in both cases by nearly half), but they were reduced to their most Republican precincts. Left over were the Democratic portions of both counties. In San Diego County the Democrats managed to draw a district with Democratic registration of over 60 percent -- even though Democratic registration in the county as a whole was only 51 percent. The new Democratic seat was won in 1962 by radio broadcaster Lionel Van Deerlin, who narrowly defeated Dick Wilson, brother of Congressman Bob Wilson and one of the very few men named Wilson ever to lose an election in San Diego County.

James Utt's huge district was reduced to one Assembly district in northern San Diego County and one in southern Orange County; it ended up with a Republican registration of 58 percent. This left all of northern Orange County for another new district, and again the Democrats successfully bunched all their precincts into one district. This district, which had a Democratic registration majority of 53 percent, corresponded quite closely to the Assembly district of Democratic Assemblyman Richard Hanna, who at that time was the only Democrat who had ever won an Assembly seat in Orange County. Hanna ran in

the new congressional district in 1962 and narrowly edged out his GOP challenger. He had close calls throughout the rest of the decade, but always managed to retain his seat, even when Republican candidates for other offices were running up huge totals in his conservative district.

The Democratic divisions of Orange and San Diego Counties did not look like a gerrymander, but the effect was the same. Both counties returned large Republican voting majorities in 1962, and in later years, but Republicans never elected more than two of the four Congressmen in these counties. In 1962 Republicans received 57 percent of the vote in these counties, but only two of the four seats. In 1966 the GOP received 59 percent, but still only two seats.

The creation of these two new Democratic congressional districts also resulted in the creation of new Assembly districts. Although Orange County should have received two new Assembly districts, it actually received only one. This is because the Democrats purposely underrepresented the growing suburban counties in the redistricting in order to reduce the number of Republicans in the legislature. Thus San Francisco County, which had a population of 741,000 and was steadily losing population, was given five Assembly seats; while Orange County, with a growing population of 719,000, was allotted only three seats.

There was good reason for this Democratic strategy. Although the Republicans did less well than they might have hoped on the congressional level in Orange and San Diego Counties, they managed to win all the new Assembly districts formed in those counties: after 1962, they controlled six of the eight Assembly districts in Orange and San Diego Counties. Democrats, on the other hand, won four of the five Assembly districts in San Francisco.

The greatest Democratic victories under the 1961 redistricting were in Los Angeles County -- just as the greatest Republican wins had come in that county after passage of the 1951 plan. The Democrats managed a fundamental revision

of Los Angeles County's congressional representation, together with a major realignment of the power base within that county. When Unruh and Crown finished carving up Los Angeles County in 1961, they had accomplished the impressive task of creating six additional Democratic congressional districts, giving Democrats eleven seats in that county.

The Democrats had an advantage in that the five existing Democratic districts had populations well above the statewide average and could easily be broken up. But two of the largest districts in the county were those held by Republicans John Rousselot and Edgar Hiestand. At first glance, it did not appear easy to weaken the two Congressmen with the largest districts since, generally, large districts are thought to provide protection in reapportionment. But the Democrats were not easily discouraged. Indeed, Rousselot and Hiestand, together with Gordon McDonough, were their prime targets in Los Angeles County.

Unruh's staff examined the county precinct by precinct, and came to the following conclusions. The Democratic base was in central, western, and southern Los Angeles County, and was spreading southward toward Orange County and westward into the San Fernando Valley. The Republicans had two distinct pockets of strength in the west, in Long Beach and in an area running along the coast from Pacific Palisades to Palos Verdes. But the big Republican base was the string of foothill communities extending from Glendale to Claremont, and this was an area of static population. Although two GOP districts which generally overlapped this area were both underpopulated, the foothill communities under the 1951 plan were also able to provide a Republican base for both Rousselot and Hiestand. Hiestand's district took in Monrovia, Sierra Madre, and most of Arcadia, and then ran over the mountains into the more Democratic territory of the San Fernando Valley. Rousselot's district included Alhambra,

San Marino, and San Gabriel, as well as a number of Democratic towns south of Foothill Boulevard.

Under these circumstances, the line-drawing proved very easy for the Democrats. Two foothill districts were made solidly Republican by allowing them to absorb the Republican area formerly included in the Rousselot and Hiestand districts, leaving Rousselot and Hiestand with no Republican base. To add to the damage, Rousselot also lost part of Republican Whittier, while gaining Democratic South El Monte. His district had been marginal even with the 1951 Republican lines. Removing all this GOP territory gave the Democrats a 62 percent edge in registration in Rousselot's district. In 1962, Rousselot lost by 8,000 votes to Democrat Ronald Brooks Cameron. Hiestand's district was not as badly mutilated, but his new district had a 59 percent Democratic edge. Hiestand had won this seat in 1952 by beating Democrat Everett Burkhalter. Burkhalter came back for a rematch in 1962, and ousted Hiestand by 6,000 votes.

The third seat Unruh aimed at was that of Gordon McDonough. This district had been made compact in the 1951 reapportionment to assist McDonough. But the district, situated in West Los Angeles along Wilshire Boulevard, was getting more Democratic every year: McDonough had won by just 5,000 votes in 1960. Under the 1961 plan, his district was largely dismembered, and its declining Republican base was divided among three neighboring districts. The bulk of McDonough's district was shifted to East Los Angeles, and he was defeated handily in 1962 by Democratic City Councilman Edward Roybal. Roybal was to be the first -- and, for two decades, the only -- Hispanic Congressman from California.

Having disposed of the Republican parts of the county, the Democrats then turned to their own neighborhoods in central and southern Los Angeles. The 1951 reapportionment had split this area into four overpopulated but safely Demo-

cratic districts. The Democrats decided they could easily expand their holdings from four districts to seven, all of them likewise safely Democratic. A new district was created out of some of the excess population in Democratic Rep. Chet Holifield's district. This new district took a bit of the Republican base in the foothills, but still had a Democratic registration of 63 percent. In 1962, the new seat was won by Democratic Assemblyman George Brown of Monterey Park. In south-central Los Angeles, a black seat was created for senior Assemblyman Augustus Hawkins. Another Democratic seat was created from the excess of the old McDonough seat and from Democratic population in southwestern Los Angeles. This new seat was won easily by Democratic Assemblyman Charles Wilson. The San Fernando Valley district of Democratic Rep. James Corman was left largely unchanged.

Two Republican seats remained to be dealt with. Rep. Craig Hosmer occupied a district that was marginal on paper. Hosmer had proven extremely popular since his election in 1952, however, so his Long Beach seat was left relatively unchanged. Freshman Republican Al Bell of Santa Monica was fated to get whatever the Democrats did not want: his seat became a dumping ground for Republican neighborhoods from Ventura County to Palos Verdes. Geographically, it was held together at high tide by little more than a rock retaining wall running along the beach. Republicans complained that the district made no sense, but Unruh had only to note that it was no worse than some of the 1951 Republican districts.

In all, the Democrats had expanded their base in central Los Angeles from four seats to seven, eliminated the remaining Republican district in central Los Angeles, and weakened two suburban Republican districts. As a result, the Democrats realized a clean sweep in 1962: they won every district they aimed for, and reduced the once-large Republican delegation from Los

Angeles County to just four congressmen. The Republican proportion of the seats won -- four out of fifteen -- came nowhere near to reflecting their percentage of the two-party vote. With just over 50 percent of the two-party vote, the Democrats had managed to win 73 percent of the seats. They did this by overpopulating Republican districts, jamming them chock full of Republican neighborhoods. The four Republicans who won re-election did so by enormous margins, while many of the eleven Democrats had narrow victory margins. More than a quarter-million Republican votes were wasted in the process, as the following chart shows.

District		Democratic Winning Margins	Republican Winning Margins
17	(King-D)	38,301	
19	(Holifield-D)	29,460	
20	(Smith-R)		70,088
21	(Hawkins-D)	60,094	
22	(Corman-D)	10,207	
23	(Doyle-D)	36,781	
24	(Liscomb-R)		69,914
25	(Camerson-D)	8,410	
26	(Roosevelt-D)	60,099	
27	(Burkhalter-D)	5,441	
28	(Bell-R)		70,928
29	(Brown-D)	14,980	
30	(Roybal-D)	15,904	
31	(Wilson-D)	6,477	
32	(Hosmer-R)		67,998

Some supporters of the 1961 Democratic lines later claimed that they were more equitable than the 1951 Republican lines, because there was only one excessively oversized district -- that of Alphonso Bell. But this was the case only because Los Angeles County contained 31 Assembly districts, and in 1961 the Democrats divided these up among 15 congressional seats. As a result, there was only one three-Assembly district congressional seat -- Bell's. Elsewhere in the state, however, large population variations definitely favored the Democrats -- particularly in the underrepresentation of Orange County and in the overrepresentation of San Francisco.

Gerrymandering, however, is the process of trying to decide tomorrow's elections based on yesterday's returns. In the case of Los Angeles County, much of the strength of the Democratic gerrymander was dissipated over the decade. The Republicans soon won a fifth seat in the county when Democratic Rep. Clyde Doyle of Downey died early in 1963. Heavily favored to succeed him was Democratic Assemblyman Carly Porter of Compton. But in a special election that summer, Porter was upset -- despite President Kennedy's personal campaigning for him -- by Republican Del Clawson. There was a particularly serious message for the Democrats in Clawson's victory, because he had won not in traditionally Republican territory but by securing the votes of working-class whites who had, in the past, formed part of the backbone of the state Democratic coalition. The drift of the labor vote to the Republicans, leading up to the Reagan landslide of 1966, first became evident with Clawson's election. In the next two elections, Republicans won two more essentially working-class districts: Burkhalter's district when he retired in 1964 and Cameron's district in a surprise upset in 1966. After the 1966 election, the fifteen Los Angeles seats were divided among eight Democrats and seven Republicans. After 1962 Republicans also gained seats in other parts of the state.

In one respect, however, the Democratic gerrymander did its work throughout the decade. In 1966, 1968, and 1970, the Republicans won a majority of the two-party congressional vote, but each year they won only a minority of the seats. This would not have happened had it not been for the lines developed so carefully by Unruh and Crown in 1961.

1962 Vote:	Seats Won:
Rep: 2,685,000 (48%)	Rep: 13 (34%)
Dem: 2,885,000 (52%)	Dem: 25 (66%)
1964 Vote:	Seats Won:
Rep: 3,213,000 (46%)	Rep: 15 (39%)
Dem: 3,609,000 (54%)	Dem: 23 (61%)
1966 Vote:	Seats Won:
Rep: 3,336,763 (53%)	Rep: 17 (45%)
Dem: 2,937,862 (47%)	Dem: 21 (55%)
1968 Vote:	Seats Won:
Rep: 3,745,000 (55%)	Rep: 17 (45%)
Dem: 3,035,000 (45%)	Dem: 21 (55%)
1970 Vote:	Seats Won:
Rep: 3,061,000 (50%)	Rep: 18 (47%)
Dem: 3,058,000 (50%)	Dem: 20 (53%)

The Gerrymander That Did Not Work

In 1951 the Republicans had done little to change the party balance in the Assembly, although they gained a number of seats in 1952 because of Democratic retirements and the Eisenhower landslide. In 1961, however, the Democrats purposely eliminated several Republican seats, while strengthening a few GOP members as a way of gaining votes for the Unruh-Crown plan -- and to make Unruh Speaker. In the Bay Area, these moves had a permanent impact on Assembly representation; in southern California they did not.

In northern California, the Democrats eliminated three Republican districts and weakened others. San Francisco contained two GOP Assembly

districts, one marginal and one safe. These were combined into a single safe Republican seat. Alameda County, which was in the process of losing its Republican base, also had two GOP Assembly districts. These two seats were also combined into one district with an absolute Republican majority. In San Mateo and Santa Clara Counties the GOP held all four seats. San Mateo was redrawn to combine almost all of the Republican precincts into a single district, thus allowing the Democrats to win the other seat. The same thing was done in Santa Clara County, where two safe Democratic seats were created in the eastern part of the county. Most of the Republicans in Santa Clara County were jammed into an elongated westside seat that ran from Palo Alto to Gilroy. In all, the Republicans lost four seats in the Bay Area due to redistricting, and two seats in rural northern California. There had been sixteen GOP Assembly districts in the north in 1960; that number was reduced to ten in 1962. Republicans made some comebacks in subsequent elections, but the GOP never recovered all the lost Bay Area seats.

Few party changes occurred in southern California, except in Los Angeles County, which kept its 31 Assembly districts but apportioned them very differently. Republicans actually did reasonably well in the suburban counties of southern California, winning the new seats allotted to Orange and San Diego Counties in 1962 and taking the Imperial County seat away from the Democrats. They also added an additional seat in San Diego County, going from a two-two split with the Democrats to a four-one margin. Los Angeles County, however, was another story.

Before reapportionment, Republicans elected thirteen of the 31 Los Angeles Assemblymen. When Unruh and Crown were finished, they elected only nine. All but one of the GOP-held districts in 1962 overlapped the four Republican congressional seats. The pattern of concentrating Republicans into

safe districts, the basis of the congressional plan, was followed in redistricting the Assembly as well.

As had happened in the 1951 redistricting, most of the incumbents' seats were made safer for them: after all, they had to vote for the plan. There were, however, some important exceptions. Six Republican Assembly districts in the foothills north and west of the city of Los Angeles were reduced to four. This reduction of GOP seats brought about the emergence of a new San Fernando Valley seat in the Sunland-Tujunga area, and in 1962 a Democrat managed to win that seat. This part of the Valley was fast going Republican, however, and in 1964 the GOP won it back.

Assemblyman Chet Wolfrum was one of the four Republicans who, in the initial bill, had found themselves combined into a single district. In the end, Wolfrum got a seat of his own, but it was so weak that he lost in 1962. Wolfrum's district overlapped McDonough's weak congressional district, and it is probably true that eventually both he and McDonough would have lost, even without the Democratic redistricting.

The final GOP seat lost in 1962 was the Wilshire area seat held by Minority Leader Joseph Shell. This seat had a history that reflected the population changes that had occurred in Los Angeles in the 1940s and 1950s. Once the Wilshire district was the most fashionable place to live, and the area's upper-middle-class residents regularly returned huge Republican majorities. But then came the freeways and the smog, and the affluent Republican voters began moving westward or out to the Valley. Finally, by 1961, there was just a small enclave of GOP precincts around Hancock Park, and it was surrounded by growing Democratic neighborhoods.

In 1951, the Wilshire area formed the district of reapportionment chairman Laughlin Water's, and it had a Republican registration edge of 6,000. By 1956,

however, this edge had declined to just 4,000, and in 1958 it stood at 1,500. By 1960, the Democrats had taken the lead in registration, and by 1962 that lead had grown to 3,000 -- even while the district's overall registration remained steady at 80,000. It was no problem for Unruh to slice up this district and apportion its bits and pieces among other seats.

Altogether, the Republicans lost four Assembly seats in the 1961 Los Angeles realignment: two of them in the foothills, where they were strong, and two more in West Los Angeles, where they were in decline. With one exception, none of these districts ever returned to the Republicans. But by 1968 the Republicans had picked up four of the newly-created Democratic seats and restored their number of seats to thirteen of the county's 31 districts. Three of the wins came in Democratic labor union strongholds, suggesting that the way back for the GOP was to win white, working-class neighborhoods.

There is no way, of course, that the Democrats could have foreseen what would happen in the cities in the 1960s. All previous political research indicated that, once the Republican Assemblymen were concentrated into a few heavily GOP districts, Republicans would be kept a permanent minority. But the turmoil of the 1960s spread into the old-line Democratic, working-class neighborhoods, and these Democrats left their political moorings. The Republicans never won back the seats in West Los Angeles that the movement of population -- and the map drawers -- had taken away, but they made up for their losses with successful forays into the Democratic working-class heartland.

Almost immediately after 1962, the Assembly gerrymander began breaking down, not only in Los Angeles but elsewhere in the state. In 1964, the Republicans took four seats away from the Democrats -- three in rural areas and one in the San Fernando Valley -- while losing one coastal seat to the Democrats. The 1966 election, the year of the Reagan landslide, saw an

additional seven seats go to the Republicans. In just four years, the GOP numbers had increased from 28 to 38, and almost all of the Republican gains in 1966 were in rural or working-class districts -- evidence of the drift of these two pivotal blocs away from the Democratic coalition. Three more Assembly seats went to the GOP in 1968, giving the Republicans an Assembly majority, something Unruh and Crown could not have believed possible just six years earlier.

After this thirteen-seat gain, however, the 1970 election dealt the GOP an unexpected blow. Five seats, one of them rural and four urban, were lost. Unhappily for the Republicans, part of their own base was now crumbling: one of the five districts they had lost was the Alameda County district thought to be safe for the GOP in 1961. That loss was multiplied in 1972, when two more previously safe GOP districts were lost, one in the San Fernando Valley and one running along the San Diego County beaches. Republicans lost a total of eight districts in 1972, dropping from 37 to 29 seats. Included in their losses were several rural seats, indicating a swing of the pendulum back to the Democrats among rural voters. A gain of two seats by special elections in 1973 brought the Republican total to 31 seats.

Many reasons may be cited for the broad fluctuation in party fortunes during the life of the 1961 plan, not the least of which was declining loyalty among both Republican and Democratic voters, resulting in an increasing number of "swing districts." Even taking this fact into account, however, the fluctuation in party representation was extreme. During the 1950s, the trend had been in one direction: a decline for the Republicans during the decade from 52 seats to 33 seats. The six elections under the 1961 redistricting, however, saw the ratio go from a 52-to-28 edge for the Democrats, to 41-to-39 for the Republicans, and back again to 51-to-29 for the Democrats.

One thing did remain constant throughout the life of this plan: the failure of Republicans to win as many seats as they were entitled to by their percentage of the overall vote. This was due in part to the larger numbers of voters in Republican-leaning districts, but was also very much a consequence of the Democratic tactic in 1961 of concentrating Republican voters in heavily Republican districts, as the following chart illustrates.

	GOP Share of Two-Party Vote	GOP Share of Seats
1962 election:	46%	35%
1964 election:	46%	39%
1966 election:	54%	48%
1968 election:	54%	51%
1970 election:	49%	46%
1972 election:	46%	36%

The 1961 reapportionment was an example of the rawest kind of power politics, justified by the Democrats as a way of redressing the gerrymander perpetrated on them by the Republicans when they had the upper hand ten years earlier. That neither party was able to assure an indefinite majority under the two gerrymanders, however, is evidence that drawing district lines for partisan advantage does not always work.

In 1965, and in later redistrictings, one tool used effectively in the 1951 and 1961 gerrymanders was eliminated: population variation. After the Supreme Court's decision in Baker v. Carr, huge population differences among districts were no longer possible. Unfortunately, though, this Warren Court reform also ended the California constitutional provisions that counties could not be un-

necessarily divided, and that congressional districts in the major counties had to consist of whole Assembly districts. As bad as some of the 1951 and 1961 districts were in terms of geography and community of interest, they looked good when compared to the districts that were to follow.

Footnotes

1. Los Angeles Times, June 1, 1961, p. 24.

2. San Francisco Chronicle, May 24, 1961, p. 18.

3. Telegram from Congressman Glen Lipscomb to Assemblyman Robert Crown, May 24, 1961.

4. San Francisco Chronicle, May 26, 1961, p. 1.

5. Los Angeles Times, May 20, 1961, p. 7.

6. Letter from John Krehbiel to Assemblymen John Collier, Glenn Coolidge, and James Hommes, June 9, 1961.

7. San Francisco Chronicle, June 2, 1961, p. 12.

8. Los Angeles Times, May 20, 1961, p. 6.

9. San Francisco Chronicle, May 19, 1961, p. 12.

10. Congressional Quarterly Weekly Report, September 28, 1962, pp. 1614-1615.

11. Interview with Robert Monagan, April 1980.

12. Cannon, Lou, Ronnie and Jesse (New York: Doubleday, 1969), pp. 111-112.

13. San Francisco Chronicle, May 19, 1961, p. 12.

THE COMING OF ONE MAN, ONE VOTE:

CALIFORNIA'S 1965 AND 1967 REAPPORTIONMENTS

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Introduction

In the fall of 1948 California's popular Republican Governor Earl Warren campaigned across the nation as Thomas Dewey's running mate and the almost sure next Vice President of the United States. Back home in California, however, a political battle raged over a ballot proposition, interestingly numbered Proposition 13, sponsored by the state labor federation, but bitterly opposed by the Chamber of Commerce. Supporters called Proposition 13 vital to democracy, but detractors said it was a power grab by the big cities and liberal special interests. A dutiful friend of business, Governor Warren sided with the Chamber of Commerce and urged a "no" vote on Proposition 13.

Proposition 13 would have reapportioned the California State Senate, basing Senate districts on population. That's the law today, but it was not the law in 1948. Indeed, for much of the first two-thirds of this century, reapportionment of the California Senate had been a burning political issue. California has a problem: God created it upside down. While the gentle rains from heaven fall on the northern three-quarters of the state, the parched tongues that need that water live in the southern one-quarter. Los Angeles grew into the jewel of the Pacific, but only by extending tentacles northward to find and bring down water.

The north was not unreasonable about water, from its viewpoint, but northerners wanted, and still want, an ultimate veto over any state water plans, just to make sure those southern tentacles don't reach too far. From statehood in 1849 until 1920, they had protection in their numbers: the vast majority of the state's people lived in northern California. But by 1920 the census figures showed that nearly half the people lived in the south, and it was clear that soon the south would pass the north and control the state's population. Rural

Californians and the San Francisco Bay Area took alarm. What would this do to water policy? Would southern California political bosses run the state? Who would look after the needs of northern farmers?

The north had an easy answer. Since statehood both houses of the Legislature had been apportioned on the basis of population. Why not apportion one house on geography? Just as the United States Senate gave each state two Senators, why not apportion the California Senate on the basis of counties? Some 50 of the 58 counties are in the north, so the Senate would remain in northern hands forever, no matter how fast southern California grew. They can control the Assembly -- the population-based house -- they argued, but let us control the Senate -- the county-based house.

Thus was born the "Federal Plan," which provided that no county would have more than one Senator, and that no more than three counties could go into a single district. Los Angeles, then, with a population of more than a million people, would get one Senator, and three tiny counties with a combined population of just 11,000 got one also. It also meant that a majority of the state's population, living in Los Angeles, Alameda and San Francisco Counties, could elect only three Senators, while a minority elected the other 37.

But, the rural interests argued, the majority still controls the Assembly and elects the Governor. This is balanced representation, as in the U.S. Congress: the north has a piece of the action and so does the south. Besides, it will assure that corrupt city bosses don't control California politics. That latter argument seems to have carried the day, because the "Federal Plan" was adopted by the people in 1926, and withstood a referendum in 1928. Clearly, the people would rather have farmers running the state than political bosses.

1948's Proposition 13 represented the first of three challenges to the "Federal Plan." Los Angeles, with a population now of several million, had but

one Senator; small rural counties, some with just a few thousand people, elected most of the other 39. What kind of democracy is that, asked the reformers? But the people liked their rural-dominated Senate, which was less partisan and more conservative and stable than the popularly-elected State Assembly. "No urban-dominated Senate" they said to the reformers, and Proposition 13 -- with Earl Warren leading the way -- was thrashed at the polls, with 2.2 million voting "no" and only 1 million voting "yes." The plan to give Los Angeles more Senators even lost in Los Angeles County. It was, said Carey McWilliams, "the amazing spectacle of a people approving their own disenfranchisement." [1]

In 1960 another Senate reapportionment appeared on the ballot, and again the people said "no." And in 1962 a moderate reform was qualified to give Los Angeles, with 6 million of California's 15 million people, just five more Senators, and southern California as a whole only eight more. Still the people said "no," even though both candidates for Governor -- incumbent Democrat Pat Brown and Republican Richard Nixon -- backed the proposal. It was one of the few things they agreed on in that bitter campaign.

And then into the picture stepped once again Earl Warren, now Chief Justice of the United States Supreme Court.

One Man, One Vote: Reapportioning the Senate

On March 26, 1962, the Supreme Court -- on a six-to-two vote, with dissenting Justice Frankfurter bitterly arguing against entering the "political thicket" -- handed down the famous Baker v. Carr decision. It said simply that mal-apportionment of state legislatures may be unconstitutional, and courts may require reapportionment. Two years later, in Reynolds v. Sims, the Court went even farther in an opinion authored by Chief Justice Warren. The Fourteenth Amendment, he said, requires that "seats in both houses of a bicameral state

legislature must be apportioned on a population basis. . . . The so-called 'federal analogy' is inapplicable as a sustaining precedent for state legislative apportionments." And it did not matter that the people may have approved mal-apportionment: "a citizens' constitutional rights can hardly be infringed upon because a majority of the people choose to do so." [2] The carefully-crafted and thrice-upheld scheme of a northern-controlled Senate was doomed, as were the political careers of the two dozen Senators representing the cow counties.

In the light of two decades, the wisdom of Baker and Reynolds is open to question, but of one thing there is no doubt: the decisions caused a huge problem for the California Legislatures of the 1960s. Some 27 Senators represented districts that did not have enough people, and the Senate would be forced to redistrict. As is the tendency in politics, the various elements of California government immediately fell into disagreement over what to do about this problem. Governor Edmund G. Brown hired his own reapportionment consultant to assist in the necessary re-creation of the Senate. Brown, a liberal Democrat, had generally supported one man, one vote apportionment, a position strongly adhered to by most liberals. Certain Assemblymen also got into the act. Los Angeles County had only one Senator, but under one man, one vote, it would have about fifteen. That meant that as many as fourteen Los Angeles Assemblymen could have a chance to advance to the Senate in an open district. Speaker Jesse Unruh, a Los Angeles Assemblyman, noted his support for one man, one vote, and indicated that the Assembly intended to play a major role in Senate redistricting. That comment elicited a response from Senator Stephen Teale, one of the rural Senators who also chaired the Senate Reapportionment Committee: if the Senate was to be reapportioned, the Senators would do it themselves.

In late 1964, the Senate began developing a strategy to avoid the horrid prospect of this self-immolating redistricting. The California County Super-

visors Association warned that, "if reapportionment becomes a reality, we promise an all out effort to divide California into two states." [3] Take that, Los Angeles, the County Supervisors seemed to be saying. You can be your own state! Another idea was to create two Senate districts of roughly equal population, each of which would elect twenty Senators at large. A more sensible proposal was to put California behind the Dirksen Amendment, a constitutional amendment proposed by GOP Senator Everett Dirksen of Illinois to allow one house of a state's legislature to elect its members on a geographic basis. The problem here was the refusal of Congress to pass the Dirksen Amendment, so the Senate also supported an effort to call a constitutional convention on the issue.

But these delaying tactics were of no use. In December of 1964 a three-judge federal panel called the Senate's bluff and told them to redistrict by July 1, 1965, or the courts would do it for them. After a two-day strategy session the Senate announced it would comply with court orders on reapportionment "without playing any games." [4]

But games were played as the 1965 legislative session got underway. The first Senate bill on redistricting gave Los Angeles only twelve seats -- not the fifteen to which it was entitled -- and kept a slight majority of seats in the north. Too, it provided for at-large election of Senators in the big counties. There was no way the Assembly would accept such an arrangement, so the Assembly got into the act by introducing its own "skeleton" bill -- a sure sign that the Assemblymen intended to play a role in deciding the Senate's future.

The California Senate and Assembly in 1965 not only exhibited the usual upper- and lower-house differences, but their style of politics differed greatly as well. Since the 1950s the Assembly had been a partisan body, and it had gone through two highly partisan reapportionments. Assemblymen were younger, more aggressive, and much more partisan than the more casual Senate, which

viewed itself as something of a men's club (there had never been a woman Senator), a collegial debating society where passions were restrained and where personal relationships determined legislative success. It was also dominated by a bipartisan "Old Guard." This group was led by Senators like Democratic President Pro Tempore Hugh Burns, serving his 22nd year, and Randolph Collier, who had served 20 years as a Republican before changing parties to become a Democrat in 1958 to help form the majority that made Burns President Pro Tempore.

The Senate had remained in Republican hands throughout most of the twentieth century, since the small northern counties generally returned Republican Senators. Even during the state's swing to the Democrats in the late 1930s, the Senate stayed Republican. But it was hardly more than nominal partisan rule: the real division in the Senate was rural-urban and north-south. After 1958, however, the Democrats took control and the Senate became a bit more partisan, for the new Democratic majority included strong liberals like Contra Costa's County's George Miller and Sonoma County's Joseph Rattigan. But the leadership, although Democratic, remained essentially conservative. The Senate of 1965 had 26 Democrats and 14 Republicans.

The first Senate bill, S.B. 6, was passed to the Assembly on May 10, 1965, and the Assembly promptly rewrote the bill to satisfy the desires of various Los Angeles area Assemblymen who fancied future careers in the Senate. The Assembly, as might be expected of the more partisan house, also played some partisan games to make sure that, when Democratic Assemblymen went to the Senate, they would be joining a Democratic majority. Even the seat of the Republican Senate leader was shaped so that a Democratic Assemblyman might win it.

Having made the desired changes, the Assembly sent S.B. 6 back to the

Senate, but not before an emotion-charged debate which dealt with both the partisan and constitutional aspects of the bill. Some Los Angeles Assemblymen condemned the bill because it gave their county only twelve seats. Said Claremont's Assemblyman Houston Flournoy, "We're engaged here in a vain and idle act, because we're not meeting the court mandate. We should not foist this off on the grounds that it will somehow take effect. I submit it will never take effect." [5]

He was right. After a stormy caucus behind closed doors the Senate decided to kill the Assembly amendments, thus requiring a conference committee. The conference committee promptly deadlocked. Assemblymen, meanwhile, decided it was time to advance their own bill, which they claimed would more perfectly meet the one man, one vote court criterion. On June 17, with the court's July 1 deadline just days away, the Assembly passed A.B. 1978, which gave Los Angeles fifteen and one-half seats. But the Senate would have none of it: it promptly amended its own bill, S.B. 6, into the Assembly's bill, and sent it right back to the Assembly, where it died on file. The Legislature adjourned with no bill and no reapportionment.

Now the courts once again entered the arena. On September 1, 1965, the California Supreme Court handed down its opinion in Silver v. Brown, the main reapportionment case. The decision required that the Legislature reapportion both houses so no district's population varied more than 15 percent from that of another. In addition, the court stated that if the Legislature failed to redistrict the court would do so itself. To put fear into the hearts of the recalcitrant legislators, the court produced its own map, showing several Assemblymen and Senators running against one another and creating a number of open seats.

Seeing the spectre of a Senate consisting neither of old Senators nor Senate-hungry Assemblymen, and facing a court ordered Assembly reapportion-

ment legislative leaders asked Governor Brown to call a special session. One Senator compared the situation to an execution, the only question being whether the court or the legislators themselves would pull the trigger.

Once the decision was made to settle the issue legislatively, the two houses began a process of compromise to come up with a solution giving as many rural Senators as possible a chance for survival, and giving Los Angeles Assemblymen the seats they craved. A further consideration entered the equation: Assembly Speaker Unruh and other Democrats wanted to assure that the new Senate remained firmly in Democratic hands -- a goal of the Senate leadership as well. But in 1965 the thought of a Republican revival seemed far-fetched indeed. The 1964 election had all but wiped out the Republicans nationwide, and Democrats held nearly two-to-one majorities in both houses. In addition, California Republicans seemed on the verge of turning their party over to its most right-wing Goldwater faction by nominating for Governor in 1966 a retired actor with Goldwater ties named Ronald Reagan. If the GOP turned to Reagan in 1966, said the pundits, it would extinguish the last embers of the old Earl Warren era, when the GOP dominated the state. In 1965 Democrats were concerned only with keeping most of the incumbent Senators happy: the need to protect the Democratic Party from a Republican resurgence was not apparent.

In drawing their compromise plan, the mapmakers started at the top of the state and formed eight rural districts which included the homes of 24 incumbent Senators. Three of the districts included four Senators each. The 1st S.D.'s Senator Collier, the powerful Chairman of the Transportation Committee and father of the state highway system, was placed in a seat with three other Democrats, but the magic wand of judicial appointment was waved by the Governor, and Collier found himself running for renomination unopposed. He was to serve another ten years in the Senate, when the court-ordered reapportion

ment of the 1970s finally did him in.

The 2nd S.D. included one Democrat and three Republicans, and was a seat generally favorable to the Republicans. One of the Republicans was freshman Senator Fred Marler, thought to be the weakest of the lot. But after 1966 Marler was still in office and the other three were gone. He, too, was finally a victim of the 1970s redistricting; he went on to serve on the Superior Court after Ronald Reagan had become Governor.

The new 3rd S.D. included four Democrats, two of whom squared off in the 1966 primary. The victor here was Stephen Teale, a highly-respected Senator who survived in something of an upset. A Republican and a Democrat were thrown together in the 4th S.D., but the Democrat retired, and Republican Senate leader John McCarthy was able to hold off a Democratic Assemblyman -- although the district on the whole slightly favored the Democrats.

The marginal 15th S.D. included two Republicans and one Democrat, and in the 1966 election Republican Howard Way and Democrat James Cobey squared off. But in the fall of 1966, with Reagan on the ballot, the Democrats found out what vote-getting was all about. Reagan carried this district with 58 percent, and Way easily out-polled Cobey.

Much the same thing occurred in the 17th S.D., which included two Republicans and a Democrat. In the general election Republican Donald Grunsky contested Democrat Fred Farr for the seat, and Grunsky easily prevailed. This was the situation, too, in the 24th S.D., where Democrat Al Weingand and Republican Bob Lagomarsino ran against one another. Here, too, Republican Lagomarsino won. Two Democrats were thrown together in the 16th S.D., but one retired and Senator Walter Stiern had clear sailing. Twenty years later, Stiern was the only Senator from the 1965 reapportionment still in office.

Northern California had another eleven districts with one or no Senator.

Large rural counties like Fresno and San Joaquin proved no reapportionment problem, and Sacramento was given a district and a half. Contra Costa and San Mateo Counties were unchanged, and three northern California counties actually gained a district each: San Francisco, Alameda and Santa Clara. The process in Santa Clara was easy: Republican Senator Clark Bradley got all the Republican-voting parts, as well as a GOP-leaning piece of Alameda County, and a new Democratic seat was drawn in San Jose, custom-made for Democratic Assemblyman Al Alquist.

San Francisco and the rest of Alameda County were a little more difficult. Democrats expected to win all four seats, but could not decide how to divide the counties. In the end, two seats were elected at-large in both counties -- California's first and last experiment with at-large representation. Democratic Senator Eugene McAteer took one San Francisco seat and Supervisor George Moscone (who later, as Mayor of San Francisco, was assassinated), faced off against Leo McCarthy (later Assembly Speaker and Lieutenant Governor), for the other. Moscone, the more liberal of the two, managed to win.

In Alameda County, Oakland's two Democratic Assemblymen -- Nicholas Petris and Byron Rumford -- decided to run for the two seats. Petris won in November, although narrowly, but Rumford was upended in his bid to become northern California's first black Senator when he lost to underdog Republican Lewis Sherman.

Where once it had 34 Senators, northern California now had 19. Drawing the 21 seats allotted for southern California -- with only four Senators seeking re-election -- was high-stake politics. In the compromise that settled the Senate reapportionment, Los Angeles received fourteen full districts and shared a fifteenth with Orange County. But Los Angeles had 31 incumbent Assemblymen, so only half of them would have clear shots at a Senate district. But which

half? It was easy to exclude some senior Assemblymen -- Republicans Frank Lanterman and John Collier, for example -- who expressed a desire to end their careers in the Assembly. Freshmen Assemblymen, too, were given little consideration. Still, that left sixteen or seventeen Los Angeles Assemblymen with some hope of a Senate seat.

Many of the world's great cities have suffered the strife of political or sectarian warfare, and have come to be divided -- some with barbed wire and cement walls. Now Los Angeles was subject to a division of a different sort. In drawing fourteen Senate districts, Los Angeles was carefully divided into Democratic and Republican neighborhoods. Democratic Assemblymen, in charge of the Los Angeles map-drawing, took no chances. Eight carefully balanced Democratic Senate districts were carved out of the center of Los Angeles County, and another was drawn in Democratic precincts in the San Fernando Valley. All but two of the twenty-one Los Angeles Democratic Assemblymen lived within the boundaries of these seats. Of the nineteen eligible Democrats, seven ran for one of the Democratic seats, and six were successful. Of the six winners, none had a close general election contest, evidence of the care with which the seats were crafted. The 1961 Unruh-drawn gerrymander had given the Democrats more than two-thirds of the Los Angeles County Assembly delegation, and the basic format of that redistricting was followed in the 1965 Senate plan. The Democrats still controlled the Governor and both houses in 1965, so it was relatively simple for them to transfer the Democratic Assembly gerrymander to the Senate districts. Despite the fact that Ronald Reagan carried Los Angeles County with 57 percent of the vote, and that four of the five other statewide Republicans carried the county, Reagan's coattails did not bring into office a single Republican Senator in Los Angeles County. Democrats elected nine of the fourteen Los Angeles Senators, and each won handily.

Republicans were left with five suburban Senate seats, and part of a sixth which was shared with Orange County. Each was heavily Republican, and four of the county's ten GOP Assemblymen ran for them. All but one was successful, again with little opposition. The unsuccessful Republican, Assemblyman Howard Thelin of Glendale, and the Democrat who failed to win, Assemblyman George Willson of Downey, both lost their own primaries, and their parties' nominees both went on to win the seats.

One prominent Los Angeles Assemblyman chose not to run for an open Senate seat, although a seat was there for the taking. After some soul searching, Assembly Speaker Jesse Unruh decided to forego a race in the 31st district, which he would have won easily. This district was to elect a Senator for a two-year term in 1966, and then for a four-year term in 1968, thus giving its occupant a "free ride" in 1970 when the statewide offices came up.

Unruh initially indicated his desire to go to the Senate, and his press secretary even prepared a formal announcement. According to Unruh biographer Lou Cannon, the Speaker "set out" to build a majority coalition he could take into the Senate, and challenge the leadership.[6] Unruh agonized over whether to make the jump to the Senate, well aware that his Republican opponents -- as well the "Old Guard" Senate Democrats -- would resent his meddling and would try to head off any takeover. In the end, Unruh decided to stay in the Assembly and retain the Speakership.

It may have been one of the worst decisions of his long career. He antagonized several Assembly Democrats who were maneuvering to succeed him as Speaker, including Bob Crown, once among his closest allies. He passed up a chance to run for the U.S. Senate in 1968 and, that same year -- to his surprise and shock -- the Democrats lost control of the Assembly and Unruh was reduced to Minority Leader. He ran for Governor from that less than lofty post in 1970,

and the surprise of that election is that Unruh came reasonably close to defeating Governor Reagan. In the same year Reagan's Republicans lost control of both houses of the Legislature, but Unruh was now out of office. Had he run for the Senate, he could have campaigned as an incumbent Senator with a "free ride" in 1970, not as the former Speaker who had been reduced to Minority Leader.

Could Unruh have taken over the Senate? Probably not. One consequence of the 1966 Reagan landslide was the election of nineteen Republican Senators in 1966, and capture of the Senate by the GOP in 1969. Unruh would have been part of a band of liberal reformers, but not the leader. Had he stayed in the Senate throughout the 1970s, though, he might have achieved the leadership, for the Democratic Class of 1966 ultimately took control of the Senate from the "Old Guard" Democrats.

That Democratic Class of 1966 included six former Los Angeles Assemblymen. The incumbent Los Angeles Senator, Thomas Rees, ran for Congress in 1966, and the district drawn for him elected Assemblyman Anthony Beilenson, a liberal Democrat. This quickly became the Senate's "Jewish seat," as West Los Angeles Jewish Democrats followed Beilenson in the seat.

The 27th and 28th S.D.s elected Democratic Assemblymen George Danielson and Al Song. The 33rd S.D. elected Long Beach Democrat Joe Kennick. And in Watts, Assemblyman Mervyn Dymally became California's first black State Senator in the 29th S.D. (Later he became the state's first black Lieutenant Governor as well.) In the southern Los Angeles 32nd S.D., Assemblyman Clayton Dills retired but his brother, Judge Ralph Dills, successfully sought the open Senate seat. Ralph Dills had served in the Assembly from 1938 to 1949.

One Democratic Assemblyman did not make it to the Senate. George Willson was narrowly defeated in the primary for the 30th S.D. by Lawrence

Walsh, a local mayor. And in the 31st S.D., where Unruh might have run, James Wedworth, the Mayor of Hawthorne, won a close primary. The Democratic seats were rounded out by Assemblyman Tom Carrell's victory in the San Fernando Valley's 22nd S.D.

Three of the five Republican seats were easily won: Assemblyman Lou Cusanovich in the 23rd district, Bob Stevens in the 25th district, and an Assemblyman who was so little known he included a phonetic spelling of his name on his official stationery: George Deukmejian in the 37th district. The Republican Assembly loser was Howard Thelin, for whom the 21st district had been custom-made. Thelin was something of a moderate in this highly conservative Glendale area district, and was upset by John Harmer, a leader of the Republican right wing and briefly the state's Lieutenant Governor in the 1970s. Harmer accused Thelin of such sins as co-authoring a congratulatory resolution for ultra-liberal Democrat Phil Burton upon his election to Congress. It doesn't seem like much now, but Harmer's conservative assault was enough for an easy win over Thelin.

The only Republican Senate seat without an Assemblyman eager to inherit it was the 19th district, where one senior Republican Assemblyman bypassed the race and another decided to retire. Almost by default the seat fell to conservative advertising executive H. L. Richardson, an unsuccessful congressional candidate in this area in 1962. Richardson introduced a new element to Senate politics: a willingness to play hardball -- a partisan brand of politics heretofore foreign to the genteel "gentlemen's club." An ideological conservative, Richardson did not always play politics terribly well, and he went in and out of the Republican leadership during his tenure in the Senate.

With that the 1966 Senate delegation from Los Angeles was complete, and nine former Assemblymen moved on to the upper house. The Class of 1966

included two future Lieutenant Governors (Harmer and Dymally), a future Attorney General and Governor (Deukmejian), and several future Congressmen. Twenty years later, two of the Class -- Dills and Richardson -- were still serving.

With Los Angeles County out of the way, the rest of southern California fell into place fairly easily. San Bernardino County, slightly oversized, had a Democratic Senator, and Riverside County, slightly undersized, had a Republican. A trade of territory was made to add some San Bernardino Republicans to the Riverside district, to help keep the San Bernardino seat in Democratic hands. It did not work, however, and one of the seats won by the GOP in 1966 was the San Bernardino County seat.

Orange County was more interesting. Speaker Jesse Unruh was looking for a way to rid himself of Assemblyman William Dannemeyer, Orange County's only Democrat but a conservative -- and often an Unruh antagonist. So the Legislature created one super-safe Republican seat for Orange County's GOP Senator, John Schmitz, and a second more marginal seat in which Unruh urged Dannemeyer to run. Actually it was nearly impossible for any Democrat to win this seat, which included not only southern Orange County but a largely Republican chunk of eastern Los Angeles County. Dannemeyer nevertheless took the bait, and was handily defeated by fellow Assemblyman James Whetmore, a Republican. Unruh came out the better in this deal: Dannemeyer was succeeded in the Assembly by an Unruh protege, Ken Cory, who held off the Republican tide in Orange County to grab one Assembly seat for the Democrats.

San Diego also featured a face off between two Assemblymen, this time in the Republican primary for one of the county's two new Senate districts. The winner was Assemblyman Clair Burgener, whose Assembly seat then fell to a young San Diego attorney named Pete Wilson. San Diego's other GOP Senate

seat remained with incumbent Jack Schrade, who had been elected countywide in 1962. The third seat, drawn to be safely Democratic, was won handily by Assemblyman James Mills.

Mills became the fifteenth former Assemblyman to win election to the Senate in 1966, and was one of 22 freshman Senators. Counting the Senators elected in 1962 and 1964, some 28 of the 40 members of the Senate were in their first or second terms when the Senate convened to greet Ronald Reagan as Governor in January of 1967. In a Senate that once prided itself on the seniority and experience of its members, only six had more than ten years of service. And to the surprise of the majority party Democrats, this new Senate was much more Republican than the old one had been. Democrats figured the GOP might win as many as fifteen or sixteen of the new seats, since so many were in the suburbs. Instead the Republicans won nineteen seats, reducing the Democrats to a two-seat edge. San Francisco Democrat Eugene McAteer died in 1967, and Contra Costa Democrat George Miller died in 1969. Both seats were filled by Republicans at special elections, so Republicans actually controlled the Senate beginning in 1969.

Despite the influx of new Senators, institutional changes were surprisingly slow to occur. Senate Democrats retained "Old Guard" Democrat Hugh Burns as President Pro Tempore until the Republicans took over in 1969, and he became one of Governor Reagan's legislative allies. Burns did not willingly step aside when Republicans achieved the 21st vote in the spring of 1969; indeed, he was kept in office by a coalition of "Old Guard" Senators which included a number of Republicans. For the most part the "Old Guard" consisted of the pre-reapportionment Senators, although not in all cases. Some of the Class of 1966 Assemblymen-turned-Senators joined the "Old Guard" once they were ensconced in the Senate. An insurgency broke out among more reform-minded Senators

and, after several tries at putting together enough votes to oust the "Old Guard," the reformers coalesced behind moderate Republican Senator Howard Way, a Central Valley farmer from Tulare County. On May 13, 1969, Way was elected President Pro Tempore in a closed-door caucus of all forty Senators. Thirteen Republicans joined eight Democrats to elect Way. Included in this coalition were thirteen members of the Class of 1966. But nine members of the Class of 1966 stuck with the "Old Guard," suggesting that the changes wrought by reapportionment were not quite the revolution people had expected.

That was underscored when less than a year later, in February of 1970, the "Old Guard" swept back into power. Way needlessly antagonized several members of his initial coalition, and they switched sides to oust him for San Diego Senator Jack Schrade, a very conservative Republican member of the "Old Guard." Again the shift was bipartisan: ten Republicans and thirteen Democrats supported Schrade, while eleven Republicans and six Democrats remained loyal to Way. Again the Class of 1966 was divided, but this time only eleven stuck with Way. Here's how the post-reapportionment Senators (Class of 1966 and later) voted in 1969:

Voting for Howard Way	Voting for Hugh Burns
Alquist	Coombs
Beilenson	Cusanovich
Carrell	Whetmore
Dymally	Dills
Mills	Kennick
Petris	Song
Danielson	Walsh
Richardson	Wedworth
Harmer	Moscone
Burgener	Marks
Sherman	
Stevens	
Deukmejian	
Nejedly	

And here's how pre-reapportionment Senators voted:

Rodda	Dolwig
Marler	McCarthy
Bradley	Schmitz
Grunsky	Schrade
Lagomarsino	Burns
Way	Short
Cologne	Stiern
	Collier
	Teale

Here is how the vote went among post-reapportionment Senators when Jack Schrade was elected in 1970:

Voting for Howard Way	Voting for Jack Schrade
Alquist	Coombs
Beilenson	Cusanovich
Mills	Whetmore
Petris	Dills
Harmer	Kennick
Burgener	Song
Sherman	Walsh
Stevens	Wedworth
Deukmejian	Danielson
Marks	Dymally
Moscone	Carrell
	Richardson
	Nejedly

And among pre-reapportionment Senators:

Rodda	Dolwig
Bradley	McCarthy
Grunsky	Schmitz
Lagomarsino	Schrade
Way	Burns
Cologne	Short
	Stiern
	Collier
	Teale
	Marler

The 1970 elections finally settled the Senate leadership for a decade. The Democrats, as much to their surprise as anyone else's, regained control of the Senate, and Democrat James Mills of San Diego emerged as a Democratic rather

than a coalition President Pro Tempore. Mills was elected with relatively little opposition. Although Republicans had a twenty-twenty split in the Senate after the 1972 election, Mills managed to hang on during the decade of the 1970s.

But even with a standard liberal Democrat like Mills at the helm, the Senate moved to a partisan alignment only very slowly. In the 1970s reapportionments, the Senate tried to achieve a bipartisan plan that all Senators could support. The Senate avoided the spoil-sport brand of partisan bickering with Governor Reagan that characterized the Assembly, and it generally tried to preserve the aura of the "gentlemen's club" well into Mills's term -- even after 1976, when the first woman joined the Senate.

Not until 1980 did the Senate throw off the last vestiges of its non-partisan past. That year Senator H. L. Richardson helped engineer a last minute attack on Democratic Senator Albert Rodda, the highly respected Chairman of the Senate Finance Committee, which led to Rodda's defeat in a stunning upset. Angry Democrats moved to replace Mills, whom they viewed as too non-partisan and unwilling or unable to protect Democratic incumbents from GOP assaults. A more partisan Democrat, Senator David Roberti of Hollywood, emerged as leader. Roberti -- himself a former Assemblyman -- promised to instill Assembly-style politics in Democratic members. The Senate produced a redistricting in the 1980s that was even more partisan than the Assembly version, and when George Deukmejian, himself a former Senator, took over as Governor in 1983, it was Roberti who picked the party fights with the Republican Governor, even going as far as to refuse to confirm a close aide of the Governor as his Director of Finance.

So went the non-partisan Senate into history some fourteen years after one man, one vote redistricting. In retrospect, the reapportionment revolution of the 1960s may not have had quite the impact on state government the courts had

promised. The institutional inertia of the California Senate seems to have overwhelmed many of the Class of 1966 Senators, protecting the Senate from radical change for many years despite the new blood brought in by reapportionment. It is also highly questionable whether the calibre of Senate membership was much improved despite the new faces. Veteran capitol observers like longtime League of California Cities lobbyist Richard Carpenter bemoaned the loss of rural Senators like Sonoma County's Joseph Rattigan -- men who were expert legislators and acknowledged community leaders long before their elections to the Senate.[7] In the "cow counties," an outstanding doctor or lawyer was sometimes called upon to run for the Senate, where he might have a small constituency but could be a major legislative player. With reapportionment, Senators represented huge metropolitan areas where they were little known and where a clever campaign or a prominent name was all it took to win office. Both of the Orange County Senators elected in 1966, Republicans James Whetmore and John Schmitz, were later to leave the Senate under a cloud, accused of wrongdoing that made their re-elections impossible. Class of 1966 members Bob Stevens and Lou Cusanovich were nearly defeated in the 1970s, and Senator Alfred Song did lose his party primary in 1978. It is hard to point to significant legislative accomplishments for many of the 22 Senators in the Class of 1966, although some -- like Democrats Beilenson and Alquist, and Republicans Deukmejian and Richardson -- were to have major political impact in later years.

One major concern of rural and conservative interests did not materialize: the state was not taken over by a bunch of wild-spending urban liberals. If anything the new Senate was more ideologically conservative than the old one, due to Republican gains. As Professor Alvin Sokolow points out in a later study of the 1965 reapportionment, "Reapportionment, in fact, may be discovered to

have had a minimal impact on a state's policy, when account is taken of such other factors as shifts in political party majorities, gubernatorial control, and changes in public opinion and interest group alignments." [8]

Indeed, some of the underlining precepts for reapportionment later came into question. The Warren Court feared that continued malapportionment of state senates would lead to "frustration of the majority will through minority veto in the house not apportioned on a population basis." [9] Opponents of "one man, one vote" amassed an array of impressive figures to argue that malapportionment had not denied Los Angeles and the big counties their due legislation. "In recent years Los Angeles County had fared well in both houses of the Legislature. . . . With 31 Assemblymen from Los Angeles County there was enough deterrent power in the Assembly to protect the interests of Los Angeles County in the Senate," wrote Senator Thomas Rees, Los Angeles's sole Senator in 1964. [10] Viewed in light of later developments, it is hard, in fact, to see where Los Angeles did gain very much -- other than more Senators -- in reapportionment.

Destroying the northern- and rural-controlled Senate had one interesting side effect not apparent until years later. California's State Water Project legislation in 1960 represented a careful compromise between southern California and the rest of the state. Its authors were Assemblyman Carly Porter of Los Angeles and Senate President Pro Tempore Hugh Burns of Fresno. With their control of the Senate, the north felt comfortable in going along with the water plan. The water project defeats suffered by Governors Jerry Brown and George Deukmejian in the 1970s and 1980s came about in large part because of northern fears of a voracious southern California devouring all their water. Both houses of the Legislature were in southern California hands, but had one house still been controlled by the north, it is possible northerners could have been mollified: they

would have felt they had a barrier against southern California. The Peripheral Canal, for instance, passed the Legislature but was repealed by the people because of an overwhelming "no" vote in northern California. The old rural Senators were no longer there to assure their constituents they would be protected. As a consequence, California faces a water crisis in future years without the legislative mechanism to resolve it.

It will be ironic indeed if the constitutional changes which gave southern California control of both houses of the Legislature ultimately result in a cut-off of northern water, turning that blossoming and burgeoning part of the state back into a desert.

Redistricting the Assembly and Congress: The First Bipartisan Gerrymander

Although the California Senate stood at centerstage in the reapportionment battles of the middle 1960s, the Assembly and the congressional delegation also passed through a period of uncertainty. The Silver v. Brown decision, mandating the Senate reapportionment, also required the Assembly to bring all of its districts within 15 percent variation. One aspect of the 1961 Unruh gerrymander was its overrepresentation of Democratic San Francisco with five seats, and its underrepresentation of Republican Orange County with only three seats. In 1965 the Assembly was forced to rectify this, but Unruh managed to keep the partisan balance by collapsing the last San Francisco Republican seat and sending it south to Orange County.

That was the Marina- and Richmond-district seat of GOP Assemblyman Milton Marks, who was -- in 1965 -- the last elected Republican in San Francisco. Marks had succeeded Assemblyman Caspar Weinberger in the Assembly in 1958 when Weinberger took an unsuccessful leap at becoming state Attorney General. In 1965, Governor Edmund G. Brown was prevailed upon to

appoint Marks to a judgeship. Marks quietly left the Assembly in 1966, only to return a year later when a special election opened up a San Francisco Senate seat. With Marks's departure the last Assembly Republican from San Francisco faded into history. San Francisco had regularly returned Republicans to the Assembly, even during the height of the Depression, and until the middle 1950s half of the San Francisco Assembly delegation was Republican. But throughout the 1960s the GOP voting base was contracting, both in San Francisco and across the Bay in Alameda County. Even if Unruh had not collapsed the Marks seat in 1965, it probably would have turned Democratic within a dozen years, although Marks's success as a GOP Senator suggests he might have held it for some time. In Alameda County, though, the last Republican Assembly district, that of Assemblyman Don Mulford, went to the Democrats in 1970. The days of the urban Bay Area Republicans were coming to an end.

Unruh made only minor changes elsewhere in the state, but two of those had a major impact on his later career in the Assembly. It was necessary to detach Santa Cruz County, then heavily Republican, from Monterey, and Unruh saw to it that Santa Cruz was joined with Merced County in an oddly-shaped coastal to Central Valley district. This made the re-election of Merced Democrat Gordon Winton virtually impossible and, sure enough, in 1966 he lost to Republican Frank Murphy of Santa Cruz.

Unruh was not in the habit of denying Democrats their districts, but Winton had had the audacity to challenge him for Speaker, and Unruh was just as happy to see him gone. Another Unruh antagonist was San Jose Democrat William Stanton, who attacked Unruh from the Democratic Party's left wing. His San Jose district was reshuffled to give him more Republican neighborhoods, but no one seemed to think it would cost him his seat. But in 1966 the Reagan coattails carried far down the ticket, and Stanton was upset. Unruh had unkindly

reapportioned those two Democrats at a time when he had 49 Democrats in the Assembly, but after the 1966 election that number was reduced to only 42 Democrats. In 1968 Republicans managed to knock off three more of Unruh's Democrats, and his party lost control of the Assembly. Had Unruh left Winton and Stanton alone in 1965, he might have prevented the Republican takeover in 1968.

California's congressional districts were also subject to a wildly successful gerrymander in 1961, resulting in Democrats winning 25 of the 38 House seats in 1962. But that gerrymander reached too far, and by 1965 Republicans had cut the Democrats back to 23 seats. One man, one vote also affected Congress, and it was obvious that those seats would have to be realigned too. But there was no court order in 1965 requiring it be done immediately, and both Democrats and Republicans in the Legislature were too busy with the vast undertaking of reshaping the Senate to bother much with Congress. So the needed realignment of California's 38 congressional districts was put off until the 1967 session.

The assumption was that Unruh would do the necessary congressional redistricting once he got around to it. "Let Jesse take care of it,"[11] was the congressional delegation's view, according to one close observer. But then in 1966 an interesting thing happened: Ronald Reagan was elected Governor, and all of a sudden the Democrats no longer had a free hand in redistricting. They would now have to share the task with the Republican Governor, his minority Republicans in the legislature, and the congressional delegation. The 1966 election also cost the Democrats several seats in the congressional delegation, including that of Democratic Rep. Harlan Hagan of Tulare, who had headed the reapportionment effort for the congressional delegation. But he found an eager successor in a two-term congressman from San Francisco named Philip Burton, who claimed "some expertise" in the area, and early in 1967 Burton emerged as

the man in Washington to deal with on congressional redistricting. He had even hired a consultant for the delegation, Dr. Leroy Hardy of Long Beach, and sharpened his pencils. Hardy described Burton's involvement in reapportionment as a "crusade-like furor." [12]

Burton's role would not be an easy one. As an Assemblyman he had incurred the unending wrath of Speaker Unruh, and his partisanship in the House left numerous Republicans suspicious of his motives. And, due to Ronald Reagan's election, Republicans could now play a role in the congressional reapportionment. The two prior congressional redistrictings had been the most partisan gerrymanders in California's history, with the Republicans running the Democrats into the ground in 1951 and with Democrats repaying the deed in 1961. Now California would see the first bipartisan reapportionment in recent history -- if the state was to have any realignment of congressional districts at all.

The 1965 California court decision that forced the Senate and Assembly to reapportion had been silent on congressional districts, although decisions in other states strongly suggested the population variance in California districts was too large to permit them to remain as they were for the rest of the decade. And there were growing partisan interests. In 1961 it appeared that Democrats would hold the congressional delegation by wide numbers, but by 1967 subtle changes had occurred in the Democratic constituencies which endangered many incumbents. White working-class neighborhoods no longer returned solid Democratic majorities: Ronald Reagan had carried them in droves in 1966, and Republicans had already picked up three Democratic working-class districts in Los Angeles County. Other Democrats sensed possible defeat in 1968 and 1970 if their working-class constituents were to defect. The 1961 gerrymander had spread the Democratic vote out in order to expand the number of Democratic opportunities,

and now that spread was growing thin. Some Democrats began to think another reapportionment would be necesary to save themselves from future defeat.

Throughout 1967 the question of congressional redistricting reverberated through the Legislature. But politicians will not make a difficult decision until it is absolutely unavoidable. Although some Democrats had wanted to proceed with congressional reapportionment from the start of the 1967 session, others -- like Speaker Unruh -- were not anxious to wade back into the quagmire that had consumed so much time in the 1965 session. He also anticipated -- rightly, it turned out -- a difficult session with the new "citizen politician" in the Governor's office and increased Republican numbers in both houses. He saw no reason to add to his difficulties by putting reapportionment on the agenda.

But as the year wore on the rationale for a new congressional plan increased. Democrats looking forward to the 1968 election liked less and less what they saw. The Vietnam war dragged on interminably; Lyndon Johnson's popularity continued to plummet; and the Democratic Party began to divide internally over the war issue. Re-election jitters increased, particularly among Democratic congressmen, who could see the potential for more losses.

And the Republicans had an interest in moving forward too. The GOP had been badly scarred by the 1961 plans, but the sudden shift of the state back in the Republican direction had allowed them to win six formerly Democratic seats, including those of three Democratic incumbents in the 1966 election. Republicans held 13 of the 38 congressional districts following the 1962 election; now they held 17. A new reapportionment would permit Republicans to insure the booty, to shift these seats around in such a way that the 17 Republicans remained safe. In this way, the worst aspects of the 1961 plan could be reversed: Republicans could at least improve the districts they had taken from the Democrats, if not add future districts to the total.

So both parties' interest slowly developed, and the possibility arose of fashioning a bipartisan districting plan. The problem was that no one was exactly sure how to do it. At about the midpoint of the 1967 session, freshman Democratic Senator James Mills, who had never been an activist in reapportionment, developed a plan and took it to Washington for viewing by various congressmen. Republicans were quick to denounce his proposal as a Democratic plan to help them gain seats. And shortly thereafter a special Senate election in San Francisco gave the Republicans their twentieth member in the Senate, thus splitting the house between the two parties. Without a Senate Democratic majority, the possibility of the Legislature passing the Mills plan faded.

Republicans then came forward with their own plan, developed by Assemblyman Charles Conrad, a reapportionment expert from the GOP salad days in the 1950s. He called it the "minimum change plan." Democrats did not think it was a minimum change at all: they saw subtle attempts to weaken marginal Democratic congressmen, and made it clear the plan would never pass the still-Democratic Assembly.

Two more events further muddied the waters. Dr. Hardy, who had left the pay of the congressional delegation, developed a plan for a private client which showed that it was possible to redistrict the congressional seats down to a 1 percent population variation -- something that had never been done before. But his plan unsettled Congressmen of both parties, for it had been drawn without congressional or legislative input. And the California Supreme Court got back into the picture. Tired of waiting for the Legislature to act on congressional districts, the court did basically the same thing in 1967 that it had done in 1965. The Court responded to a suit filed by Los Angeles attorney Phill Silver, who had also sued in 1965, and set a deadline for the Legislature to act. Although the court had not required redistricting of Congress in 1965, similar cases in other

states convinced the Justices that reapportionment was necessary in 1967, and so the court stated: "In the event 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." [13] Congressmen had nightmare visions of the court adopting the low-variance Hardy plan, or drawing one itself. So the decision was made: let's get together and do it ourselves. Governor Reagan called a special session for November 7, and the Congressmen rehired Dr. Hardy.

Throughout October, in a series of private meetings, the congressional delegation tried to work out a plan all 38 congressmen could endorse. A bill sponsored by Assemblyman Jack Fenton, Chairman of the Assembly Elections and Reapportionment Committee and a close Unruh ally, was drafted. Not surprisingly, the first version of the bill assisted those congressmen allied with Unruh and damaged several who had opposed him. Republican legislators meanwhile put forth their own bill with Assemblyman Conrad's "minimum change plan" as its basis. But in Washington their colleagues were huddling with Democratic congressmen and, prodded by the hyperactive Burton, were busy negotiating their own plan.

Into the midst of this sensitive process waded the Wall Street Journal with a front-page article on November 9 headlined: "Massive Gerrymander Mapped in California by 38 Congressmen: GOP, Democratic Lawmakers Quietly Carve New Districts Designed for Mutual Benefit." The article described in great detail several district trades being negotiated under a subheadline: "Swapping Constituents is Fun." Wrote the Journal in its lead: "California's 38 congressmen, who seldom unite on anything, have quietly agreed upon what may be the greatest bipartisan gerrymander in U.S. history."

The article went on to quote Democratic Congressman John McFall of

Stockton in a one-sentence summary of the art of reapportionment, one man, one vote style: "The courts have said the people are entitled to one man, one vote, but there is nothing that says they are supposed to elect different congressmen." Added another Democrat: "Earlier in the year it was hard to think of undercutting the comeback chances of Democratic colleagues who had 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."

Consultant Hardy was quoted as saying of the negotiations between the various congressmen: "They were a bunch of wallflowers at first, but once we got them dancing it was hard to get some of them to stop." [14]

A reaction was not long in coming. Congressman McFall denounced the article as "unreasonable, unfair and untrue . . . I suppose you can say we conspired not to hurt each other, if friends can conspire to do that." [15] Dr. Hardy protested that he had not called his employers "wallflowers," but rather had said: "Most members were reluctant to get involved in reapportionment . . . (but) once the writing was on the wall, they acted, and the results were sometimes startling." [16]

The Journal described three mutual "neighborly exchanges" it said reflected the bipartisan nature of the process. Indeed, those exact exchanges were occurring. In San Bernardino County, freshman Republican Jerry Pettis, who had defeated a Democrat, was ceding Democratic voters to Democratic Rep. John Tunney of Riverside County, a two-term member who had defeated a Republican. The exchange strengthened both men. The same was the case in eastern Los Angeles County and in Orange County. Republican Charles Wiggins of El Monte had won one of the 1961 Democratic seats and his district was extended into Orange County, thereby making it safe for Republican Wiggins. Meanwhile,

Democratic Rep. Richard Hanna, in another 1961 Democratic district, donated Republicans to Wiggins, thereby helping him. Hanna was the only Democrat in Orange County, and this exchange saved him from defeat in 1968.

Democrats had tried to assure themselves two districts in the San Fernando Valley in 1961, but in 1964 GOP businessman Ed Reinecke won one of the seats, and in 1966 a Republican nearly defeated Democratic Rep. James Corman for the other. So Corman was anxious for a trade, and the Reinecke seat was reshaped to stretch from the western San Fernando Valley well into Kern County in a way that made it more Republican while leaving Corman's district more Democratic.

The Wall Street Journal missed some of the "neighborly exchanges." In northern California, Democrats had tried to capture the marginal district of Republican Rep. William Mailliard of San Francisco by adding Democrats in 1961. Now Mailliard and neighboring Rep. Phil Burton exchanged some areas to bring up Mailliard's GOP registration, and most of Marin County was added as well. GOP Assemblyman William Bagley of Marin County was interested in a future congressional bid, and so a division of Marin County was agreed upon, creating what was known as the "Burton-Bagley line." [17]

Some of the exchanges were more esoteric. In West Los Angeles Congressman Alphonso Bell, something of a liberal Republican, had a seat he found too Republican, and wanted to lose conservative GOP precincts in the Palos Verdes Peninsula. He wanted to absorb more of Los Angeles City, as he was planning a race for Mayor. But this was "pocketbook" Democratic territory: it would vote for a liberal Republican like Bell but provided campaign contributions for Democrats. Democratic Rep. Thomas Rees was also looking at a race for Mayor, and he wanted those "pocketbook Democrats." Ultimately Rees prevailed, and for a very simple reason: as a former Assemblyman and Senator he

still had friends in Sacramento; Bell had never served in the capitol.

The scene switched to Sacramento as the congressmen put the finishing touches on these "neighborly exchanges." There, a six-member conference committee, consisting of three Republicans and three Democrats, convened and rubber-stamped the congressional delegation's plan. Some Republican Assemblymen, led by Assemblyman Conrad, complained that the bipartisan gerrymander would keep their party from making additional congressional gains, and insisted that the GOP should hold out for more. Indeed the Republicans picked up only one more seat in the rest of the decade, coming when Democrat John Tunney ran successfully for the Senate in 1970 and abandoned his marginal district. But others wanted to settle the disputes before the court stepped in and drew its own plan, and on December 6 -- one day before the Supreme Court deadline -- acting Governor Robert Finch signed the congressional bill that had emerged from the conference committee. It looked almost exactly like the bipartisan gerrymander prophesied in the Wall Street Journal.

How well did it work? Here are the changes in Democratic Party registration in three seats the Republicans had picked up in 1964 and 1966, and the registration of the neighboring marginal Democratic districts, both before and after reapportionment.

Republican Seats	Dem Reg Before	Dem Reg After
25th District (Wiggins)	60.1	50.0
27th District (Reinecke)	57.8	48.9
33rd District (Pettis)	56.1	52.0
Democratic Seats		
34th District (Hanna)	50.9	52.2
22nd District (Corman)	53.8	57.2
38th District (Tunney)	53.0	53.1

Conclusion: How Good a Gerrymander?

Was this the greatest bipartisan gerrymander in American history, as the Wall Street Journal described it? It certainly took the art of bipartisan backscratching to new heights, and no incumbent congressman lost in either of the two elections held under this plan. As a matter of fact, no incumbent House members lost in California between 1968 and 1972, and only one open seat changed parties. Whether or not it was the greatest gerrymander in history, from the incumbents' viewpoint it certainly was an effective one.

The 1967 congressional redistricting marked a new phase in California's reapportionment saga in several ways. It was the first time the congressional delegation itself had drawn a plan: in both 1951 and 1961 the Legislature did most of the work and presented a finished product to the congressional delegation. This time the delegation -- one that agreed on very few issues -- got together in its own interest to resolve the problem with relatively limited input from the Legislature and none from the courts. This was in no small part due to the persistence of Rep. Phil Burton. He accomplished two things through his 1967 involvement: he became the delegation's spokesman on reapportionment, the man the other members would permit to draw the lines and negotiate the deals; and he protected both parties. Burton himself later described his role as protector of the state's seniority in Congress: he would make sure the senior members of the delegation had safe seats. This meant they would rise on the committee ladders and be able to safeguard the state's interests in Washington without having to worry about their political skins back home.

Not only were senior Democrats helped in 1967, but no Republican was harmed, so Republican congressmen were inclined to pressure their GOP colleagues in Sacramento to back the delegation plan. Some Republicans complained that the party could win more seats if the Republican base were

more spread out, but Burton was able to quiet them by effectively using GOP congressmen to cement his deal. Although a strong liberal, Burton managed to strike up a relationship with Congressman H. Allen Smith, a conservative Republican from Pasadena, and Smith helped sell the delegation plan to Republicans.

This was also the first redistricting in which county lines were thrown to the wind, not only in restructuring the Senate, but also in drawing many congressional districts. Dr. Leroy Hardy, Burton's technical expert, admitted that the decline of the county line as a redistricting guide could open the doors to gerrymandering, but also argued that they were a relic of nineteenth century divisions of the state and really didn't reflect the metropolitan nature of California today. "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 Legislature recognizes their common problems that make county lines superfluous." [18]

This may be a bit more praise than the plan actually merited, and indeed most of the configurations of the 1960s were gone by the early 1980s. But it does make the point that county lines don't make sense in many areas of the state. Unfortunately, neither do many districts. One example is the 27th C.D. crafted for Republican Rep. Reinecke, with its long reach into Kern county, and two arms into diverse sections of the City of Los Angeles.

And there were other less beneficial side effects of the mid-1960s reapportionments. The one man, one vote revolution that began with Baker v. Carr culminated in 1969 in a case called Kirkpatrick v. Preisler in which the U.S. Supreme Court held that congressional districts should attempt to achieve

"precise mathematical equality."[19] This led to a near-total abandonment of county lines, especially when the new standard was extended to legislative districts. This meant a Phil Burton could dream up endless variations for districts so long as each was mathematically equivalent to every other district. So the extreme application of one man, one vote opened even further the door to gerrymandering.

As gerrymandering was refined as a political tool, Sacramento and Washington politicians came to appreciate the benefits it provided in eliminating marginal and competitive districts. In previous redistrictings gerrymandering had been used by one party to punish the other party and, if the dominant party overreached, marginal districts would result when the dominant party's political base was spread too thin. The 1965 Senate plan was different in that Assemblymen of both parties received safe Senate districts which, at least in the metropolitan areas of southern California, remained impregnable by the other party. In the congressional plan, this division of the districts into safe Democratic ones and safe Republican ones was spread statewide; as a result, politicians on both sides of the aisle had less reason for re-election concern. As the Wall Street Journal had so rightly noted, swapping constituents was fun, and terribly beneficial for the incumbents who did it.

Out of the one man, one vote revolution of the 1960s a whole new cottage industry was born: the wallflowers had learned to dance with a sophistication that would preserve their political careers regardless of the whims of a mercurial electorate.

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ENDLESS STALEMATE:

CALIFORNIA'S 1971 - 1973 REAPPORTIONMENT

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"Not only has 1971 so far been the quietest reapportionment year in memory, but the prospects are that when things finally do get rolling . . . a relatively peaceful conclusion to a usually harsh battle will ensue."[1] So said the California Journal in its June analysis of 1971 reapportionment politics. The Journal had good reason for optimism: the 1971 redistricting involved a Republican governor and a Democratic legislature -- the same situation that had existed at the time of the 1967 bipartisan congressional remapping -- and legislators seemed to be going about their task with unusual caution. It was already June -- by this point in past reapportionments, redistricting plans had been in final form -- and not a single line had yet been seen. This decade's redrawing would be more deliberative, less hostile. So the pundits thought.

But below the surface of this apparently breezy reapportionment year seethed a cauldron of concerns that in a moment could ignite reapportionment passions, and indeed it did just that. This was the first year that computers played a large role in the redistricting process. In the past, reapportionment technicians had depended on hand calculators and limited data. In fact, the 1961 data had consisted of file cards outlining the political behavior of each census tract, and large hand-colored maps. One could only guess at the district-wide effects of adding and subtracting census tracts. The computer, on the other hand, allowed a quick summary of political and census data. Tracts could be added and subtracted from a proposed district, and the impact was available immediately. One computer system drew its own maps with precincts color-coded for Democratic and Republican registration. An endless variety of districts was possible -- all without the tedious hand counting of past redistricting efforts.

This would also be the first reapportionment in which exact population equality was required of all districts. No district, it was generally conceded,

could vary more than a single percentage point from the state average, and reapportionment experts promised districts with variations well below that. But exact populations also meant that city and county boundaries were no longer relevant, and the computer made it possible to tell quickly what occurred if far-flung bits of territory were combined in the same district. A politician's knowledge of an area was less important than the computer's printout on its political behavior. The practical restraints which had kept past districts compact and homogeneous were tossed out the window.

This technical precision burst on the scene at a time of heightened political uncertainty. That brief period between the end of the civil rights movement and campus riots of the 1960s and the Watergate scandal of the 1970s was a time of political flux in California. For all the fancy new computers, those responsible for reapportionment had little sense of where California politics was heading, and they had less confidence in the traditional political milestones. More than ever, they needed assurance in this reapportionment that the districts they drew would indeed re-elect the incumbents as they were designed to.

The Democratic Party that had masterfully gerrymandered California in 1961 was all but extinct before the decade was out. Carelessness and the desire of then-Speaker Unruh to punish some political enemies had cost the Democrats their vaunted legislative majorities in 1968 and 1969, leaving Republicans in charge of the legislature and -- presumably -- the 1971 redistricting. When the civil war in the Democratic Party erupted in the streets of Chicago in the summer of 1968, it brought an end to the old labor union-urban liberal coalition that gave the party its 1960 victories. Racial antagonism had further splintered the party, as had violence and the rise of radicalism. The minority Democrats faced the 1970 election -- the last one to be held under the plans they had drawn -- with a mixture of skepticism and downright dread. Not only was the party

limping toward another defeat with its various wings in splinters, but Governor Ronald Reagan, armed with an enormous campaign warchest, grandly marched toward a sure million-vote re-election.

Then the mercurial California voter spoke once again. Unseen by the Republicans was a growing recession in the electronics and areospace industries, hitting the pocketbooks of surburban Republican voters. Campus radicals made a lot of noise, and were a good target for Republican campaigners, but behind them thousands of ordinary students, opposed to the now-Republican war in Vietnam that President Nixon had inherited from Lyndon Johnson, were prepared to vote en masse against any Republican on the ballot. Democrats found a new political hero in dashing young Congressman John Tunney running for the U.S. Senate against aging Republican incumbent George Murphy. And a bright 34-year-old three-term Assemblyman who held a committee chairmanship in the Republican-controlled Assembly, Democrat Bob Moretti of North Hollywood, began raising money and pumping it into Democratic campaigns. Election night 1970 was to be one of the rudest shocks in modern times for the Republicans.

Five incumbent Assemblymen -- three freshmen, one of the 1966 winners, and veteran Berkeley Assemblyman Don Mulford -- went down to defeat. Mulford had been the most outspoken opponent of campus radicalism, but his Berkeley district changed politically and he was beaten by a coalition of activitists and anti-war students. Two Senate seats were also lost. This left Republicans with only 37 seats out of 80 in the Assembly, and 19 of 40 in the Senate. John Tunney had defeated Senator Murphy by an even larger margin than that by which Governor Reagan won re-election. A chagrined Reagan had seen his 1966 margin cut in half.

While Republicans were still reeling from the unexpected loss of their legislative majorities, Democrat Moretti -- with the assistance of those fresh-

men Assemblymen he had helped elect -- quickly rounded up sufficient votes to elect himself Speaker. Moretti had never been in the Democratic leadership before, but he was now the boss. And he brought with him into major Assembly positions others of the newer Democratic members, including the "Peck's bad boys" of the caucus, San Francisco Assemblymen John Burton and Willie Brown, who had been on the outs during the years of Jesse Unruh, as well as Orange County's only Democratic Assemblyman, Ken Cory. Moretti put second-term Assemblyman Henry Waxman of west Los Angeles in charge of the all-important Assembly Elections and Reapportionment Committee.

The Democratic majority in the Senate also elevated its newer members to positions of power. The 1970 GOP defeat was the "Old Guard's" last gasp because it cost Republican President Pro Tempore Jack Schrade his job. He was replaced by Senator Jim Mills of San Diego, who had sided with reformers during the Way-Schrade leadership fights of the 1960s. Mills appointed another of his Class of 1966 colleagues, Senator Mervyn Dymally of Los Angeles, as the Senate reapportionment chief. Dymally was the Senate's only black member, and his ascension to that position meant minority interests would -- for the first time -- get some attention in the reapportionment process.

Republicans had confidently expected to handle the 1971 redistricting themselves: while still in the majority they had contracted with a southern California computer firm and began preliminary data gathering. GOP members looked longingly toward remapping the state to empower the emerging Republican majority they believed had come to California with Reagan's triumph. In the files the Republicans were forced to surrender to Democrats in early 1971 was a letter from one Republican Assemblyman to another which suggested: "The number one priority in reapportionment should be to elect the highest number of Republicans. . . . Democratic districts should be drawn to protect the least

effective members of the minority party. The resulting GOP revamping would be a balanced and representative plan which in reality is totally designed for partisan purposes."[2]

The Republicans had good reason to whet their appetites as 1971 approached. The preliminary census data showed big growth in Republican-held areas of the state, and in GOP legislative districts. Jamming Democrats into a limited number of seats in areas of declining population would not be difficult. This could be a GOP gerrymander that met the strict one man, one vote standard, while giving additional representation to growing suburban -- and Republican -- counties.

But that was not to be. As the GOP leaders assembled their reapportionment team in the spring of 1971, their only assets were the governorship and a headstart in the redistricting preparatory work. The Republicans decided their reapportionment effort would be captained in the Assembly by then Minority Leader (and former Speaker) Bob Monagan of Tracy and two-term Assemblyman Jerry Lewis of San Bernardino. In the Senate, John Harmer of Glendale, a GOP member of the "Class of 1966," would lead.

Except for Monagan and Mills, none of the principals had been members of the legislature in 1961 when the last full remapping had taken place, although several had been around for 1965's one man, one vote Senate reapportionment. They would, however, make up in enthusiasm for battle what they lacked in experience. Two other important figures had some redistricting experience. Maneuvering in the shadows of the Capitol in Washington was the "cunning" -- as one observer put it -- Congressman Phil Burton, intensely negotiating a new congressional district plan. And then there was Governor Ronald Reagan. Always under-estimated by the Democrats, Reagan was not necessarily going to content himself by playing the passive role he had played in the 1967 congres-

sional districting: if the new majority party tried to repeat what their counterparts had done in 1961, Reagan would be heard from. The Democrats would ignore him at their own peril, as they had painfully learned -- or failed to learn -- on so many occasions in the past.

For the Democrats, having the power to reapportion and actually doing so were two very different things. A look at migrations within California showed that the new majority party had a big problem: almost all the growth was in Republican-voting areas, and this time around districts could not vary in population for political purposes: all districts would have to contain an equal number of people.

The major growth counties were generally Republican-voting, the losing areas Democratic. Los Angeles County would lose two Assembly seats and a Senate seat, unless districts could be rippled from the city's center out into the suburban counties. San Francisco would lose a full Assembly district and part of a Senate district; Alameda County stood to lose an Assembly seat.

All these losses would normally come out of the Democrats' hides. They held all but one of the legislative districts in San Francisco and Alameda Counties, and most of the seats in Los Angeles County. "Given the choice between keeping current legislative district lines and conducting a reapportionment we control, I would choose keeping the existing lines," said one Democratic political expert.[3] Even if all the Democratic seats were preserved in the inner cities, it would still be necessary to move incumbents into new territory to save everyone -- not a pleasant prospect. And the major growth in California had occurred in Orange County, which grew from 700,000 to 1.4 million people during the 1960s. This was California's most Republican county, and it would need additional representation.

Congressional districting presented a different problem. Because Califor

nia as a whole grew by 25 percent during the previous decade, the state was entitled to five additional congressional districts. Only 10 of the 38 current congressional districts were undersized, and none would actually have to be collapsed or moved elsewhere. Five new seats could be carved out without undue harm to current incumbents. The Senate and Assembly, with fixed numbers of seats, lacked such maneuverability. And the Senate also had a regional problem: in order to ease the difficult transition from the old "federal Senate" to one man, one vote in the 1960s, northern California had been slightly overrepresented. The new population figures made it clear that one northern Senate seat would have to be moved to southern California. Which one? No northern incumbents were planning to retire.

Throughout the spring and summer of 1971 technicians working for both sides analyzed and digested these figures, while preparing their computer databases. The Republicans had a technical edge because they had started first, and Democrats had to spend the first nine months of 1971 developing their technical effort. The Assembly Democratic effort was headed by Michael Berman, a close ally of Assemblyman Waxman, and Democrats had contracted for computer services with American Computer Resources of Los Angeles, which had political ties to Assemblyman Cory. Congressman Burton's congressional effort was also aligned with the Assembly Democrats, and he had once more retained Professor Leroy Hardy of Long Beach State College as his consultant. Senate Democrats built their own data network with Systems Development Corporation of Santa Monica, and hired Alan Rosin as their top technician. Rosin and Berman were on the legislative payroll and were headquartered with professional staffs in state office buildings in Sacramento. Hardy was on a private payroll working out of Long Beach.

Republicans chose to unify their technical effort under the Republican

State Central Committee and, being in the minority, they were unable to hire a state-paid staff, although employees of both the Senate and Assembly GOP caucus staffs eventually were put to work on reapportionment. Republicans centralized their effort in the offices of Compass Systems Incorporated, a San Diego company largely funded by the Republican Central Committee. The GOP hired Professor Alan Heslop of Claremont Men's College to oversee their effort, and Thomas Hofeller, also of Claremont, for the technical and computer work.

And then, with staff and computers in place, everyone waited. June passed with hardly a peep about reapportionment. July and August passed. Then, on September 8, the first plan appeared. It was not, however, the official redistricting plan promised by the Democrats; instead this first plan came from the Assembly Republicans. With their technical headstart, the Republicans had managed to complete work on a plan first, and decided to go public with it.

The Republicans' plan, A.B.1971, was hardly a final effort: it was intended as a public relations tool to put pressure on Democrats to redistrict in a manner Republicans would find acceptable. The plan, passed out to the press with accompanying maps and charts, made much of its effort to keep cities together and to respect traditional communities of interest. It also created three more potential Hispanic Assembly districts -- in response, Republicans said, to the demands of minorities for more seats. A fourth black district was also created in Los Angeles. Republicans took great pride in the fact that each district came within 500 persons of the ideal population -- more than meeting the one man, one vote criterion -- and that the districts were fairly compact and looked reasonable.

But the Republicans also had a not very secret political agenda. A.B.1971 shifted three safely Democratic districts from the inner cities to the suburbs, making them safely Republican. Another seven Democratic districts were

increased in Republican registration enough to endanger the incumbents. Only two Republican districts suffered drops in GOP registration, and this was in order to bolster GOP registration in neighboring districts. Among the districts changed from Anglo to Hispanic were those of Assemblymen Jack Fenton of Montebello and Walter Karabian of Monterey Park -- two of Speaker Moretti's closest lieutenants.

Democratic leaders reacted to this first GOP thrust with sarcasm, disdain, and more than a little displeasure: the Republicans had gotten to the public first with a reapportionment plan which, of course, had received a fair amount of press around the state. Assemblyman Waxman grandly "dismissed" the GOP plan as nothing but "transparent gerrymandering" and a "partisan Republican stunt which makes no positive contribution to the serious task of reapportioning the state legislature."

He claimed that between eight and twelve Democratic seats were eliminated. This is perhaps a little high, as actually only three seats were eliminated per se. He claimed, too, that the plan would give Republicans an Assembly majority for the next decade. This was not inaccurate. But, noted Waxman,

> The voters have given Democrats majorities in both houses of the legislature, and the legislature reapportions itself. This simply means that Republicans are going to have to suppress their envy and disappointments and work with the Democratic majority towards passage of a reapportionment bill . . . which reflects the political reality of Sacramento this year.

Waxman was also highly critical of the Republican attempt to woo minorities. "It is outrageous and incredible that the Republican Party, which has blocked every piece of social economic legislation, . . . now tries to conceal its partisan interests behind a banner of concern for minorities."[4] Clearly the GOP's sudden embrace of Hispanic and black interests in reapportionment had touched a sensitive nerve. Minorities were too important a cog in the

Democratic coalition to be dismissed as blithely this time as they had been in 1961. At one of the public hearings on reapportionment earlier in the year, an Hispanic leader had proclaimed: "Hearings produce false hopes for minorities. Many of our people have gone underground. An effort is underway for armed rebellion."[5] Calmer voices in the Hispanic community were promoting a "three-three-seven plan" -- the idea that Hispanic congressional districts should increase from one to three, Senate districts from none to three, and Assembly districts from two to seven. This would require lumping all the minority communities into single districts, something the Democrats opposed vigorously. Waxman reminded Hispanic leaders that "demographic changes between 1960 and 1970 have operated to the disadvantage of Mexican-Americans. The areas that have gained most heavily as a result of the new census figures are predominately Anglo counties."[6]

Former Speaker Jesse Unruh was more direct. He noted in a newspaper analysis that fragmenting the Los Angeles minority communities in 1961 led to election of more Democrats because the Democratic base was spread out.

> To give the (Hispanic) militants what they want would seriously cut into Democratic strength in the legislature and Congress. And such a move would surely be political suicide in a year when migration to the Republican suburbs and dwindling inner city populations have already made it extremely difficult for the Democrats to carve out any new relatively "safe" Democratic districts. 7

It was obvious there would be no three-three-seven plan, although -- in the Senate at least -- Democratic leaders were committed to establishing one Hispanic district in central Los Angeles.

The Republicans' A.B.1971 was quickly forgotten, but it had two side effects. It marked the first of 24 Assembly and Senate reapportionment plans that would surface in the course of the next two years. And it led to the first round of bargaining between Assembly Democrats and Republicans. A month

after the Republicans went public, Democratic leaders called Republicans to their office and made quite clear their intentions in the reapportionment of 1971.

Assembly and Senate Reapportionment: The Initial Plans

For the majority party Democrats, the actual development of redistricting plans involved two diverse strategies. In the Senate, Democrats wanted to resolve the matter as quickly as possible. No Senate Democrat felt he was in danger of losing his district. Senator Dymally promised Hispanics one Senate district, and one seat would have to shift from north to south. But Senate Democrats would be happy with a bipartisan solution that kept the existing party ratios and would obtain a signature from the Republican governor. The Senate was still the "gentlemen's club" it had been before the days of one man, one vote, and redistricting was a distasteful -- albeit necessary -- process that should be disposed of as quickly as possible.,

But the Assembly was another matter. Democratic leaders were not at all confident they could sustain a majority throughout the decade of the 1970s. They worried that the 1970 election had been a fluke. Democrats still held a number of very marginal districts, and there was great uncertainty as to the direction the political winds were blowing. Speaker Moretti decided that to protect his Speakership his party had to gain seats in the Assembly reapportionment. And Assemblyman Waxman had a private political need: he wanted badly to create a seat in west Los Angeles for his close friend and campaign manager, Howard Berman -- older brother of Michael Berman, his redistricting expert. Waxman knew just how to go about this.

This was the situation when the curtain rose on the 1971 reapportionment. First, the Assembly.

On October 6, Democrats gave Republicans a map of their proposed new Republican districts, and asked for GOP support. While there were 37 GOP Assemblymen, the maps only provided for 35 seats -- and not all of these were to the Republicans' liking. Gone were the seats of Assemblymen Charles Conrad of Sherman Oaks and Floyd Wakefield of Southgate, and weakened were those of Assemblymen Pete Schabarum of Covina, Frank Belotti of Eureka, and Ken Maddy of Fresno. The Democrats explained their reasoning.

Charles Conrad's seat was growing more Democratic, and his district was divided into five pieces, his home ending up in Speaker Moretti's district. Excess territory was rippled south and his seat was recreated around Culver City as a safely Democratic and heavily Jewish district -- made to order for Howard Berman. Conrad, one of the veterans of the 1951 and 1961 redistrictings, had come to the Assembly in 1946 and had served as Speaker Pro Tempore and Minority Leader, but the GOP had dumped him as Minority Leader in 1965. He was now 62 years old, and the Democrats made it clear it was time he retired.

Floyd Wakefield had a somewhat different problem. Elected in 1966 in a heavily Democratic district, Republican Wakefield was the Assembly's premier foe of school busing and among its most conservative members. He was not a team player and had been critical of Republican leader Monagan. His problem was simple: nobody liked him. He represented a part of Los Angeles with declining overall population but minority growth. It was easy to divide his district among neighboring Democrats, and that is exactly what was done.

Frank Belotti, a Eureka Republican in his twentieth year, was losing touch with his district and had nearly lost it in 1970 to Democrat Barry Keene, a favorite of Speaker Moretti. The Democrats felt that, with a slight shove, the district could be theirs. Their reapportionment plan gave it that slight shove. For Fresno's Maddy the problem was just the opposite: elected in 1970, his was

the most Democratic district represented by a Republican, and the Democrats simply made it a little more Democratic. Pete Schabarum's district had been rippled from its San Gabriel Valley base eastward -- the result of pressure from other Los Angeles districts -- and ended up in a nest of Democratic precincts.

Republicans howled when they saw the map, and immediately adopted the caucus position that no Republican would vote for the plan until at least two-thirds of the caucus was satisfied. And the Waxman map had numerous defects. Not only were the Republican districts unacceptable, but some Democratic districts raised hackles as well. As GOP technicians reviewed the different Orange County districts, they found the sole Democrat, Assemblyman Ken Cory of Westminster, had drawn himself a swastika-shaped district with more than 100 sides. It cut into every city in northern Orange County in its search for Democratic neighborhoods. Cory had been a prime GOP target in his three elections, and was going to do something about that. He would never be a Republican target again in this district. Republicans dubbed it the "Cory-dor."

In the East Bay Area, Democrats had decided to save all five Alameda County Assemblymen -- all Democrats. They forced Contra Costa's GOP Assemblyman Jim Dent into a district that started in Walnut Creek, ran a finger to Stockton, and then formed a long hook south through the mountains to San Benito County, where it suddenly turned north and swallowed up Republican neighborhoods in San Jose. Dent described the district as a fishhook. In the process of creating it, Minority Leader Monagan's hometown, Stockton, was divided among four districts -- a situation he found impossible to justify back home.

But negotiations are negotiations, and Republicans took the territory left for their seats and began reshaping districts to make a counter-offer. GOP leaders announced they would accept nothing less than 37 Republican seats --

just the number of Assemblymen in the GOP caucus. If 37 seats were not forthcoming, there would be no Republican votes for any reapportionment plan, and Republicans would ask Governor Reagan to veto the bill.

Creating 37 seats out of the available territory was simpler than they had anticipated. Democrats made it clear that three elements of their plan were non-negotiable. First, the "Cory-dor" would not be changed, and it was just too bad if Republicans did not like its shape: this was a Democratic district not subject to further discussion. Second, the new Howard Berman seat was a necessity and, if Republicans wanted to save Conrad, they would have to find another seat to sacrifice. And, finally, Wakefield must go. Even if some districts could have been rippled across Los Angeles County border to save underpopulated incumbents, the county still had to lose one seat, and the unlucky incumbent was Wakefield.

But Wakefield's seat could be resurrected as a safe Republican seat in Orange County, which -- everyone agreed -- population required anyway. Wakefield could move there and run if he cared to. As for Conrad, Republicans would regretfully bid a fond adieu to this senior member, but only if a GOP seat could be created somewhere else. In the Bay Area, San Francisco was losing one Democratic district that Waxman proposed to resurrect as a Democratic seat in San Jose. Why not make it a Republican seat, asked the GOP, to balance the loss of Conrad? As for Belotti, some territorial trades with a nearby Democrat would actually improve his district and, since Keene was a candidate but not an incumbent, his preferences were not a particularly important factor. A little touch-up work would take care of Schabarum as well. The Maddy seat, on the other hand, presented a uniquely Republican problem -- one the GOP would have to work out.

Fresno attorney Ken Maddy had won his heavily Democratic district in a

major upset. It abutted another district that was Democratic on paper but had a Republican incumbent, Assemblyman Ernest Mobley. To their south was a third formerly Democratic seat held by GOP Assemblyman Gordon Duffy of Hanford. Republican technicians, struggling over how to allocate precincts, came to call this the "Maddy-Mobley problem." They calculated that Maddy needed to gain at least two points in Republican registration -- up from 31 percent to 33 percent -- to have any hope of survival. But those GOP points could only come from the Mobley district, so over a matter of weeks careful trades were worked out in an attempt to resolve the problem. Eventually a conceptual solution was engineered, but each time it was put to paper at least one of the three affected incumbents would object.

In any case, this formulation of the Assembly districts would preserve the 37 Assembly Republicans. But Democrats were not yet buying it. Moretti continued talking in public about gaining two or three seats from the Republicans, but there were indications that some vulnerable Republicans would be helped in the final Democratic plan. Said the Speaker,

> Unlike previous years, the majority party is not going to grab everything it can from the minority party. We will not try to destroy the Republican Party in reapportionment. This will be a reapportionment to preserve the two-party system. I expect we will end up with a chance to win about 45 seats. 8

Lack of progress toward a settlement, and constant carping from the Republicans and the media to see the full Democratic plan on October 28, finally induced the Democrats to unveil their official Assembly reapportionment plan. Said Waxman in the press release, the plan was "so technically perfect" it would "withstand any conceivable legal challenge. I have every reason to expect that the Governor and a substantial number of Republican Assemblymen will support this bill. . . . I know from extensive private discussions with Assembly Republicans that most of them are both satisfied with their own districts and have a

generally favorable feeling about the plan as a whole." There may have been some truth to this, as several GOP Assemblymen in marginal districts -- Bill Campbell of Hacienda Heights, for example, and Bob Cline of Northridge -- saw their districts extended into nearby Republican territory and substantially improved. They and several other members of the GOP caucus were pushing for acceptance of a "reasonable" compromise.

Waxman stated that the plan was "not an opening offer for extended negotiations," although everyone knew it was. He also asserted that, "in the unlikely event that Governor Reagan should try to veto this proposal, the legislature would simply pass the plan again as a resolution rather than as a bill." He closed by noting that, "from a hard-nosed legal and political perspective, the only sensible approach for the Governor is to support this bill."[9] Waxman was bluffing and he knew it.

The "official plan" collapsed the Wakefield and Conrad seats, but did not restore the Conrad seat as a GOP district. It retained the prospective Berman west Los Angeles Democratic district. Schabarum and Belotti still had bad seats. The "Maddy-Mobley problem" was unresolved. Jim Dent's fishhook district was still there. Stockton was still split four ways, and Assemblyman Bill Ketchum of Paso Robles found himself 50 miles outside his district. Formerly representing a compact district in western Kern and San Luis Obispo Counties, he now had a seat consisting of part of Bakersfield, the Simi Valley in Ventura County, and the desert and Upland in San Bernardino County. The district managed to envelop Los Angeles County on three sides, with one finger uniting Simi Valley and Bakersfield through the Sespe condor refuge. An angry Ketchum asked city-bred Assemblyman Waxman if he had any idea where the condor refuge actually was.

The GOP's public reaction to the official plan was not long in coming.

"This 'Waxmander' violates every rule of good government, political fairness and ordinary common sense," said GOP reapportionment spokesman Assemblyman Jerry Lewis. "Mr. Waxman says his bill is technically perfect, but technicians have proven that bumble bees cannot fly. Mr. Waxman's bill makes the same basic error. It ignores reality. . . . Unlike our friend the bumble bee, I predict this bill will never fly."[10]

Turning down the rhetoric, Republicans and Democrats once again huddled behind closed doors to see if their differences could be worked out. Democrats insisted this bill was really a 44-36 split of the Assembly, and helped some vulnerable Republicans. GOP leaders insisted they would accept only a true 43-37 bill that reflected the actual division of the house, with Republicans drawing the 37 GOP districts.

Throughout early November the Republican staff shuttled to and from San Diego to test various revisions of the Waxman plan, and the Democratic leadership decided their price for giving the Republicans the seats they wanted. On November 15 a summit was called involving Speaker Moretti, his lieutenants Ken Cory and Jack Fenton, and a new player in the negotiations, Ways and Means chairman Willie Brown. One the Republican side were Monagan, Lewis and caucus chairman John Stull of San Diego. Each conflict was reviewed, and agreement was reached on a plan creating 37 Republican seats and 43 Democratic seats. In exchange for this concession, Democrats expected the GOP to produce enough votes to pass the plan with a two-thirds majority, and assurance that, should the Governor veto the bill, the Republicans would provide enough votes for an override. One Democratic leader not in attendance was Majority Floor Leader Walter Karabian. He was in Los Angeles overseeing the election of his aide, Richard Alatorre, in the open 48th Assembly district. This was a matter only remotely connected to reapportionment, but it was to be the

solution to a sticky Democratic problem.

Alatorre was running for the Assembly seat of newly-elected Senator David Roberti, and Alatorre was of Mexican ancestry. His election would add a second Hispanic to the Los Angeles delegation, and a new Hispanic-oriented Assembly seat was awaiting him in the Waxman plan. This would permit Democrats to show additional Hispanic representation, thus reducing minority displeasure with their plan. Already there had been rumblings in Democratic circles over the fact that the collapsed Conrad seat had reappeared as a Jewish district on the west side of Los Angeles instead of as an Hispanic seat in the barrio.

But Alatorre's election had not come easily. Alatorre was Karabian's candidate, and he had defeated a Moretti-backed Hispanic in the primary. Also, another Democrat had raised the issue of "ethnic seats" -- not a happy subject in this still largely Anglo working-class district. And the Republicans had gotten in on the game. In an attempt to steal away a Democratic seat in a special election, the GOP had put money and campaign staff behind Bill Brophy, the only Republican candidate in the special election primary. Republicans even esconsed several members of their Assembly staff in a house just outside the district from which a full-fledged but highly secret campaign had been waged.

But it was all for naught. Brophy received only 34 percent in the primary and, since the GOP trick had not worked, the party lost interest in the district and had failed to mount a serious campaign in the general election. But sometimes the best laid plans go awry. On the Sunday night just before the election, a shot was fired at Brophy as he stood near a window in his home. All the Monday papers screamed with headlines about the near murder of the Assembly candidate. The district also was peppered with literature attacking Alatorre for masquerading as an Italian in the primary in order to get Anglo votes.

As the Monday summit broke up with the reapportionment compromise put to bed, one participant joked about the Alatorre race. "Well, we better not lose that one," replied Democrat Fenton. Twenty-four hours later the impossible happened: Brophy defeated Alatorre by about 1,500 votes in a district that had never before gone Republican. An independent Hispanic candidate drained off 2,800 votes. Shocked politicians on both sides viewed the scene with disbelief. Karabian was fired as Majority Leader, and Republicans, in the political equivalent of Oliver Twist's plea to Mr. Bumble, asked for more.

Brophy's election gave the GOP a 38th seat, and the 37-43 split would have to be revised to create a seat for the new Assemblyman, who had arrived in Sacramento a little bewildered by the whole thing. But the Democrats refused to consider creating another Republican seat: Brophy's election was just a fluke, they said, and would never be repeated in a regular election. But the Republicans came forward with a new map which shifted Brophy's heavily Democratic district westward into an area called -- in the reapportionment parlance -- the "Wilshire corridor." This area comprised the few remaining Republican precincts around Hancock Park, which had once been the district of GOP Minority Leader Joseph Shell. The Republican staff managed to create a 40 percent Republican district for Brophy, but even they admitted this would not hold up long, for the entire area was growing Democratic so rapidly. Still, the Democrats refused to budge. The 38th district was too much. Moretti was already fearful of losing his majority because of natural Republican growth in some suburban seats, and the Brophy "fluke" had proven how shaky was his hold on the Assembly. The very best the Democrats could do was a "37-and-one-half seat" plan which gave Brophy a slight improvement but still left him with a Democratic district. Some Republicans were urging their caucus not to get too greedy, reminding them that the Democrats had come a long way, that the 37-

seat deal should be accepted. But the GOP leadership decided it would not do. They could hardly convince the Republican Governor to sign a bill with districts like the "Cory-dor" in it that did not at least take care of all incumbent Republicans.

Time ran out on November 24th. Moretti ordered the Waxman bill amended into a Senate reapportionment plan that had come over from the other house, and brought the bill to a vote. The Assembly floor erupted with partisan rhetoric. Assemblyman Jerry Lewis condemned the Waxman plan in the strongest language as a "terrible gerrymander," pointing to districts like the "Cory-dor" on the gaily-colored maps Republican Monagan held aloft for all to see. As Republican passions mounted, Moretti rose to answer the charges. He began by reading from a 1969 letter from Lewis to Assemblyman Paul Priolo of Santa Monica, a letter which boasted of how Republicans could destroy the Democrats in reapportionment, and bluntly accused Lewis of hypocrisy in complaining about "Democratic gerrymandering." Moretti and Lewis shared a mutual dislike that was only worsened by the weeks of partisan redistricting strife.

Moretti called for a vote on the bill and, after several hours of haggling, rounded up 41 of the 42 Democrats to vote for the Waxman plan. The only Democratic "no" vote came from San Francisco's John Foran, who was the unlucky odd man out in San Francisco's reduction from four to three districts. Not a single Republican broke ranks to join the Democrats -- although several were sorely tempted by the fine districts they had received. Word from the Governor's office was already circulating that this bill was sure to be vetoed. Still, the bill limped back to the Senate for concurrence with the Assembly amendments. There the picture was much different.

The Senators had marched to a different tune from the start. Senator

Dymally's main priority was the creation of a new Hispanic district in Los Angeles. If he were successful, it would mark him as the man who had actually delivered for minorities, and could make him into a hero in minority communities. Already California's leading black legislator, he saw this as a chance to gain the leadership of all minority Democrats. President Pro Tempore James Mills, who had taken such an interest in congressional redistricting in 1967, appeared not to be bothered about the process in his own house in 1971. Dymally was left with a free hand to play partisan games or not.

As was the case in the Assembly, the GOP struck first. The Senate Democrats' database was slow in coming on-line. Republicans, on the other hand, had access to the party's computers at the Compass Systems office in San Diego, so they produced their own plan. It collapsed a Democratic seat in northern California and resurrected it as a Republican seat in Orange County. The Republican plan was never given the publicity of the Assembly's A.B.1971, but it had the same effect. Irritated Democrats airily dismissed it and, on October 6, Dymally introduced his "official plan." Instead of collapsing a Democratic seat, this plan collapsed a Republican seat in the north by placing GOP Senators Peter Behr of Marin County and Fred Marler of Redding in the same district. It created the new Hispanic seat in Los Angeles, shifting most of the other seats in a way that would satisfy most incumbents. One other northern Republican got a bad district, and Santa Clara County got pieces of five districts -- a situation not to the liking of that county's local political establishment.

Republicans quickly denounced the plan as a Democratic effort to add one more seat to their majority, and Marler announced that he would ask the Governor to veto the bill if it got to him. Dymally now invited the Republicans to make some changes if they did not like the bill and, on October 12, Republicans -- led by Senator John Harmer -- introduced a new version which

saved Marler and Behr while collapsing the San Francisco district of Senator Milton Marks -- the most liberal member of the GOP caucus -- and moving it to Orange County. The GOP also proposed carving the new Hispanic district out of Senator David Roberti's seat. With this plan, Republicans admitted that the lost seat in the north would be a Republican seat -- "we are like nine men in an eight-man raft"[11] Marler remarked -- but insisted that it be resurrected as a heavily Republican seat in Orange County.

The Democrats countered with Dymally's second plan, which eliminated Behr instead of Marks, and which retained the new Hispanic seat instead of creating it out of Roberti's district. But this time the Democrats agreed to throw one of their own to the wolves in order to keep the partisan balance of 19 Republicans and 21 Democrats.

The unlucky victim was Huntington Park's Democratic Senator Larry Walsh, who had the same problem as Republican Assemblyman Wakefield: too few people liked him. Walsh was a conservative Democrat who had sided with the "Old Guard" in the 1960s leadership battles. He represented an area of declining population, which was also turning from Anglo to minority. Walsh did not get along particularly well with his Democratic leadership, and Republicans would happily take his seat just to get another member in their caucus. So Walsh became the sacrificial lamb, complaining bitterly that he was being tossed aside to create an "ethnic" district: "The next thing you'll need is an Italian district, then a Jewish district, then a black district."[12]

Senator Behr complained that he was singled out in this latest plan, and that his home county of Marin was being hacked up in the process. So Dymally revised his plan and came forth with a third version, this one uniting all of Marin County but placing Marks and Behr together in a district that either might win. In this way, Republicans would not be forced to choose which of their colleagues

needed to be sacrificed: the voters could do the dirty work for them.

Republicans still found fault with Dymally's handiwork. One problem facing both Senate and Assembly technicians was a ripple of population running up and down the state. It was possible to create compact and sensible districts first in the Bay Area and then in Los Angeles, or vice versa, but when you attempted to link them in the Central Valley, the two parts did not fit: the incumbent districts there would have to be jostled up and down the Valley, much to the discomfort of Central Valley legislators. This, they were told, was the price to be paid for strict adherence to one man, one vote. But with each revision of the Dymally plan the districts in the Central Valley became odder and odder. Senator Howard Way's Tulare County district at one point ran from the Sierra Nevada mountains across the state to the coast; at another time it ran from Needles in San Bernardino County to San Jose. Harmer's district ran for a time from Glendale northward into the desert and then dipped into Santa Barbara County to take in the University of California campus at Isla Vista. At another time it was Senator Walter Stiern's Bakersfield district that included Isla Vista, as well as parts of San Bernardino. As each Dymally version came out of the Senate computer, more Senators wanted changes in their seats, and districts became increasingly bizarre.

Dymally brought version three to the Senate floor for amendments on November 4, and Harmer took the opportunity to wage a two-hour filibuster against the bill, making a number of attempts to amend it. At one point he even tried to take Dymally's name off the bill, arousing a bipartisan chorus of disapproval that such things were not done in the gentlemanly Senate.

By this time Dymally was determined to create a plan that all factions could agree on. Rather than close up the negotiating shop, Dymally got together with Harmer and finally forced acceptance of a fourth version of the "official

plan." This immediately became known as the Bipartisan Senate Reapportionment Plan. Much to the surprise of the reporters who had been following the angry exchanges between Dymally and Harmer for the past month, the two men cooed lovingly at one another over the birth of this bipartisan agreement. "What is gratifying is that we can sit together now, members of opposite parties with different views, and come to a compromise," said Dymally fondly; "A valiant effort was made to produce the most feasible and effective plan," chimed in Harmer.[13] The two men issued a joint press release to celebrate their new intimacy.

The plan was not without its defects. Santa Clara County was now divided among six districts, although it had the population for just over two, and Republicans had learned a new trick: how to get rid of college students. Virtually every campus of the University of California was removed from Republican districts. Republican Senators now had a way to deal with the angry student vote: just remove the campuses from their districts. This even included running a long, narrow finger a hundred miles from the Kern County line to grab the Santa Barbara campus at Isla Vista, removing it from the district of GOP Senator Robert Lagomarsino.

On November 11 the Senate passed the Bipartisan Plan on a 33-2 vote, with only Senator Walsh and a Santa Clara Republican voting "no." It was five days later that Brophy beat Alatorre in the Assembly special election. At first that strange event seemed unlikely to affect Senate redistricting: after all, it did not affect any Senate district. But when the Assembly negotiations broke down, Assembly Democratic leaders decided to use the Bipartisan Plan as a vehicle to pressure to Governor into signing their partisan plan. They amended the two bills together rather than, as Senate Democrats wanted, letting the Bipartisan Plan go to the Governor undisturbed.

Senators of both parties were outraged: they were being drawn into somebody's else's fight. If Assembly Democrats and Republicans could not agree, that was their business -- the Assembly always had been subject to unnecessary partisan rancor. We have our agreement, an angry Dymally told Assembly Democrats, go get your own. Dymally was also angry at Assembly Republicans for refusing the 37-seat offer. Harmer told him that once the Bipartisan Plan and the Waxman plan were married into the same bill he could not support it, and the single bill faced a sure veto. Senate Democrats refused to bring the amended bill up for a vote and, on December 2, the legislature was forced to recess for the year, with no bills passed.

Moretti blamed the whole mess on intransigent Republicans, who in turn accused him of greed. The Senators blamed the Assembly. The California Journal noted that, if the politicians had gotten their work done before the Assembly special election, "most of the reapportionment problems would have been resolved."[14] And lurking in the wings, angry with all parties, was Congressman Philip Burton. His own congressional reappportionment had died in the crossfire, a victim of what he privately denounced as very amateur politics.[15]

The "Easy" Congressional Reapportionment That Wasn't

Congressman Burton had given Leroy Hardy three directives early in 1971 as they began remapping the state's congressional districts. First, said Burton, protect all incumbents of both parties. It was extremely important to strengthen the districts of the senior members of the delegation because California's clout in Congress depended on seniority. Also, Burton was proud of his role in the 1967 redistricting, which had resulted in the re-election of every California congressman in 1968 and 1970. Second, he said, meet the demands of the Senate and Assembly reapportionment chiefs. This required that Hardy find out what they

wanted, but soon it became obvious this demand was easily fulfilled. Senator Clair Burgener, one of the "Class of 1966" Republicans from San Diego, wanted to go to Congress. Orange and northern San Diego Counties had enough population for one of California's five new seats, so a seat was carefully crafted for Burgener. This gave Burton clout with Republicans in getting GOP support for his entire plan. Senator Dymally also had some interest in a congressional seat. This fit Burton's desires too: it provided him an opportunity to create a second black seat in Los Angeles, winning him the kudos of minorities. It also resolved a larger partisan need.

Although none of the existing congressional seats needed to be abolished or even moved dramatically, the Democratic inner-city seats were underpopulated in Los Angeles, and Republican suburban seats were overpopulated. The creation of a new district in central Los Angeles made possible an "explosion plan" rather than an "implosion plan": districts would "explode" outward from the city center, and the Democrats would be forced into the suburbs to find needed territory. If the seats were drawn carefully, this would eat up GOP territory without endangering any urban Democrats. Then, there would not be enough population in the suburbs for the creation of additional Republican seats, and Burton could hold down to one the number of new GOP seats he would have to create. An "implosion" would have the opposite effect: it would free up suburban territory for new Republican districts.

Burton came up with a clever way to "explode" the black district. GOP Representative Alphonso Bell still wanted to be rid of the conservative Palos Verdes peninsula, where he had had primary election problems. So Burton decided to put this conservative Republican area in the new black district, rendering it no longer a political factor. Bell would be happy because he needed fear no future primary problems. The new black seat would not use up valuable

Democratic territory and, at the same time, this Republican area was not large enough to change the district's safely Democratic character. In addition, it allowed the Bell seat to be reshaped to include Culver City. Culver City, it turns out, was just the place the new Howard Berman Assembly seat would go. Putting Bell there might give Berman -- or possibly Assemblyman Waxman -- a shot at a congressional seat when Bell retired. That appealed to the Assembly Democrats. In a single stroke Burton could resolve his partisan problem of holding down GOP seats, make Senator Dymally happy with a new black seat, and help his Assembly friends with the promise of a future congressional seat.

The third instruction related to handling the five additional seats. Assistance to legislative allies had used up two of the seats; what of the other three? Burton, good partisan as he was, wanted to maximize Democratic opportunities without harming incumbent Republicans, and the way to do this was to take Democratic territory for the new seats out of existing Republican districts. In this way, the GOP congressmen -- finding themselves in safer districts -- would pressure their own party to accept a plan that actually helped the Democrats.

In 1966 and 1970 the GOP had won Democratic districts in Riverside and San Bernardino Counties. Both districts were oversized, so a new district was formed in the Democratic precincts -- mostly the city of San Bernardino -- of these two GOP districts. Both Republican congressman were happy, and Burton chalked up a new Democratic seat.

Republican Paul McCloskey had a growing district in San Mateo County. Northern San Mateo was detached and a new district created in southern San Mateo and Santa Clara Counties. He had the option of running in either seat, but a strong Democrat, Assemblyman Leo Ryan of South San Francisco, was waiting in the wings for the northern San Mateo seat. McCloskey chose to run in the southern seat, and another district went into Burton's pocket.

The fifth new district showed Burton at his diabolical best. Population required that it be placed somewhere in the Central Valley and Burton decided Bakersfield was a good place. He formed a district primarily of Kings and Kern Counties -- two basically Democratic counties that Republican Reps. Bob Mathias and Burt Talcott did not mind losing. An arm reached over to the coast to take in part of San Luis Obispo County. For the district's last bit of territory, Burton repeated the Republican Senate move: he ran a long finger south along the coast to include the University of California Santa Barbara campus at Isla Vista, a hotbed of Democrats. So the fifth new district took on a Democratic coloration, every inch of it coming from the districts of Republican incumbents -- territory the Republicans were happy to give up.

The most clever part of this scheme involved the desires of senior Republican Congressman Charles Teague of Ventura. Teague was an old GOP warhorse who had been caught napping in 1970, having a tighter-than-usual race with young Santa Barbara Democrat Gary Hart. Teague, who was out of touch with the growing environmental activism of his district, desperately wanted rid of the student population at Isla Vista. So Burton accommodated him, slipping the students into the open Bakersfield district to sweeten its Democratic registration. The students, it turned out, had been looking forward to a second race against Teague, who everyone agreed was vulnerable, and they were dismayed to find themselves in the Bakersfield-based district.

But Teague still was not satisfied: he also pressured Burton to get rid of Democratic Oxnard at the other end of the district. In keeping with Burton's goal of helping senior members of the delegation, Burton took Oxnard from Teague and gave it to Representative Barry Goldwater, Jr., who did not want it and whose district became less secure as a result. Burton gambled that eventually Goldwater would run statewide, and possibly a Democrat could slip

into his seat. Years later Burton groused that Barry Goldwater, Sr., had accused him of trying to do in his son: "The old man thought I was after his kid, but it was all Charlie Teague's doing, not mine."[16] So Teague became safe, but his greed helped make the two surrounding districts more Democratic.

With the five new seats in place, the question became how to sell the plan. Hardy spend much of the spring and summer in Washington working out the various trades of territory necessary to please the other 38 congressmen. By September he had the final plan in place, and he and Burton went to Sacramento to sell it to the legislature. What they found was a complete lack of interest. While individual Republican congressmen were happy with their own lines, the GOP reapportionment staff and the state GOP's congressional redistricting expert, Darryl Wold, complained that four of the five new seats were slanted toward the Democrats. Burton insisted they were not, pointing specifically to the Bakersfield seat, which was made up almost entirely of former Republican incumbents' territory. Hardy insisted the San Mateo seat was a toss-up because McCloskey could run in the northern seat and a Republican might win the southern seat. He called it a one-one-three plan: one Democrat (the black Los Angeles district), one Republican (Burgener's San Diego seat), and three toss-ups (San Bernardino, Bakersfield and San Mateo). Republicans insisted otherwise.

In the midst of this disagreement Senator Dymally decided he did not like the plan either. The black seat, he complained, was too white. The Palos Verdes peninsula would have to come out. Dymally's staff also produced its own congressional districting plan that did not include all the minor shifts of territory Burton had negotiated among the various members of the delegation. Some observers felt this was Dymally's way of reminding Burton -- who he felt was too close to Assembly Democrats anyway -- that the legislature -- not Congress -- drew district lines, and that the Senate Democrats were players in the process.

Besides, Dymally insisted to his fellow Democrats, there was no way Governor Reagan would sign, or the legislative Republicans vote for, a plan giving four of the five new districts to the Democrats.

Burton spent much of October, November and December roaming the halls of the Capitol peddling his plan, and populating the local bars, where he drank a mixture of coffee and brandy until all hours of the morning. He even showed up on Assemblyman Lewis's doorstep after midnight one evening and stayed nearly until dawn extolling the favors he was doing for Republican congressmen. Burton buttonholed every politician he could find, and made himself accessible to the reapportionment staffs of both parties. He had Dr. Hardy talk to Dr. Heslop so the academics would be in agreement. His pal in Washington, Republican Representative H. Allen Smith of Pasadena, called Republican leaders in both houses to push along Burton's deal -- which the GOP delegation supported.

Phil Burton's style was to take as much as he could in initial negotiations, backing off only later as need be. He was willing to give Isla Vista back to Representative Teague, but Republicans would have to make Teague accept it, or put up with his ire. Of course the move would make the Bakerfield district a lot better for Republicans, and Assemblyman Bill Ketchum was thinking of running for it. Ketchum had a vote in Sacramento; Teague did not. Deals could be cut. Burton was willing to make the San Bernardino district more of a toss-up seat, but of course that meant weakening the nice seats he had drawn for the adjoining Republicans. He could not change the San Mateo seat because Assemblyman Ryan wanted that, and he had a vote on the bill. And Dymally got what he wanted: Palos Verdes came out and more blacks went into the black seat. Burton was more than willing to accommodate everyone. Just give him a vote on his bill.

But no votes were forthcoming. As the Bipartisan Senate Plan died due to

Assembly wrangling, so also did the congressional bill. The legislature adjourned on December 2 without passing it, and all Burton had to show for his effort was a lot of time spent in Sacramento's watering holes.

But the Democrats were not without some weapons. The day after the session ended they marched down to Governor Reagan's office and demanded that he call a special session on reapportionment. The Governor had something else on his mind: along with no redistricting bills, the legislature had also failed to enact a tax bill that he needed badly, and he was planning to call a special session for that reason. Well, said the Democrats, if you want a tax bill you will have to include reapportionment in your call or we won't come back. Reagan agreed to include reapportionment, and the special session was scheduled to begin on December 6. It quickly passed the tax bill, and then recessed for ten days while the leadership commenced a new round of negotiations on reapportionment.

The Special Session and the Reapportionment Commission

As though there were not enough flies in the redistricting ointment, a new one showed up as the politicians gathered in the back rooms. All along it was assumed that once Republicans agreed on a plan, a gubernatorial signature would automatically follow. Now doubts began to surface. Ronald Reagan really did not like reapportionment: he found the back-scratching distasteful, and he was hearing complaints from numerous communities about the hideous shapes of their districts. The San Jose papers kept up a drum of criticism about the six-way Senate split. "Governor Reagan should veto the so-called 'compromise' reapportionment of the California Senate. The measure is a classic horror of a gerrymander and an insult to the people of California," wrote the San Jose Mercury.[17]

Signing these bills would do nothing for Reagan's "citizen politician" image. His staff, and then the Governor himself, were briefed on the districts, and they did not like what they saw. Reagan began making suggestions for changes that would make the maps more attractive, and Republican leaders were sent off to tell their Democratic colleagues about the Governor's displeasure.

This bad news could not have come at a worse time. Hawks in the Democratic caucus were already calling for an end to negotiations with intransigent Republicans. GOP members were also unhappy. At one point during a late-night Assembly caucus meeting, the Republicans asked for the Governor's position on signing a bill with certain changes. His staff allowed that they did not know the Governor's position. "Well, get him up here," demanded one of the Republicans. It turned out Reagan was already at home. "Bring him back," they said and, within the hour, an irritated Ronald Reagan showed up -- in an orange turtleneck sweater -- outside the Assembly caucus lounge. Doors were closed and reporters could hear angry Republican legislators lecturing their Governor on the proper role of the executive in reapportionment affairs. But Reagan would not budge.

Within a few days Reagan's position on the bills became academic, because Democrats finally came to a conclusion on their strategy: they would enact their redistricting plans without any help from the Republicans, let Reagan veto them, and then take their chances before the State Supreme Court. For some time militants in the Democratic caucuses had worn buttons reading "See You In Court." Now they meant it. They would try to get the court to impose their plans over the Governor's veto. And one of the factors which most aroused the Democrats was the emergence of a Republican-dominated state reapportionment commission.

In 1926, northern California interests had placed an initiative on the ballot

to reapportion the Senate on a county basis -- the "Federal Plan" -- and the people had adopted it. But the proponents were uncertain whether the legislature would follow the initiative's dictates -- it meant collapsing a lot of southern California Senate seats, and politicians don't commit hari-kari willingly. So a provision was added creating a reapportionment commission composed of the Lieutenant Governor, Attorney General, Controller, Secretary of State, and Superintendent of Public Instruction to redistrict the state if the legislature failed to do so.

In one of the 1965 court cases on one man, one vote reapportionment of the Senate, the California Supreme Court hinted broadly that this commission no longer existed. It was formed only to impose the "Federal Plan" Senate, now unconstitutional. Said the court: "We could not hold the provision creating the commission severable from the invalid parts (of the Federal Plan)."[18] The Legislative Counsel and Attorney General had also issued opinions that this commission had been ruled invalid by the 1965 decision.

But hope springs eternal. Reapportionment commissions per se are not unconstitutional: a number of states have them. The California commission made the Lieutenant Governor its chairman and, as the legislature moved toward adjournment in November, Lieutenant Governor Ed Reinecke, the presumptive commission's chairman, decided to invoke the constitutional provision that the commission reapportion if the legislature failed to do so. The commission, observers quickly noted, would consist of three Republicans and two Democrats, allowing the Republicans to seize the redistricting initiative and adopt Republican-oriented plans, since the Democratic legislature had not passed its own plan.

Among the reasons for the Democrats' insistence on making Governor Reagan call a special session was the Reinecke move. While Democrats felt confident that the Supreme Court had in 1965 ruled the commission invalid, it

still might reverse itself if no legislative plan existed, allowing the commission to produce its own plan. That would be the worst of all possible worlds: the Democrats would be forced to go to court to argue that the commission plan was invalid without having produced their own plan. Democratic leaders had visions of Supreme Court justices, who clearly did not relish being dragged once again into this political thicket, looking down from the bench and asking to see the legislature's plans before ruling on the commission's plans. It would be a race to the courthouse and, if Reinecke got there first, the legislature -- with the constitutional duty to reapportion -- would look awfully foolish.

It appeared the Republicans would have their way with the commission. Its three GOP members were: Ed Reinecke, appointed Lieutenant Governor in 1969, subsequently elected in 1970, and a likely GOP candidate for Governor in 1974; Houston Flournoy, Republican State Controller elected in 1966 and another likely gubernatorial candidate; and Evelle Younger, Republican Attorney General, elected in 1970 and a third possible candidate for Governor. The only partisan Democrat was Secretary of State Edmund Brown, Jr., son of the former Governor and himself a likely prospect for that office in 1974. Another Democrat rounded out the commission, Superintendent of School Wilson Riles, a nominal Democrat holding a non-partisan office. He wanted nothing to do with reapportionment and thought the commission was unconstitutional.

Reinecke clearly had leaped on the commission issue as a way both to prove his Republican ties and to rescue his party from the Democrats in the legislature. Flournoy, a former Assemblyman with a high degree of interest in redistricting, pushed hard to convene the commission, and promised to be an active participant. Younger, on the other hand, faced something of a dilemma: his office had issued an opinion that the commission did not exist, and yet he was a member. But he hedged a bit by stating that, if the legislature did not

complete its reapportionment work before the beginning of the 1972 session, he would agree that the commission was the only alternative,[19] and that he would attend and presumably provide the third vote.

The most vigorous foe of the commission -- not surprisingly -- was Secretary of State Brown, who saw this as an opportunity to prove his Democratic credentials by championing their cause. He announced he would sue to stop the commission from meeting.

On December 15, Lieutenant Governor Reinecke convened the commission in the basement of the Resources Building in Sacramento, and a partisan battle broke out instantly. Brown denounced the meeting and called for a court hearing on the commission's validity. Then he tried to get a four-fifths rule adopted for proceedings, so the Republicans could not push through their own plans. Both motions lost on a party-line vote. Reinecke announced the commission would begin statewide public hearings later in the week and invited "interested parties" to submit plans. Brown announced he would go to court to stop the adoption of any plans by the commission.

And then, out of thin air, up popped a plan drawn by Thomas Hofeller, an employee of Compass Systems of San Diego, the GOP's computer firm. Hofeller presented it to the commission as the CSI Plan. This plan was quite different from anything yet seen. The commission had adopted its own reapportionment criterion that all districts be contiguous and compact. This plan was the very picture of compactness, and without a doubt it had the nicest-looking districts anyone had yet seen.

But -- beauty being in the eye of the beholder -- Democrats did not like Hofeller's plan one bit. They also did not like Hofeller himself, whom they viewed as a bright but highly partisan Republican staffer. It was as though Michael Berman had entered the room, clutching maps, and announced, "Here is

good government reapportionment!" No matter how compact the districts, there must be a catch. Democrats quickly analyzed the plan and found that at least six Democratic Assemblymen and two Republicans were thrown into districts with a colleague; nine Democratic Senators and six Republicans suffered the same fate.[20] The overall politics were even more difficult to swallow. Two Bay Area Democratic Assembly districts were shifted to Santa Clara County, forming one Republican and one marginal district. Three Los Angeles incumbents lost their seats, but the politics of Los Angeles were so scrambled that no one could be sure just who would survive and who would not. These three districts reappeared as GOP-leaning districts in the suburbs. In the Senate part of their plan -- and under the CSI Plan two Assembly districts were combined to create one Senate district -- at least twelve Senators would face difficult re-elections because the numbers of their districts were changed and they might not have a seat in which to run when their terms expired. By no means did Democrats find anything likeable about the CSI Plan, and some Republicans who saw their districts hacked up were likewise displeased. There had to be a legislative solution, and fast.

The week before Christmas, while Reinecke's reapportionment commission readied itself to travel the state, the legislature returned for the remainder of its special session. By now tempers were frayed and tired legislators were ready to get redistricting over with and go home. Minority Leader Bob Monagan wrote to his caucus:

> There appears to be no hope of getting the other side to agree to a bill that would be acceptable to us. . . . The Speaker has decided that it is to his own political advantage to go to court. . . . We have repeatedly proposed alternatives which they have found unacceptable. We have been going through that exercise for so long that we have exhausted every possible avenue for reaching an agreement. . . . It is my opinion that the Speaker will never agree to an (acceptable) plan because he feels that to do so would place his own political future in danger.

> Thus, in spite of the jeopardy court action poses to all members of the legislature, Mr. Moretti feels a court test will best serve his own ambitions and is willing to take the risk involved. 21

Monagan closed by noting that he was leaving on a two-week cruise, having had no vacation in 1971 because of the press of reapportionment, and that his lieutenants would propose amendments -- however futile the gesture -- when the Democrats brought up their bill. Monagan's memorandum did reveal one interesting fact: Assemblyman Willie Brown had been pushing hard for a solution that could gain the Governor's signature, and even offered at one point to see that the Berman district was collapsed if doing so could lead to a bipartisan plan. Brown of course denied this when it became public, but he had no particular love for Henry Waxman or his prospective colleague, Howard Berman.

But Republican and Democratic relations were so strained by this point that the GOP unwittingly rebuked even its lone ally in the Democratic caucus. During a late evening at a local Sacramento restaurant, several Republican Assemblymen -- doubtless well along with the evening's liquid pleasures -- decided to show that all four San Francisco Democrats could be protected. One legislator called the Republican staff, then at work on one of its endless late-night revisions of the basic plan, and told them to redraw San Francisco to save John Foran and the other Democrats, collapsing instead the San Mateo district of Assemblyman Leo Ryan, who was on his way to Congress.

The staff promptly complied and, the next day at the negotiating session with the Democrats, Monagan unveiled this new map saving all four San Francisco Democrats. They did not take kindly to the gesture at all. The map gave Willie Brown an elongated district running to Burlingame, to which he snorted, "There is just one black in that district, and that's me!"[22] Moretti was so incensed at what he called Republican "frivolity" that he immediately stood up and marched out of the negotiating session, followed by his lieutenants and

the Democratic staff, all properly outraged. Moretti felt the Republicans were trying to exacerbate his political problem ineliminating Foran's district. Brown, who had negotiated with great care his own San Francisco district with fellow Democrat Leo McCarthy, with whom he did not get along, was miffed at Republicans for sticking their noses into a Democratic family feud and -- at least temporarily -- lost interest in working toward a bipartisan solution.

In the Senate, Dymally had likewise run out patience: he ordered his staff to abandon the Bipartisan Plan and resurrect the Walsh district. This meant eliminating one Republican, since the lost northern GOP seat showed up as the new Hispanic seat in Los Angeles rather than as a Republican district in Orange County. He had become disgusted with Governor Reagan's equivocation on signing a bill, and was ready to work with his Assembly colleagues on a partisan bill. Congressman Burton was also fed up: he would take any bill so long as the plan wasn't imposed by the reapportionment commission, which would get him in trouble with his colleagues of both parties in Washington.

On December 18, 1971, Moretti and Dymally brought their bills up for a vote. Assemblyman Waxman carried A.B.12, his Assembly plan, and A.B.16, the Burton congressional plan. Senator Dymally's S.B.2 was the Senate plan.

S.B.2 would have elected 22 Democrats and 18 Republicans -- a gain of one Democrat. Its two oddest districts were the 27th district in Los Angeles, which snaked its way from the ocean to Pasadena, and Senator Way's 15th district in the Central Valley. This one was described as running one hundred miles down the coast until it "shifted eastward and narrowed into a corridor as little as five miles wide and then squirted into a vast area that borders Nevada and Arizona for more than 400 miles."[23] Its only redeeming quality was that it no longer cut into Santa Clara County.

Senator Harmer, urging his Republican colleagues to oppose S.B.2, blamed

the Assembly leadership for the impasse. "When the blind lead the blind, they both fall into the ditch. The blind leadership is leading us into the ditch of the courts."[24] Harmer meant his criticism to apply to both parties in the Assembly: he had no use for Moretti, and he did not get along with his fellow Republican Monagan. Late on December 18, the Senate passed S.B.2 on a vote of 21 to 17, with all Democrats voting "yes" and all Republicans "no."

The Assembly session dragged on to December 20. Because of a technical rule, it was not possible to bring the Assembly bills up for a final vote until after midnight on December 20. At one point it appeared Moretti could not run up enough Assembly votes for the plan, and he tried to re-open discussion of Senate districts in order to create a Senate seat for John Foran, the only Assembly Democrat refusing to vote for the plans. The Senators quickly turned him down. They already had two Bay Area colleagues -- Senators Marks and Behr -- in one district; they did not want to add Assemblyman Foran. Moretti was left with the task of rounding up all 41 of the other available Assembly Democrats -- a task taking several hours. "We're acting like a bunch of silly kids -- let's vote on the bills before us,"[25] complained Assemblyman Vincent Thomas of San Pedro, the dean of the Assembly.

Finally, at 2:00 a.m., Moretti got the votes he needed on the redistricting plan. A.B.12 passed with just 41 Democrats -- the minimum number needed -- voting "yes." Every Republican voted "no" or abstained. "May this session rest in peace," intoned the Assembly chaplain, Fr. Leo McAllister, as he gave benediction to the longest session in California's legislative history.[26]

A.B.16, the congressional plan, was the initial Burton proposal with the Dymally changes to the black district. It satisfied all incumbents, but gave the Democrats a three-to-one -- and possibly four-to-one -- break on the new seats. A.B.12, Waxman's Assembly plan, was the most partisan of all the bills,

denounced by one Republican staffer as a "50-30 rape plan."[27] It eliminated Assemblymen Conrad and Wakefield, gave Belotti, Maddy, and another shaky GOP Assemblyman, Don McGillivray of Santa Barbara, seats they would be hard-pressed to win. It left freshman Brophy -- whose special election upset had caused the entire problem -- with a seat he could not win. Democrats generously claimed this was a 44-36 plan; in actuality it probably would have resulted in a 46-34 split in the Democrats' favor in the 1972 election.

Like the Senate plan, this bill had its share of oddities. Stockton was again split four ways, and two San Francisco districts were connected only by a freeway's center divider. The "Cory-dor" and Dent's fishhook were still there, and GOP Assemblyman Frank Murphy's seat stretched from Santa Cruz through bits of the Central Valley all the way to the Sierra foothills. Assemblyman Dave Pierson, a white Democrat in Inglewood, had a barbell-shaped seat with white populations on either side of the Watts ghetto. His seat was losing white population, and this was an effort to save a white Democrat from a primary election loss to a black.

The three bills sat on Governor Reagan's desk from December 21 until December 30, while the Republican staff worked feverishly to build a technical and legal case against them. At one point the entire Assembly Republican staff, secretaries and all, was loaded onto an airplane and sent south to San Diego to do a manual count of the districts in A.B.12 in hopes of finding population variations that would convince the court to throw it out. Alan Heslop wrote lengthy veto messages for Governor Reagan and, on December 30, Reagan vetoed all three bills in a blistering attack on the legislative majority:

> The Democratic leadership . . . drew tortuous boundary lines around artificial and bizarre-shaped districts aimed solely at perpetuating themselves in office. . . . I would be derelict in my responsibility as Governor to sign these bills into law. 28

Reagan submitted with his veto message blow-ups of a dozen of the most grotesque districts in the three bills, with explanations of the defects of each one. The Way Senate district, Dent's fishhook, and the notorious "Cory-dor" came in for special mention. Reagan insisted that A.B.12 was defective in at least a half-dozen major ways, including population deviations the Republican staff claimed to have uncovered during their San Diego excursion. Reagan also pointed to the new west Los Angeles seat created for Howard Berman as an example of racially motivated gerrymandering: "(It) ensures the election of an Anglo at a time when responsible yet long-underrepresented minorities are struggling to find ways to work within our political system. (This) is astounding and completely indefensible. I am sure the great majority of Californians will agree with me"[29]

Reagan's comments on S.B.2 noted that the the bill "is repleat with misshapen and oddly-drawn lines which not only stretch the imagination but which, in many cases, stretch beyond the point of reason."[30] Of Phil Burton's masterpiece he said, "The many deficiencies . . . should leave no doubt in the minds of anyone truly seeking a fair plan of congressional apportionment that this legislation is unacceptable and certainly not in the best interests of the people of California."[31]

Reagan's rhetoric was not altogether altruistic. Vetoing these bills with all their bizarre districts did win him kudos with the press and public, but he was also said to have been ready to sign these same bills if bipartisan accord had been reached. Senator Harmer said he would have signed the Bipartisan Senate Plan. Assemblyman Monagan wrote to his caucus that the Governor had promised in a private meeting to sign "an actual 42-38 bill that was recommend ed by our caucus and contained no hidden dangers."[32]

But since a settlement could not be worked out, the Republicans wanted

more than just an attack on the bills. The Governor's veto is an integral aspect of the governing process, and GOP lawyers had decided that a veto in the strongest possible language could induce the court to respect the Governor's vigorous objections and not impose these plans over his veto. The Democratic strategy was just the opposite: they hoped to induce the court to impose the plans regardless of the Governor's objections. To do this, they made the issue into a lofty question of the separation of powers, contending that the Governor should not be telling the legislature how to perform a uniquely legislative function.

The Supreme Court Prunes the Thicket

The new year found the California Supreme Court with three reapportionment cases in its hopper. On behalf of the legislature, the Democratic leadership had sued Lieutenant Governor Reinecke to prevent the commission from adopting a plan. Secretary of State Brown had sued Governor Reagan, asking that the court impose the Democratic bills despite the gubernatorial veto. Brown's attorney made the point that minorities and other communities of interest would suffer still further unless the old, malapportioned districts were replaced, and the legislative plans represented the highest expression of legislative intent. Brown's staff and the Democratic redistricting staff had gone through a laborious -- and sometimes ludicrous -- analysis to justify each of the districts on grounds other than incumbent protection.

The third case before the Supreme Court was a suit filed by 32 congressmen asking that the veto be set aside in the case of Congress. The suit was filed by former Republican Senator Thomas Kuchel on behalf of Phil Burton and a bipartisan group of congressmen. Burton's strategy in using Kuchel was brilliant. A former Republican Senator, Kuchel's presence made the point that the Burton

plan had bipartisan support. This may not have been true in the legislature, where only one Republican -- San Francisco's Senator Marks -- had voted for the bill, but it was true of those persons most affected: the 38 California congressmen. Nineteen Democrats and thirteen Republicans joined in this suit.

The Court also heard from a variety of other concerned parties, including a number of cities opposed to the way in which their communities had been divided up. Lieutenant Governor Reinecke and Controller Flournoy sent the court briefs asking it to impose Hofeller's CSI Plan, citing its compactness. Flournoy included in his a letter from Professor Eugene Lee of Berkeley's respected Institute of Governmental Studies:

> It is doubtful the public interest in districting can ever be adequately achieved by the legislature. Incumbent legislators cannot be expected to do other than seek their own personal advantage in the process of districting, and it is nonsensical to ask them to do so. This is particularly the case with a full-time, relatively well-paid "career" legislature. 33

On January 18, 1972, just one day after the briefing deadline, the Court handed down its decision. "We have concluded that there is now no practical alternative available to us but to order into effect readily available temporary apportionment plans for the 1972 elections," wrote Chief Justice Donald Wright. What were these "temporary plans?" To everyone's astonishment, the temporary plans were those already in existence -- the 1965 districts everyone had spent a harrowing year trying to change. As the Court explained:

> Only the most compelling considerations would compel us to disregard the solemn vetoes of the Governor and adopt plans passed by the legislature. . . . We believe it will be far less destructive of the integrity of the electoral process to allow the existing legislative districts, as imperfect as they may be, to survive for two additional years than for this court to accept, even temporarily, plans that are at best truncated products of the legislative process.

And so the yeoman efforts of Moretti, Waxman and Dymally went out the

window; the legislature was back at square one. Republicans cheered this part of the ruling. But Democrats had something to cheer about too. The court summarily dismissed the reapportionment commission, stating that it had been declared unconstitutional in 1965. That commission, wrote the Justices, had existed only to design a "Federal Plan" Senate if the legislature in the 1920s had failed to follow the people's will. It was irrelevant today.

There was another big winner among Democrats: Congressman Phil Burton. After proclaiming that the Governor's "solemn veto" was to be respected, the Court went ahead and imposed the vetoed congressional plan. The sticky point with Congress, the Court noted, was the addition of the five new districts, which would "either have to be left unfilled or filled by statewide elections." This was out of the question, and so the Court "regretfully" adopted Burton's congressional bill as its temporary plan for the reapportionment of Congress. The Court noted that the Burton plan "has the bipartisan support of all of the California . . . members of Congress appearing herein, and it is opposed by none of such members."[34]

So the Supreme Court, in the case that came to be known as Legislature v. Reinecke, had carefully pruned the political thicket, devising a solution that gave both sides and both parties something to cheer about. Democratic leaders breathed a collective sigh of relief that they need not fear the Hofeller plan or the commission. Reinecke, on the other hand, was outraged: "This is an example of why the people of this country as well as the state took to the streets. They saw there was no relief (to be had) by working within the system."[35] Some thought this a bit intemperate, but it was probably a reflection of Reinecke's frustration at no longer being a player in the reapportionment drama.

Governor Reagan also expressed disappointment, mainly about the congressional decision. Because the Court had ignored his veto, "Californians

cannot be fairly represented during the next session of Congress," he lamented.[36] Moretti and Monagan both professed to be pleased. Republicans had most feared the Senate and Assembly plans, which would have cost their colleagues their seats in more cases than would the congressional plan, and so were ecstatic that they would not have to run under the Dymally and Waxman lines. Senator James Mills, the President Pro Tempore, said it should not be difficult to come up with a bipartisan Senate plan for the future: the problem, he said, lay entirely in the Assembly.

There come times in politics when ultimate decisions must go to the people. Now reapportionment ceased to be a legislative issue, and the 1972 election became the battleground. The Court ruling had made for some big winners and not a few losers. Assemblymen Conrad and Wakefield still had seats to run in; Senators Marks and Behr would not have to square off in a primary. It appeared that Howard Berman would have to wait a while before entering the Assembly. Republicans Maddy and Belotti had survivable seats. The real fight now was to take place out on the hustings: who would prevail in this final election to be held in the districts of the 1960s?

Squaring Off: The 1972 Election

Dark clouds appeared almost immediately over the Republicans. In June of 1972 burglars were caught in the Watergate complex, and the Vietnam war continued to rile young, newly-registered voters. Suddenly, and almost without warning, Republican registration fell precipitously. From 39.8 percent statewide in 1970, it fell to 37.3 percent in May of 1972, and all the way to 36.7 percent by the general election. The hot McGovern-Humphrey primary in 1972 drew new Democrats to the rolls. But on the Republican side the spectre of Watergate -- in addition to a growing ennui with Governor Reagan, now in his sixth year --

contributed to declining GOP fortunes. In the case of the Assembly, these factors led to a Republican rout in the 1972 elections. The GOP did less poorly in the Senate and Congress.

Phil Burton's congressional districts had the effect he had anticipated: all 38 incumbents won re-election. Few even had serious opposition. Congressman Teague won by nearly 100,000 votes in his made-to-order district. Congressman Burton's San Francisco colleague, GOP Congressman William Mailliard, had a close contest, but it was the result of changing voting patterns in San Francisco and Marin Counties, and had nothing to do with the district lines. As anticipated, Assemblyman Ryan won his seat, Senator Burgener won his, and the black district went to Assemblywoman Yvonne Braithwaite as Dymally passed up the congressional race. The new San Bernardino seat went Democratic, as planned. But Burton did not quite get everything he wanted: Republican Assemblyman Bill Ketchum won the Bakersfield district, despite losing Isla Vista by 5,000 votes. So the 20 Democrat, 18 Republican pre-reapportionment ratio in Congress became 23-20 and, given the nature of the 1972 election, this was not a bad showing for either party.

Only 20 Senate seats were up for election, and the big winners included Senator Marks, re-elected in his San Francisco district. One other Republican had a close call, and one seat changed hands. In Stanislaus County, Democratic Senator Stephen Teale retired and two Assemblymen squared off -- Democrat Ernest LaCoste and Republican Clair Berryhill. Berryhill had beaten LaCoste in a 1969 special Assembly election, but in 1970 LaCoste returned to oust Berryhill. In their rubber match for the Teale Senate seat, the Republican Berryhill prevailed, creating an unexpected 20-20 split in the Senate. Reapportionment in 1973 would prove most interesting.

If Congress and the Senate were standoffs for the GOP, the Assembly was

a disaster. It was a bitter contest to see if Republicans could capture control of the Assembly as they had in 1968, or whether Democrats would extend the lead they had established in 1970. Bad GOP omens were apparent when several Republicans retired, giving Democrats a shot at their shaky districts. Assemblymen Belotti and Dent both retired, and Democrats claimed their seats. Three retirements in southern California, including that of Assemblyman Brophy, gave the Democrats three more seats. Howard Berman moved into Assemblyman Conrad's district and proved that Conrad was out of touch with his district, whipping him by 20,000 votes. Two GOP Assemblymen thought to be safe in Bakersfield and San Diego lost, and the Republicans failed to reclaim the seat lost earlier in the year when Republican Assemblyman Pete Wilson became mayor of San Diego.

Altogether, the Republicans lost nine Assembly seats in 1972 -- one of the worst drubbings ever suffered by any party in a California election. The Assembly Democratic staff posted a sign on their office door the day after the election: "How Sweet It Is."

Should the Republicans have settled for the 37-seat plan? A post-election GOP staff analysis showed that it would probably have elected 34 Republican Assemblymen given the terrible year.[37] Even running in the A.B.12 lines would not have been this bad. Republicans would have elected 30 or 31 members -- more, at least, than the 29 seats they had won running in the old districts. Assembly Republicans, returning shell-shocked to the Capitol after their 1972 beating, tried to console themselves that their greatly reduced troops could stand and fight another day.

Into the Breach Once More: The Legislature's 1973 Redistricting

In its decision of January, 1972, the Supreme Court set a December

deadline for the legislature to complete reapportionment. But 1972 was a year for elections, not line-drawing, and 1973 dawned with no plan adopted. Legislators decided to try again despite the court deadline, in the hope the court would foreswear drawing its own plan if the legislators could manage to agree and obtain the Governor's signature on a bill. In February of 1973 both houses went back into the reapportionment business.

Senator Dymally re-introduced a modified version of his vetoed Senate plan, this time collapsing the seat of San Francisco Democrat George Moscone, who was a probable candidate for governor, in order to avoid a Marks-Behr primary in the Bay Area. Senator Harmer also readied a new plan, teaming up with Democratic Senator George Zenovich of Fresno. The two of them developed S.B.195, a plan to counter Dymally's, known as the Harmer-Zenovich plan.

Zenovich was a new player in reapportionment politics, but was a master of the legislative arena. Elected to the Assembly in 1962, he quickly rose to a leadership position, where he established a reputation as a deal-maker par excellence. "Beware of Yugoslavs bearing gifts," a fellow Assemblyman once warned. Zenovich moved to the Senate in 1970 and, though in only his first term, was already a member of the important Senate Rules Committee. A moderate Democrat, Zenovich could work both sides of the aisle, and he had an eye on the office of the President Pro Tempore. Zenovich decided reapportionment was a possible path to Senate leadership -- if only he could strike a deal that pleased a majority of Senators and could win Reagan's signature.

Zenovich and Harmer took advantage of the impending retirement of Senator Allen Short, a Stockton Democrat, which had been announced in December of 1972. Short's district thus became the losing northern California seat, providing separate seats for Senators Marks, Behr and Moscone. In the

process, Short's home county of San Joaquin was divided among four districts -- although it had population enough for only half a district.

Dymally's reapportionment staff took one look at the Zenovich-Harmer plan and decided that the Yugoslav was bearing Republican gifts, that S.B.195 was actually a GOP plan which could cost the Democrats three of their seats. Hispanics -- long supporters of Dymally's plans because they created the new Hispanic Senate seat in downtown Los Angeles -- also fired salvos at the Zenovich-Harmer plan. It had an Hispanic seat, but one that stretched from downtown Los Angeles to downtown San Bernardino. This elongated district, they feared, might well elect an Anglo, not an Hispanic. Senator Dymally was determined to fight the Zenovich-Harmer plan and, as chairman of the Senate Elections and Reapportionment Committee, promptly killed the bill in his committee. Harmer and Zenovich then saw to it that there would not be enough votes on the Senate floor to pass Dymally's plan, which he had moved out of his committee and onto the floor. At one point Zenovich tried to break the impasse by stacking the reapportionment committee, but his fellow Senators objected: such things were not done in the gentlemanly Senate. The Rules Committee turned down Zenovich's proposal to add two supporters of his plan to the reapportionment committee.

Both plans languished for two months. Dymally's plan lay lifeless on the Senate floor without enough votes for passage; the Zenovich-Harmer plan was tied up in committee despite sufficient votes on the floor to pass it. Dymally tried to round up enough votes to pass his bill by changing it yet again, but still he could not move it. Then, on May 1, the Supreme Court appointed three retired judges to act as redistricting "Masters" and enact a plan. The court told the Masters to begin their work in June, and set an August 31 deadline. Legislators read the writing on the wall: get a plan of your own with the

Governor's signature within the month, or the court will do it for you.

Zenovich and Harmer swung into action. Again their plan was amended, this time to satisfy Democratic concerns that the plan was slanted toward Republicans. On May 18 one Democrat on the Reapportionment Committee switched his vote, and the Zenovich-Harmer plan was voted to the Senate floor. Five days later the Senate passed the Zenovich-Harmer plan by a vote of 25 to 13. The 25 "yes" votes included 15 Republicans and 10 Democrats. Among those voting "no" was Senator Dymally, the all but defrocked chairman of the Reapportionment Committee. Dymally's own plan died shortly thereafter on the Senate floor, and Zenovich-Harmer became the official Senate reapportionment plan for 1973.

In one way this proved to be quite a victory for the Republicans. Having begun as the minority party two years earlier, the GOP now largely dictated the Senate reapportionment. And word came from the Governor's office that Reagan was prepared to sign Zenovich-Harmer when it reached his desk. Republicans were confident that the revised version gave them 20 seats; the Democrats could also count 20. Senator Short's Democratic seat in the north became the Hispanic seat in Los Angeles, although Hispanic leaders still objected that it ran all across the map. The districts looked better than in earlier versions: most of the Central Valley districts were compact, and most of the long fingers of the Dymally bills were gone. The plan did, however, retain the hook placing the Isla Vista students in a Democratic district, and some Los Angeles districts stretched the imagination. But now all that remained was to get this plan through the still-fractious Assembly.

Assembly Democrats and Republicans also opened negotiations early in 1973, but the situation there was far different from that in the Senate. Democrats now held a 51-29 edge in seats, and Republican enthusiasm for a

negotiated reapportionment had declined with their 1972 election drubbing. The GOP could see no way of ever regaining its Assembly majority if Democrats were allowed to safen their 51 seats through a clever redrawing of the lines. A significant minority of the Republican caucus wanted to end negotiations before they ever began, preferring to let the Supreme Court draw up a plan that might offer Republicans more hope for the future.

Democrats, of course, still wanted a legislative settlement rather than a court-ordered plan. But they were not interested in simply trying to save all 51 of their seats; instead, the Democrats settled on a strategy of drawing safe districts for their newer members by excising Republican-voting territory from their districts. In order to do this, Democrats were prepared to offer the GOP at least three Democratic districts in exchange for a reapportionment deal. In the Bay Area, Democrats now had too many districts, and they offered to collapse the seat of veteran Democrat Carlos Bee and create in its place a new Republican district in Contra Costa and Alameda Counties. They also suggested that the San Francisco district of John Foran, which needed to be eliminated, be made to reappear as a GOP district in the Kern and San Bernardino County deserts. And they offered up senior Democrat Harvey Johnson of Los Angeles for a new GOP seat in Orange County.

These three new Republican seats were not entirely the result of Democratic benevolence: in each case these proposed seats drew Republican voters away from nearby Democratic seats, thus making them safer for the incumbent Democrats. Although none of the three Democratic victims was pleased to have his district collapsed, Democratic leaders figured it would work to their advantage. There was no longer any concern in Speaker Moretti's mind about losing control of the Assembly. Winning two-thirds of the seats -- 54 of the 80 districts -- seemed an impossibility, and not worth the bother anyway. Demo

crats confidently expected to elect a Democratic governor in 1974 -- and Moretti hoped he would be the lucky soul -- so a veto-proof Democratic two-thirds majority was not necessary. Why not offer the Republicans a few seats we don't need anyway, the Democrats thought, and see if we cannot get a deal.

As his lieutenant in this process Moretti chose a second-term Democrat from Oakland, Assemblyman Ken Meade. Assemblyman Waxman wanted out of reapportionment, for his political goal had been achieved: Howard Berman was now his Assembly colleague. So Moretti turned to Meade. It was not the best of choices: Meade was hot-tempered and roundly disliked by his Republican adversaries. He had none of the smooth deal-making abilities of a Zenovich, and tended to irritate people right from the start.

Meade's first plan, introduced in February of 1973, gave the Republicans three more seats, but the GOP still objected. A staff analysis noted that the famous "Maddy-Mobley problem" was not resolved, and that a weak Republican, Assemblyman Don MacGillivray of Santa Barbara, was given a bad district. Republicans said "no" to this plan, much to Meade's displeasure. He decided to overcome official GOP opposition to his plan by finding individual Republicans who might support it.

Meade's tactic was tricky. He would need at least eight GOP votes to enact the plan, and these same Republicans would also have to commit to override a Reagan veto, since the Governor was sure to object to a plan his party in the main opposed. Meade thought he had the votes, and in early March he prepared to move his bill.

Republican leadership in reapportionment had changed early in 1973: Monagan was on his way to an appointment in the Nixon administration, and was to be succeeded as Minority Leader by Assemblyman Bob Beverly of Manhattan Beach, who had a less intense interest in reapportionment. Jerry Lewis had also

moved away from the issue, and the new reapportionment negotiator was Assemblyman Dick Hayden of Sunnyvale -- another newcomer to reapportionment. But the Republican staff remained the same, and they now decided to head off the pending arrangement with Meade by leaking to the press the names of likely GOP votes for the Meade plan. On March 7 an article appeared in a Sacramento paper stating that several GOP Assemblymen would vote for Meade's plan.[38] The next day Republicans had an angry two-hour caucus on the plan. Once exposed, the Republican defectors promptly backed off their private commitments to Meade. The GOP caucus took a position against the bill, and Governor Reagan chimed in that it was bad for the party. So ended Meade's end-run around the Republican leadership.

Meade himself was furious, as was Speaker Moretti. "The only way this house functions is when a man gives his word," said Meade. "Because that no longer is the practice in this house, I move the bill to the inactive file." He claimed eleven Republicans had committed themselves both to the bill and to an override of the expected veto, but that they had broken their word. "The fear of Ronald Reagan prevailed today, not the will of the people." Moretti added, "I can live with almost anything except someone lying to me. As far as I am concerned, the ball is in the Republican court and we will make no further move."[39]

But move they did. Moretti himself once again became personally involved in redistricting, and the Democrats decided to use some honey where vinegar had not worked. Bipartisan negotiations commenced and, for the first time, the Assembly Democratic and Republican staffs were integrated, and a real effort was made to come up with a plan that both parties could support. Both Beverly and Hayden wanted to end the reapportionment fracas and, although some members of the Republican caucus still wanted to go to court, most preferred a

bill to a Supreme Court plan. The two staffs came together and argued endlessly over such trivia as one-tenth of a percent in GOP registration in one Riverside district and whose district would get Humboldt State College. By early May, however, an agreement had begun to take shape.

Compromise was made easier by unexpected vacancies in several districts. Democratic Assemblyman Carly Porter of Downey died in December of 1972; in the spring of 1973 his seat was won by a Republican in a special election. This permitted the recreation of a GOP seat in the Downey area that both Porter's successor, Republican Bob McLennon, and nearby Assemblyman Floyd Wakefield might run for. Too, it neatly eliminated the need to collapse one Los Angeles Republican. In May, Democratic Assemblyman Bob Crown of Alameda was killed by a motorist while jogging near his home; his seat was hastily collapsed and sent south to GOP neighborhoods. It was ironic that the final Assembly reapportionment involved Bob Crown in this way: it was he who had designed the 1961 Democratic gerrymander that made Jesse Unruh Speaker and gave the Democrats their victories for a decade. Now his own seat was sacrificed to bring Republicans to the bargaining table.

At the end of May, with the Court Masters already beginning their work, the Assembly passed the new bipartisan bill, A.B.164, by a vote of 63-12. This marked the first Republican votes for a reapportionment bill in the Assembly. A.B.164 left two marginal GOP seats -- MacGillivray's and the combined Wakefield-Porter district -- but created four solidly Republican districts out of former Democratic seats -- two in Orange County, one in the high desert, and one in the East Bay. The plan promised to return between 31 and 33 Republicans in the 1974 election. Even an agreeable Maddy-Mobley division of Fresno had been achieved. Was this the end of the reapportionment war? Not quite.

A.B.164 still had the "Cory-dor," with all its angles. And a bizarre division

of San Diego County, including the carving of La Mesa into several pieces, was necessary to protect the four Democrats representing this Republican county. And few if any of the Republican seats lost in 1972 could be won back. Republicans might elect as many as 33 members after the next election, but the Democrats had a lock on as many as 47 seats for themselves. Governor Ronald Reagan decided this would not do and, after much analysis by his own staff, he announced he would not sign the Assembly plan. To make things worse, Congressman Burton had resurrected his vetoed bill and was moving it along as the new congressional plan, and Reagan would not sign that either. He would only sign the Senate bill.

This naturally made the Senate bill a hostage. Assembly Democrats decided to do just as they had done two years earlier when faced with a similar situation: they "married" the Senate and Assembly bills. If Reagan would not sign the Assembly bill, he would have to veto the Senate bill as well. Senators were bitter about the Assembly tactic, roundly denouncing it as blackmail, but they knew they could not get their bill out of the Assembly except by concurring with the Assembly's wishes. After two weeks of parliamentary maneuvering, the Assembly leadership sent the Senate bill -- S.B.195 -- to the Governor with the Assembly, Senate and congressional plans in it.

Now the Republicans faced a terrible dilemma: if Reagan vetoed the bill, he would kill a Republican-oriented Senate plan, an Assembly plan giving his party more seats, and a congressional plan that incumbent Republicans supported. But his signature meant casting the GOP into permanent minority status in the Assembly and reversing his position on a congressional bill he did not like. Reagan opted for consistency, and once again he vetoed the plans:

> Because the proposed congressional and Assembly districting measures contain no substantial improvements over the 1971 proposals (indeed many districts are even less defensible), I am once again impelled, in the interests of equal and effective representation, to veto the legislature's attempts at reapportionment. . . . The Senate

> districts set forth in S.B.195 . . . have been improved since 1971. . . . If I had received a separate bill proposing establishment of these Senate districts, I would have signed it because of the Senate's honest effort during recent months to improve the districts. 40

Robert Kennedy once said that Lyndon Johnson was chosen for vice president at the Democratic convention in 1960 because everyone was so tired they were unable to think through the consequences. By June of 1973 -- two and one-half years into the reapportionment battle -- everyone was exhausted, and Republicans were incapable of thinking through the consequences of Reagan's veto. For the Governor the motives were clear: he did not like seeing his party made a permanent minority in the Assembly, or prevented from winning more than the 20 congressional and Senate seats it now held. He also did not like gerrymandering, and the reapportionment issue gave him a chance to strike a blow for good government. But the Republican horizon was dark with the clouds of disaster. Slowly but surely the presidency of Richard Nixon ravelled apart on national television at the hands of Senator Sam Ervin's Watergate committee. Could the GOP be perched on the brink of electoral disaster? If so, wasn't the guarantee of 33 Assemblymen and 20 Senators a pretty good thing? Gerrymander or not, wasn't this a deal they should take?

Republicans still had a chance to make this reapportionment stick: they could override the Reagan veto. True, no Reagan veto had ever been overridden, but some had come close. Besides, in this case political careers were on the line. The Democrats had arranged that an override attempt would have to come first in the Senate, where support among Republicans for the overall bill was strongest. Speaker Moretti complained that Reagan had simply vetoed the bill because it did not allow Republicans to win a majority in the Assembly: "If it were a Republican majority that passed that same Assembly plan, he would have signed it."[41] Few people argued with this: Reagan was on the record as being

willing to sign the Republican-leaning Senate plan.

With all 40 Senators on the floor, Senator Zenovich rose to argue for an override on June 28, 1973 -- the day after the Governor's veto. This was the last hour of the last day for the legislature to act on redistricting. If they failed, for the first time in California history the courts would reapportion the state, and the Court Masters were already hard at work. Zenovich appealed to the traditional arguments of separation of powers, as well as to the legislators' self interest. Some of them, he reminded his colleagues privately, might not be back if the courts were to draw the districts.

Senator Harmer, still angry at the Assembly for "marrying" the bills, asked for a vote to uphold the veto. Vetoing the combined bill was the only reasonable thing the Governor could do, considering the Assembly action in putting all three plans in one bill. Harmer and his fellow GOP Senators decided that loyalty to their Republican Governor was more important than saving the plan they had toiled over for two years. While anxious Assemblymen looked on from the gallery, Zenovich called for a vote on the override. He only received 19 votes -- eight short of the number needed to send the bill to the Assembly.

Three Republicans joined 16 Democrats to override the Governor, but it was not enough. Four Democrats and 17 Republicans voted to uphold the veto. Among the votes for Reagan's position was that of Senator Dymally, in the unusual position of helping to kill the final reapportionment plan. Dymally had no love for Reagan: he was still miffed at the death of his own bills and the treatment of minorities in the Zenovich-Harmer bill.

With the death of S.B.195, the legislature gave up the reapportionment ghost. It had become apparent to everyone that there would be no reapportion ment law duly enacted by the California legislature and the Governor, and the job would fall to the third branch of government. But a final postscript to the

legislature's efforts reveals a bitter irony for the Republicans: the plans they killed would have given them far more seats than they were to see again in the decade of the 1970s. What with the Watergate disaster of 1974, topped off by President Ford's pardon of Richard Nixon two months before the election, it would be a long time until Republicans again had 20 Senators, 20 Congressmen, and 31 Assemblymen.

There was no guarantee these plans would have produced the seats promised, but they certainly would have made safer a number of districts that were later to fall to the Democrats in the Watergate tide. In light of the declining GOP fortunes of the 1970s, the bipartisan and incumbent-oriented gerrymander which Democrats were so anxious to pass probably would have provided fewer Democratic victories than the plans the Supreme Court Masters were then so busily concocting, and which would scatter political fortunes to the winds for the next eight years.

The Supreme Court Masters' Reapportionment of 1973

In the spring of 1973, with the legislature flopping about over reapportionment like a fish out of water, the Supreme Court appointed three Masters to do the job. Marvin Coughlin, a retired appellate justice from San Bernardino and a Republican, was presiding Master. Harold Collins, a retired Los Angeles superior court judge, and Alvin Weinberger, a retired San Francisco superior court judge, were the other two. Both were registered Democrats. (Coincidentally, Judge Weinberger was a cousin of Caspar Weinberger, a former San Francisco Republican Assemblyman who had moved on to a high position in the Nixon administration.)

The Masters hired for their staff Paul McKaskle, a University of San Francisco law professor with an interest in political demographics, and Gordon

Baker, a political scientist at the University of California at Santa Barbara. They were assisted by three law clerks chosen by McKaskle. The Masters also contracted with the Senate for the use of their database. That database was based on census tracts, which appealed to the Masters, and they decided to base their plan on entire census units and tracts whenever possible.

The Masters held a series of hearings around the state. They heard strong opposition from a number of cities and counties that resented being divided among districts. The Senate Republicans presented the bipartisan Senate districting plan as the "official" Senate plan and urged the Masters to adopt it. Lieutenant Governor Reinecke submitted the Hofeller-CSI plan, and the Masters were impressed by its compact districts. Professor Michael Halliwell of Long Beach State University presented a plan, as did GOP Assemblyman Mike Antonovich. The Antonovich plan, drawn by the Assembly GOP staff, used population variances as permitted in recent court rulings to keep cities and counties together as much as possible. Hispanic groups presented plans for dividing central Los Angeles. Gordon Knapp, a wealthy San Francisco businessman, presented a plan drawn by San Francisco attorney Robert Naylor. Knapp had at one time been a congressional candidate against GOP Congressman Pete McCloskey. Assembly Democrats presented the Assembly plan; the congressional delegation submitted its bipartisan agreement, which was already in effect. The congressmen pressured the Masters to adopt Phil Burton's handiwork because -- besides protecting all incumbent members of Congress -- it preserved the state's seniority in Washington.

But the Masters weren't interested. They rejected the Senate plan because of its "sweetheart" districts. The Assembly and congressional plans had too many oddities. The Masters were amused at the efforts of Republicans to excise college students from their districts; they particularly liked

the hook that ran from Bakersfield to Isla Vista to get rid of the Santa Barbara students.[42] After reviewing all the plans, the Masters decided they would reapportion the state themselves.

They gave McKaskle and the staff a straightforward set of criteria: divide the state into five basic regions; keep cities and counties intact; make congressional districts as equal in population as possible, but vary legislative districts up to 2 percent; and form compact and contiguous districts. They also established a functional process for drawing districts: congressional and Senate districts should coincide as much as possible; and two Assembly districts would be paired to form a single Senate district. This pairing of districts was unique to California, and harkened back to the days when congressional districts were formed from entire Assembly districts. The Masters were convinced this would reduce gerrymandering and make it easier to respect the five regions. At one point the Masters considered expanding the Senate to 43 districts so they could overlap the 43 congressional districts. The Supreme Court told them they could not do this.[43]

The Masters defined their five regions as the 41 northern and rural counties, the six Bay Area counties, the three central coast counties, Los Angeles and two neighboring counties, and the remaining five southern California counties. McKaskle's job was to determine how many seats each region received, and then to divide within the region to form the districts. In some cases two Assembly districts were formed and then combined to create a Senate district; in most of rural California, on the other hand, whole counties were put together to form a Senate district, which was in turn divided into two Assembly districts. McKaskle's staff worked through July and August building districts, beginning with the rural areas and working their way into the city centers. In Los Angeles they decided to develop districts with clear racial voting patterns in order to

give minorities more electoral opportunities. In the process, two heavily black congressional and Senate districts, and four black Assembly districts, were created -- an increase of one black Senator from the legislature's plans. Two Hispanic Senate and congressional seats and four Hispanic Assembly seats were likewise formed -- a huge increase in Hispanic representation. All were safely Democratic, but in the process some nearby Anglo Democrats lost their districts.

Little care was given to incumbent wishes in forming the districts, or to the needs of the senior members of Congress. Democratic Representative Chet Holifield -- the dean of California congressmen -- lost his district, as did senior Republican Representative Bill Mailliard. Other congressmen, Senators and Assemblymen unexpectedly found themselves without districts when the Masters' plan was made public on August 31, 1973. So many marginal and uncertain districts appeared on the Masters' map that both parties claimed to be satisfied. The "quality and quantity" of Democrats will increase, said state Democratic chairman John Burton. "A victory for good government, a healthier and more competitive system," said GOP chairman Putnam Livermore.[44]

One final act remained. In November, the Supreme Court convened to receive the Masters' report. A special counsel for the Senate argued in favor of adopting the bipartisan Senate plan, and several legislators were prepared to bombard the Court with small changes intended to resolve one problem or another. But the Supreme Court -- pleased that the Masters' plan seemed to have bipartisan support and had received generally good press reviews -- refused to make any changes: "Any attempts we might now make to redraw specific district lines to achieve possibly more reasonable results would run the serious risk of creating undesirable side effects which we could not foresee," read the final court order signed by all seven justices.[45] The court did, however, make one ruling which greatly pleased the Senate: only those Senators whose terms

were due to expire in 1974 would be required to run for re-election in 1974. Those who had terms expiring in 1976 would serve until then. In 1966, the court had required all Senators to run, although some still had two years remaining on their terms. By not requiring all Senators to run in the newly reapportioned districts, the court did Republicans a big favor. Twelve of the twenty seats expiring in 1976 were Republican-held, and these Senators dreaded the prospect of going before the voters in 1974 -- already shaping up as a terrible Republican year.

For all other districts the Masters' plan was to be in effect for the 1974 election -- the worst election drubbing for the GOP in years. As a result, the plan's many marginal districts favored the Democrats. The GOP could have avoided this fate either by settling the issue in 1971, or by protecting itself by enacting the 1973 incumbent protection gerrymander. It was not without some satisfaction that years later Speaker Bob Moretti called the court plan the greatest Democratic victory in reapportionment history.[46] But was it? Did the Masters knowingly or unknowingly draw a Democratic reapportionment, or was their plan designed specifically to allow the voters to chose the legislators they wanted?

The Impact of the Masters' Reapportionment Plans

The congressional plan of Congressman Burton was the only legislatively-passed plan in effect, and in the 1972 elections it had returned 23 Democrats and 20 Republicans. Already there were signs that these proportions would not hold up as, across the country, Republican congressional candidates began losing special elections in reaction to the Watergate scandal. When the Masters' plan first came out, GOP Congressman Mailliard of San Francisco -- who had barely survived under the Burton plan -- saw he was doomed under the Masters'

districts and took a job with the Nixon administration. His seat was won in a special election by Democratic Assemblyman John Burton, Phil's younger brother, and Republicans entered the 1974 election with incumbents in only 19 districts. They lost four seats in the 1974 Democratic landslide -- all of which had been made more competitive by the Masters' plan. In 1976 the GOP dropped a fifth seat, giving Republicans only 14 congressional districts to the Democrats' 29.

But it wasn't long until the GOP recovered their losses. In 1978 and 1980 Republicans recovered three of the four Watergate losses, capturing five Democratic seats while losing only one of their own. After the 1980 election -- the last one held under the Masters' plan -- the GOP held 21 congressional seats to 22 for the Democrats: a full recovery from Watergate and an additional seat.

For all the care that had gone into Burton's incumbent protection plans, only five incumbent congressmen lost due to the Masters' reapportionment. GOP Congressmen Bob Mathias of Tulare and Vic Veysey of Riverside lost in 1974 because of unfavorable new territory. Veysey actually had no district at all in which to run and moved miles away from his home to try to save his congressional career. In later years, however, both seats returned to the GOP. Democratic Representative John McFall of Stockton lost in 1978 for two reasons: because of a scandal and because he had been given many Republican voters from Mathias's old district. Representatives Mailliard and Holifield were forced into retirement by the Masters' lines.

One surprised Assemblyman received a congressional seat due to the Masters' redistricting: Henry Waxman found himself with a chance to go to Congress thanks to the lines in west Los Angeles. In drawing the two Hispanic districts in central Los Angeles, a new district was formed to replace Holifield in

the Hollywood area. This new district overlapped one-third of Waxman's Assembly district. He was quick to stake his claim, and was easily elected in 1974. Republicans looked at this district with a wary eye: had Waxman somehow gotten to the Masters and convinced them to create a district for him? McKaskle contends that the district evolved as a result of the reshuffling of central Los Angeles to create minority districts.[47] But population patterns did not seem to justify a new district in west Los Angeles, even if it was replacing another district across town.

Two seats switched parties as a result of the Masters' reapportionment and were not regained by the losing side. In San Jose, the Republican seat of Representative Charles Gubser went Democratic in 1974 and stayed that way. Gubser retired and the Democratic nominee was the popular mayor of San Jose, Norman Mineta. The Republicans might have had a chance of holding the old Gubser seat; but they could not hold the one the Masters drew. In Stockton, McFall's loss was also tied to reapportionment, and his successor, GOP Representative Norman Shumway, quickly established himself in the seat. The other GOP seats lost in 1974 because of reapportionment all returned to the Republicans later in the decade.

Republicans also managed to hold one shaky seat due to the Masters' plan. In Bakersfield, GOP Representative Bill Ketchum won a seat designed for the Democrats in 1972. He got a safer seat from the Masters that he managed to win only narrowly in 1974. Ketchum might well have been another Watergate victim had the Masters not improved his seat. Representative Barry Goldwater's district was also made safer by the Masters, insulating him from future challenges.

The Supreme Court's involvement in California congressional districts had an important side effect in the Watergate year. Representative Burton had

drawn the safest possible district for senior Republican Congressman Charles Teague in the plan imposed by the Reinecke decision. In January of 1974, however, Teague suddenly died. Popular Senator Robert Lagomarsino ran for Teague's open seat in a special election held in the spring of 1974 -- just when Republicans were losing one special election after another. Lagomarsino managed the only Republican win that dismal spring and, for a short time, his lonely swim against the Watergate tide made him a national figure. Lagomarsino might well have gone the way of other Republicans that year if not for the overwhelmingly Republican nature of the seat Burton had drawn for Teague. This was a rare example of Burton's handiwork working to the benefit of the GOP.

Overall, for the four elections in which they were used, the Masters' congressional districts had a balanced effect on both parties and were surprisingly representative of the national trends in congressional elections. The Watergate loss of four seats was typical of the Republican showing that year, as was the loss of three seats by the Democrats in the Reagan landslide year of 1980. While new Congressman Waxman was a big winner in the Masters' reapportionment, and Representatives Mailliard, Mathias and Veysey were big losers, the long-term electoral outcome reveals that the plan did not favor one party or another. Both parties fared equally, and both found reasons to be satisfied with the Masters' plan as the decade progressed.

The results were not as balanced in the Senate. Republicans would have been slightly better off under the 20-20 Zenovich-Harmer plan they had negotiated with the Democrats. Even before the Masters' districts became effective, Republicans had lost two of their 20 districts. In a special election, Democrat Ruben Ayala won a Republican seat in San Bernardino County, becoming the state's first Hispanic Senator. Had the Zenovich-Harmer plan gone

into effect, Ayala would have inherited its only Hispanic district, as it ran through his home neighborhood in San Bernardino County. In Ventura County, Senator Lagomarsino's Republican Senate seat was won by a Democrat in another special election.

So the Republicans entered the 1974 elections holding 18 districts, and with only six of their incumbents at risk. Still, they did poorly. The Masters had eliminated one northern Republican by shifting Senator Marler's district into Yolo and Napa Counties, where he would have no chance of re-election. A Democratic Assemblyman won the seat, and Marler was later made a judge by Governor Reagan in consolation for the loss of his seat. Senator Short's Democratic seat was moved south and became the Hispanic seat in central Los Angeles -- as also would have been the case under the legislature's plan -- but GOP Senator Clark Bradley's San Jose district was made too Democratic for him, and he lost in 1974. Riverside Republican Senator Craig Biddle's loss was also due in part to reapportionment: his best Riverside precincts had been removed by the Masters.

When the dust of the Watergate election in November of 1974 had settled, Republicans had won only three of the 20 Senate seats at stake. Democrats had won the other 17 seats, and had turned the 20-20 split of two years before into a 25-15 edge as the 1975 session opened. The Republicans could only be thankful that only 20 seats had been up for election. Had all 40 been up for grabs, the GOP might have lost as many as four or five more seats, and one possible victim -- had he run in 1974 -- might have been Long Beach Senator George Deukmejian. Deukmejian's district had been combined with the Long Beach seat of popular Democrat Joseph Kennick. Deukmejian could have chosen to move to Whittier, which he also represented, and run for re-election in an open district there. But neither running in Whittier nor facing off with Kennick

in Long Beach would have been attractive for a Republican in 1974. Deukmejian's career might well have come to an end in that year, with the Watergate tide that washed away so many other Republicans. As it was, however, Kennick retired in 1976 and Deukmejian held off a spirited Democratic challenge in the Long Beach district.

The 1976 election was kinder to Republicans. Veteran Democrat Randolph Collier had received much of Marler's old district and did not survive a Republican challenge, and the GOP also won the newly-created Whittier district. Democratic Senator James Wedworth lost to GOP Assemblyman Bob Beverly in a seat that no Democrat could have won. The Republicans could now point to a three-seat gain on account of reapportionment. But Democrats picked up a new seat in Orange County and, due in part to the Masters' lines in San Diego, former Senate President Pro Tempore Jack Schrade of San Diego lost to a Democrat.

After all 40 Senate seats had been contested, it was clear that reapportionment had helped the Democrats win five seats and the Republicans three. Republicans lost two seats in 1976 due to retirements, and their numbers fell to only 14 of the 40 districts. One of the retirements -- that of Senator Howard Way of Tulare -- led to the election of California's first woman Senator: Rose Ann Vuich of Dinuba upended favored Assemblyman Ernest Mobley, over whose Fresno Assembly district so much fuss had been made.

As in the congressional delegation, Republicans also recovered in the Senate. They recovered the lost Marler and Bradley districts in 1978 and 1980, and managed to defeat San Mateo Democrat Arlen Gregorio. His seat would have been safe under the Zenovich-Harmer plan, but it was made more marginal by the Masters. Republicans also recaptured the lost Schrade seat in 1980. Thus three of the Watergate-related redistricting losses were reversed. Through a series of retirements and special election wins, the Republicans managed to

climb back to 17 of the 40 Senate seats by 1980 -- one less than they had going into the 1974 election. It's possible that the Masters' plans had slightly favored the Democrats in Senate elections -- particularly when compared to the Zenovich-Harmer plan, which had a clear Republican bias. The GOP probably would have gone through the 1970s with one or two more seats had that plan gone into effect, but it never could have led to their retention of all 20 of their districts.

Perhaps the most remarkable aspect of the Masters' Senate plan was the great number of Senate seats which changed parties during the four elections for which the plan was in effect. Both parties won majorities: Democrats at one time or another won 28 of the districts, Republicans 21. Some 14 of the 40 districts changed parties during the years of the plan, as shown below.

District	Result
First:	Republican defeats Democrat
Second:	Republican retires, Democrat wins
Third:	Republican defeats Democrat
Fourth:	Republican retires, Democrat wins, Republican wins
Seventh:	Republican retires, Democrat wins
Tenth:	Republican defeats Democrat
Twelfth:	Democrat defeats Republican, retires, Republican wins
Thirteenth:	Republican retires, Democrat wins
Fourteenth:	Democrat retires, Republican wins
Fifteenth:	Republican retires, Democrat wins
Seventeenth:	Republican retires, Democrat wins
Twenty-seventh:	Republican defeats Democrat
Thirty-fourth:	Democrat defeats Republican
Thirty-ninth:	Democrat defeats Republican, retires, Republican wins

In addition to these 14 seats which actually switched parties, another six or seven seats were hotly contested during the 1970s. This suggests that roughly half the seats in the Masters' Senate plan were subject to competitive contests. As was true of the congressional plan, this plan did not favor one party over the other -- although the Democrats fared somewhat better under it than did the Republicans. It is clear, however, that Republicans would have done better overall under the Zenovich-Harmer plan: it would have cushioned the Watergate

disaster for Republicans.

The Meade Assembly plan offered the Republicans 33 seats but, after the 1974 election, the GOP only held 25 Assembly seats under the Masters' Assembly plan. This led observers to conclude that the Republicans had been foolish to reject the Democratic offers. GOP critics also complained that failure of Assembly Republicans to work out a deal with Assembly Democrats lost them the Zenovich-Harmer plan, which would have been better for the GOP. An assessment of the Assembly results under both the Meade and Masters' plans does not reveal strong evidence that the GOP would have done much better under one than under the other. Unlike the Senate, all Assembly seats went before the voters in 1974, and a Watergate-embittered electorate was as unkind to the Republicans at the Assembly level as at the congressional level.

There was more long-term stability among Assembly seats than in the Senate. Only 22 of the 80 Assembly districts changed parties during the four elections held under the Masters' plan. Republicans went into the 1974 election holding 31 districts -- two more than they had won in 1972, because of special election wins in 1973. Had they run under the Meade plan, Republicans would have started with 34 seats, but the 1974 disaster would probably have lowered that number to about 26 districts. A 1975 analysis of the November results under both plans suggested that Republicans would have lost supposedly safe seats under the Meade plan: "a case by case analysis shows that, were this plan in effect, the Republicans might actually have won fewer seats than the 25 they ended up with."[48] Several of the 1974 GOP losses came as a result of untimely retirements, and in one case -- Republican Assemblyman Ray Seeley of Blythe -- a strengthened seat was lost. Of the supposed new GOP seats in the Meade plan, no more than one or two would actually have produced GOP victories in that electoral debacle.

Republicans lost eight seats in 1974 -- five due to retirements and three at the polls -- but managed to win one non-incumbent seat and defeat a Democrat. Two years later, in 1976, they dropped two more seats, neither of which, however, was the result of reapportionment. The Republicans made a big comeback in 1978, ousting Democrats from eight seats while losing only one of their own. Four of these districts had been lost in 1974. The GOP gained two more districts in 1980 and, after four elections under the Masters' plan, they had 32 districts -- one more seat than they had when the plan went into effect.

Moretti's boast that the Masters' Assembly districts comprised the greatest Democratic plan in history was borne out only in the first two elections, 1974 and 1976. In the 1977 session, Democrats held 57 of the 80 districts -- their historical high point. For four years during the middle 1970s, the Democrats controlled more than two-thirds of the Assembly, rendering the Republicans practically powerless in the legislative process. Would the Meade plan have produced these numbers? It is hard to say, although the GOP was bound to have fallen below one-third of the districts at some point during the 1970s. At one time, the Democrats controlled four of Orange County's six districts -- a phenomenon that reapportionment alone could not account for.

There are relatively few seats that actually changed parties because of redistricting. The Masters shuffled the districts in rural northern California in such a manner that one new, heavily Democratic seat was established in Stockton, while one Republican seat in Monterey was eliminated. But three northern California Democratic districts that would have been safe under the Meade plan were marginal enough under the Masters' plan that the GOP won them when their Democratic incumbents retired. Republicans actually ended up with more seats in northern California and the Bay Area after the 1980 election than they had started with before Watergate.

Southern California patterns were a little murkier. In Los Angeles County, two Democratic seats were collapsed to form new Hispanic districts. Republican Floyd Wakefield lost his seat in Southgate and made an unsuccessful attempt in a new Orange County district. Democratic Assemblyman Joe Gonsalves, whose seat was never in question in any of the legislative plans, ended up in the same district with freshman Republican Bob McLennon, and lost in a major 1974 upset. Ultimately, though, the Democrats got this seat back. They also won and held newly-created seats in San Bernardino and Orange Counties.

The Masters' decision to draw special racial and ethnic seats in central Los Angeles caused a ripple out into the suburbs which reshaped several of those districts, and that cost the Republicans some suburban seats, contributing to their 1974 drubbing. A good example of the GOP problem involved the "Rommel district." Among the more elegant creations of the Masters was a seat covering four counties in the high desert north of Los Angeles. It was called the "Rommel district" because political battles there rivaled those of Rommel's North African campaign. The seat looked Republican on paper, and incumbent Assemblyman Newton Russell was expected to run there. But Russell chose to contest another district, and a conservative Democrat narrowly carried the district in 1974 and 1976. Ultimately the Republican nature of this desert area -- which contains Palmdale, home of the B-1 bomber -- prevailed, and the GOP recaptured the district and turned it into a safe Republican seat. But the "Rommel" tale is typical of the fate of both parties under the Masters' plan. In the Democratic years of 1974 and 1976 that party did extremely well. But Republicans recaptured most of the lost districts in 1978, the year of Proposition 13, and in 1980, the year of Reagan's landslide. All told, Republicans elected members to 38 of the 80 Masters' Assembly districts, but not all at one time. Democrats at one time or another held 61 of the 80 districts during the eight years of the

Masters' plan -- astounding evidence of the breadth of the swing to the Democrats in California following Watergate. Had it not been for the arrival of Proposition 13, and a swing back to the right, it is probable that the Democrats could have held 50 or more Assembly seats for years to come.

Given different personalities and campaign styles, it is hard to predict with accuracy how the Assembly might have looked after Watergate and Proposition 13 had the 37-seat Waxman compromise plan of 1971 or the Meade plan become law. But a cursory glance at the districts suggests that, by 1980, the GOP probably would have held 34 seats under the Waxman compromise, and 32 seats under the Meade plan. They actually won 32 in the Masters' lines. Most incumbents of both parties would have been the same. Four of the 1980 Republicans -- including Assemblyman Don Sebastiani of Sonoma, later the GOP's bete noire -- would never have made it to the Assembly under the Meade plan, but Republicans would have elected additional members in Monterey, Stockton, Orange County, and San Bernardino. Assemblyman Sebastiani would also have been without a seat under the Waxman compromise plan, but the GOP would have elected two more Assemblymen from other parts of the state in 1980 than they actually did.

Since Republicans ended the years under the Masters' plan with one more seat than they began with, it is difficult to call that reapportionment a great Democratic boon. True, the Democrats would not have won the overwhelming victories during the middle 1970s under a legislative plan which protected members of both parties from harsh electoral winds. But the Republicans did regain virtually everything they lost in the mid-1970s in later elections.

Reapportionment in the 1970s: An Assessment

Buried deep in the report of the Supreme Court Masters is their own view

of the role of incumbency in drawing districts:

> While protection of incumbents may be desirable to assure a core of experienced legislators, the objective of reapportionment should not be the political survival or the comfort of those already in office. It is best if an incumbent's continuation in office depended upon effectiveness and responsiveness to constituents rather than upon the design of district boundaries. 49

The 1971 through 1973 reapportionment is a story of incumbents drawing districts for their own protection: virtually all aspects of the various Senate and congressional plans were designed to protect incumbents. That became the theme, too, in Assembly reapportionment after 1972. The Masters, on the other hand, rejected several offers to make incumbent protection one of their reapportionment criteria. The methods they used in drawing the districts assured that incumbent protection would not be among the criteria, and McKaskle says the Masters rarely -- if ever -- concerned themselves with the needs of various legislators.[50] And yet the districts which emerged cost few members their districts. There is the possibility, however, that the thought of running in a competitive seat rather than in the product of a sweetheart gerrymander may have induced a few additional retirements.

The Masters' plan also had little permanent effect on the make-up of the legislature and the congressional delegation. the Republicans probably elected a few more congressmen under the Masters' plan than under Phil Burton's plan, and the Democrats may have done better in the legislature under the Masters' plan. But neither party was greatly advantaged. While Republicans may have been bitterly disappointed at the results of their gamble with the courts, particularly following Watergate, they did receive from the Masters what they asked for: competitive districts. The problem was, of course, that 1974 was not an ideal year in which to elect Republicans in marginal, competitive districts.

In retrospect, Governor Reagan was right in vetoing the two incumbent

gerrymanders presented to him. The result was the election of more minorities in California. Although Ronald Reagan has never had much minority support, he did indeed open the door to significant minority representation, particularly among Hispanics, by his vetoes. And he indirectly assured California of a legislature reflective of the political ebb and flow that characterize California politics. He did, however, cause his own party to suffer a short-term disaster, making it possible for the Jerry Brown administration to have its way on legislation during Brown's first term.

Similar praise is due the California Supreme Court. Chief Justice Wright managed with considerable aplomb to keep his court united throughout the process, and to escape the thorns of the political thicket. The court's 1972 ruling that the new congressional districts go into effect while the legislature ran in the old districts managed to satisfy both parties at a time when Democrats and Republicans agreed on almost nothing in redistricting. The Masters performed their task in a professional manner and came up with a plan that most factions admitted was fair.

Only the legislature itself had a record of failure during the 1970s reapportionment. The Senate allowed itself to be blackmailed twice by the Assembly. The Assembly Republicans refused decent offers of settlement that, in the short term, would have helped them hold seats. The Assembly Democrats played political games with the process, such as Waxman's insistence on drawing a seat for his campaign manager, Howard Berman. Both sides exhausted their rhetorical skills trying to justify their methods. And they wasted a great deal of legislative time. Professor Eugene Lee of Berkeley summed up the general feeling of many citizens about the 1970s redistricting process:

> Decisions on major issues of public policy have been held captive to the determination of district boundaries. The people of California cannot afford the luxury of having two out of every ten years of a full-time legislature

dominated by districting politics. 51

Mao Tse-tung said that all power comes out of the barrel of a gun. Not always: in the California legislature much power comes out of the redistricting computer. Still, the 1971 through 1973 reapportionment war must have left many an exhausted legislator wondering whether the battle had been worth all the smoke and fury.

Footnotes

1. California Journal, June, 1971, p. 168.

2. Letter of Assemblyman Jerry Lewis to Assemblyman Paul Priolo, quoted in the San Francisco Chronicle, November 24, 1971.

3. California Journal, December, 1970, p. 342.

4. Press release from the office of Assemblyman Henry Waxman, September 8, 1971.

5. San Francisco Chronicle, October 8, 1971.

6. Letter of Assemblyman Henry Waxman to the Los Angeles Times, October 7, 1971.

7. Jesse Unruh, "Dangerous Dilemma Faces Democrats on Reapportioning of State," Sacramento Bee, June 1, 1971.

8. San Francisco Examiner, September 15, 1971.

9. Press release from the office of Assemblyman Henry Waxman, October 28, 1971.

10. Press release from the office of Assemblyman Jerry Lewis, October 28, 1971.

11. California Journal, October, 1971, p. 268.

12. San Francisco Chronicle, October 7, 1971.

13. Press release from the Senate Elections and Reapportionment Committee, November 11, 1971.

14. California Journal, December, 1971, p. 328.

15. Interview with Congressman Philip Burton, January 19, 1981.

16. Burton interview.

17. San Jose Mercury, November 13, 1971.

18. Silver v. Brown, 63 Cal. 2d 270 (1965).

19. San Francisco Chronicle, December 10, 1971.

20. Unpublished thesis of David L. Wilkening, California State University Sacramento, 1977, p. 309. This thesis is an excellent account of the history of California reapportionment from 1850 through the 1970s, and includes detailed maps and analysis.

21. Memorandum of Minority Leader Robert Monagan to the Assembly Republican Caucus, December 15, 1971.

22. San Francisco Chronicle, November 19, 1971.

23. Wilkening thesis, page 284.

24. Sacramento Bee, December 18, 1971.

25. Sacramento Bee, December 20, 1971.

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33. Letter of Eugene Lee, Professor of Political Science, University of California, to the Reapportionment Commission, January 4, 1972.

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ALL PASSION SPENT:

CALIFORNIA'S 1981 - 1984 REAPPORTIONMENT

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Introduction

They said he was just an old coot, a perennial candidate for office not to be taken seriously. So it wasn't until well into the spring of 1978 that the political establishment awakened to the phenomenon of Howard Jarvis. But before the summer's heat hit the capital, Jarvis had unleashed a political earthquake that rumbled across California and the nation, putting his face on the cover of Time magazine. Before the year was out, Jarvis and his Proposition 13 had reduced the orderly political landscape of California to rubble. They also rescued from near oblivion one of California's two major political parties.

The post-Watergate years from 1974 until 1978 were astoundingly prosperous for the Democratic Party. Virtually all the fresh blood and new talent that entered California politics found a home in the Democratic Party. Even while losing the state for Jimmy Carter in 1976, the Democrats managed to elect 57 members to the Assembly -- a two-thirds margin with three seats to spare. With few exceptions the Republican Party had been reduced to its bedrock constituencies. The coastal counties that once produced big GOP margins sent environmentalist Democrats to Sacramento. In the conservative desert communities, local Democratic sheriffs and district attorneys won election. Once right-wing, Orange County counted five Democrats in its legislative delegation. The small-is-beautiful Jerry Brown administration caught the state's fancy. And then the unexpected populist tax revolt of Howard Jarvis dropped on California politics like a brick on a teacup.

In the first election following Proposition 13 the Republicans suddenly won back their suburban supporters. Two Democratic Senators who had opposed Proposition 13 were ousted, and six Democratic Assemblymen were beaten. Three incumbent Democratic Congressmen lost, including two from the Water-

gate class of 1974. Suddenly the GOP was back in business, and California again had a two-party system.

Now the Republicans had some new blood. Feisty young conservatives in the Assembly caucus -- for the first time in recent history a majority of Republican Assemblymen were freshmen -- promptly ousted their Minority Leader, Assemblyman Paul Priolo of Malibu. Priolo, they said, was too accommodating to the Democratic majority, too willing to "go along, get along." Priolo was replaced by Assemblywoman Carol Hallett of Atascadero, making her the first woman to hold a major leadership position in the California Legislature. The California Journal compared her to the mythical "lady on a tiger, because her position depends on the rather impatient block of 13 freshmen (Assemblymen) who supported her." If she failed to lead an effective charge against Assembly Democrats, "the lady would end up inside the tiger,"[1] the Journal warned.

For Speaker Leo McCarthy -- the quiet, thoughtful San Francisco Democrat who had succeeded Bob Moretti in the Assembly's top job in 1974 -- the arrival of Proposition 13 and the newly invigorated GOP caucus was a rude experience. At the end of 1979 he got an even ruder shock: his own top lieutenant, Assemblyman Howard Berman of West Los Angeles, challenged him in his own caucus for the Speakership. Berman, the Majority Leader, had been viewed as the odds-on favorite to succeed McCarthy, probably by 1982 when McCarthy was expected to seek statewide office. But Proposition 13 accelerated the timetable. Berman's friends in the caucus -- which, as in Hallett's Republican case, included most of the younger, more aggressive members -- worried that McCarthy was hoarding his campaign funds for a statewide race, and would not spend his money to re-elect them in 1980. After the shock of 1978, a number of once-safe Democrats could feel Proposition 13 style Republi-

cans breathing down their necks. Although initially a reluctant candidate, Berman quickly rounded up enough pledges to oust McCarthy and, in December of 1979, called a caucus to assume the Speakership.

But it did not quite happen: McCarthy would not step down, and wary Republicans would not give Berman enough votes to reach the magic number of 41 needed for election as Speaker. They knew Berman was a past master at the business of reapportionment, and 1981 -- just a year hence -- was a reapportionment year. Better to leave the bruised McCarthy in place, figured the GOP, than to turn the Assembly over to the partisan Bermanites. So the Assembly spent 1980 in a three-ring civil war, with the Berman faction squared off against the McCarthy faction in a number of Assembly primaries, and with both factions facing the Republicans in the fall. Electorally, the outcome was inconclusive: the GOP only gained two seats, opening the 1981 session with a 32-to-48 split. And into the breach formed by the Berman-McCarthy battle walked Willie Brown, the flamboyant San Francisco Assemblyman, who put together a coalition of Hallett-led Republicans and McCarthy Democrats and claimed the Speakership for himself.

The GOP had accomplished its primary political goal for 1980: it kept Howard Berman out of the Speakership, which also served to help his younger brother Michael -- who had headed the Democratic reapportionment staff in the 1970s -- away from the computers that would soon gear up for the 1980s effort. Willie Brown, partisan and liberal as he was, made a far more agreeable Speaker than the moody and devious Berman. Brown once joked that, while McCarthy and Berman spent millions in 1980 trying to elect supporters to the Assembly, he spent his money on clothes, and emerged on top anyway. And Brown, some Republicans remembered, had spoken out in favor of a reapportionment settlement in 1971. Maybe this year the fractious Assembly could have a reapportion

ment without the accompanying war. Brown certainly thought so; he'd do everything, he assured Hallett and his GOP supporters, to see that all Assemblymen had districts they could win. With 48 seats (soon to become 49 with the party switch of GOP Assemblywoman Jean Moorhead) and a Democratic Governor, the Democrats were not out to gain more seats. Surely this time easy accommodation would be possible, and in 1981 the Assembly need not repeat 1971.

But politics is never so orderly as politicians would like: the 1980 election produced two other results that promised turmoil. As late as a week before the election, President Jimmy Carter and Ronald Reagan were running nearly even in the polls, and a close November election seemed likely. No-one foresaw the GOP landslide which ensued -- certainly not the dozen Democratic U.S. Senators and Senate candidates who went down to unexpected defeat. The Reagan Revolution that was unleashed in 1981 destabilized the political landscape in Washington just as Proposition 13 had done in Sacramento. And like the Sacramento Democrats, the national Democratic Party searched desperately for ways to keep bad from growing worse. Not only did 1981 portend wholesale repeal of cherished Democratic programs, but it was the year to reapportion the U.S. Congress. Some 17 House seats would shift from the Democratic but declining Frostbelt states in the east and midwest to the Sunbelt, where suburban Republicans were waiting to grab them. By the early spring of 1981 Indiana had already been reapportioned, and three Democratic seats appeared lost. The 1981 reapportionment would be a Democratic disaster: Republicans, who had won control of the Senate for the first time in a quarter century in 1980, talked of winning the House in 1982 based on new suburban congressional districts. As the Reagan tax and spending programs roared through the House in early 1981, frightened Democrats wondered who would save them. Only one volunteer

leaped forward to assault the GOP barricades: the Congressman who had come within a single vote of being elected Majority Leader in 1976, but was now a mere backbencher aching to get back into congressional power politics. Reapportionment was his ticket back to power, and the Honorable Philip Burton, fifth ranking Democrat in the California congressional delegation and San Francisco's senior elected official, intended to take it.

In addition, the State Senate, always the quiet body in California reapportionment, entered 1981 with its majority Democrats likewise shaken by reversals. After the 1980 election, 17 of the 40 Senators were Republicans, and a majority of the 23 Democrats would face the voters in 1982. Shocked Democrats lamented the loss of their long-time colleague, Senator Al Rodda of Sacramento, and wondered which of them would be next.

Rodda was chairman of the Senate Finance Committee, an institution in the capital, respected on both sides of the aisle. But his home district in Sacramento and its suburbs had undergone subtle changes in the late 1970s, as white-collar workers moved into neighborhoods formerly the reserve of state employees. Rodda was a Democrat of the old order, a solid liberal vote on most issues, and a good friend of the state worker. Like other Democrats he had vocally opposed Proposition 13; Republicans saw a weakness and took a gamble on ousting Rodda. A protege of conservative Los Angeles Senator H. L. Richardson, although unknown in Sacramento political circles, had won the Republican nomination. The weekend before the election, Richardson's effective organization flooded the district with flyers revealing Rodda's liberal voting record -- particularly on taxes and crime -- and, to the astonishment of the political establishment, Rodda fell on election day to 30-year-old attorney John Doolittle in what was perhaps the biggest Senate upset of the decade.

Nothing radicalizes politicians like losing. Into exile went long-time

President Pro Tempore James Mills of San Diego, replaced by the highly partisan Senator David Roberti of Los Angeles. Roberti promised his flock one thing for certain: no more Roddas. The Senate would be as tough on reapportionment as need be to save the Democratic majority, in the process punishing Richardson and Doolittle for the affront to Al Rodda. This would not be the year for bipartisan reapportionment in the Senate -- sweetness in the Assembly notwithstanding.

So 1981 dawned with an odd Republican-Democratic coalition Speakership in the Assembly, the first-ever black Speaker having been elected with more Republican than Democratic votes. The once-non-partisan Senate took on a harshly partisan tone; and a nervous Phil Burton paced the halls of Congress muttering "I will save you" to fellow Democrats.

The 1981 Reapportionment: First Stirrings

The most amazing fact of the early months of the 1981 redistricting was that the traditional political forces were not involved at all. Although the major redistricting players were all in place, spring and summer of that year were spent in building the computer databases and whispering about potential shifts in lines. Two groups outside the normal legislative process decided to raise the volume.

The first voice heard was that of the Rose Institute at Claremont McKenna College (formerly Claremont Men's College). This Institute had grown out of the 1970s redistricting, and its two top officers were Alan Heslop, its director, and Thomas Hofeller, who had been the Republicans' computer expert in the 1970s redistricting. Heslop was a professor of political science at Claremont and had built an extensive database of demographic information and election results for California. He and Hofeller had designed REDIS, a computerized reapportion-

ment system which permitted easy construction of election districts and immediate analysis of reapportionment plans. In 1980 the Rose Institute sponsored two academic conferences on reapportionment and hired the well-known public relations firm headed by Joseph Cerrell -- both in order to attract media attention to the issue.

Heslop insisted that the evils of past reapportionments involved incumbent gerrymandering in back rooms, far away from the press and the public, and that even as arcane a topic as reapportionment would spark public interest if the people realized the role of line-drawing in the make-up of a legislature. He convinced the California Roundtable, an amalgamation of major corporations, to make a $600,000 grant to the Rose Institute to prepare its database for the 1981 redistricting and to publicize the issue. The Institute released survey results showing that cities and counties disliked being divided in redistricting. Fragmenting cities and counties was a favorite method of gerrymandering, the Institute pointed out. Individual political reporters were invited to the Institute to play at drawing districts on its sophisticated computers. A major Institute effort was to educate the press on the mechanics of gerrymandering. The Torrance Daily Breeze carried a report in June showing how the south bay area of Los Angeles could be divided to elect three Republicans and one Democrat, or three Democrats and one Republican. It all depended on how the lines were drawn, the paper told its readers.[2] Another news article related how a Claremont College student could move San Francisco voters in and out of a marginal congressional district "with a slash of his electronic stylus."[3]

While informative to the political reporter, the Rose Institute's activities grated on many who made politics their living -- particularly the Democrats in Sacramento. The Democrats were suspicious of the Rose Institute from the start. Its funding came from the Roundtable, mostly Republican businessmen; its

top administrators had worked for the GOP in the 1970s; and all this talk about gerrymandering -- not splitting cities, and "good government reapportionment," as Heslop called it -- seemed a veiled threat to the majority party. Many political observers assumed that the Democrats, facing the election results of 1978 and 1980 and population shifts to the suburbs, would find it necessary to gerrymander in the extreme to save themselves, and that Republicans were somehow the only beneficiaries of "good government" redistricting. This oversimplified things. The Democrats had done very well under the Court Masters' "good government" plans of the 1970s, and Republicans could lose as many seats as they might win with a non-gerrymandered plan -- as they had learned in the painful years following Watergate. But perception often clouds reality in redistricting, and the Democrats decided that the Rose Institute was the enemy.

Heslop had offered to sell his database to both parties, and was convinced he had the best system for doing the computer work necessary to reapportion the state. Assembly Republicans had made their own purchase of the Rose Institute's data one of the conditions for supporting Willie Brown for Speaker, and had been allowed to set up their own redistricting analysis operation using the Rose Institute's computer system. Democrats, on the other hand, refused to touch it, instead spending much of 1981 developing their own computer system -- one for Assembly Democrats and one for the Senators. Democratic Senator Barry Keene wrote the President of Claremont Men's College questioning the past partisan ties and business relationships of Heslop and Hofeller. When Richard Cooley, the Roundtable's reapportionment representative, visited Speaker Brown to talk about "good government reapportionment," he was curtly told that redistricting was the business of the Legislature, not of outside groups funded by big business. The Rose Institute further irritated the legislators when

it presented its own model redistricting plan in June -- the first reapportionment plan unveiled in 1981.

The Rose Institute plan was drawn by Dr. Richard Morrill, a Washington state geographer who had previously worked for Democrats in that state. It featured compact, attractive districts that garnered much press attention, and not a few laudatory editorials. A "practical benchmark" for the Legislature, said the San Francisco Examiner.[4] The "honest computer plan," wrote the San Francisco Chronicle. "Dr. Morrill (has) proceeded in a cool, disinterested academic fashion to create a new, sophisticated, factually-based map of the state."[5]

But criticism wasn't long in coming. Not being a native Californian, Morrill failed to appreciate some of the state's political subtleties. Speaker Brown claimed his district was dismembered under the plan, and that the whole thing was a Republican plot.

> The Rose Institute is desirous of changing the face of politics in this state to reflect something more acceptable to the business round-table. That would include the elimination of Willie Brown and whoever else displeased them. The Rose Institute is totally skewed toward Republicans.6

In a more jocular vein, Brown said he was negotiating with the Israeli air force to wipe out Claremont.

Republicans expressed some skepticism with the Rose Institute plan as well. Minority leader Hallett put out a release stating the plan had "a number of major drawbacks that remain inexplicable."[7] Democrats, however, were quick to point that out that Hallett had once claimed that "the Rose Institute plan, whenever it emerges, is a Republican plan."[8] A chorus of Democrats chimed in with criticisms of various aspects of the Institute's plan, and it soon passed from the scene.

One aspect of the Rose Institute's redistricting project would not pass so

easily, however, and was particularly nettlesome to the Democrats because it exacerbated the unique reapportionment problem that Democrats had with minority communities. Hispanic leaders had organized throughout 1980, determined to play a greater role in redistricting in 1981 than in past years. They even formed a statewide organization, Californios for Fair Representation, headed by two California State University professors, Armando Navarro and Richard Santillan. In 1981 the Rose Institute decided to champion their cause, giving Californios free run of the Institute's database. They even sponsored a conference on Hispanic interests in reapportionment which drew 150 participants to the Institute's headquarters. And the Californios began putting together their own redistricting plan for various communities with large Mexican-American population concentrations. Supporting the Hispanics became a major undertaking for the Rose Institute, and one to which Democrats could not easily object -- at least not publicly. Privately, however, they believed it amounted to a Republican-Rose Institute plot to take advantage of a Democratic redistricting problem: Hispanic seats would require collapsing Anglo Democrats. The initial Democratic response to the new Hispanic interest was to out-promise them, an effort made easier when the Morrill-drawn Rose Institute plan did not create as many Hispanic districts as expected. The Democrats were not about to let the Rose Institute or the Republicans -- both of whom supported Hispanic aspirations at every turn -- get the best in this fracas.

In March, Democratic Senator Daniel Boatwright of Concord, chairman of the Senate Reapportionment Committee, assured Hispanics at a public hearing: "We hope to create Hispanic seats in the Senate, Assembly and Congress. This will be the first time in California history this will be done."[9] Boatwright talked in terms of one new Senate district, one new congressional district, and two new Assembly districts, with special emphasis on the big Hispanic population in Los

Angeles County. At every public reapportionment hearing Hispanics showed up with plans for this community and that community, most of them drawn on the Rose Institute's computers. Their Los Angeles plan, introduced in May, would have collapsed the district of senior Democratic Assemblyman Frank Vicencia of Paramount to form a fifth heavily Hispanic district in that county.

But there was a problem. Los Angeles County was due to lose two Assembly seats, and creating Hispanic districts would mean eliminating Anglo incumbents. Speaker Brown had said on several occasions that he would not willingly sacrifice any incumbents, although he also said that minorities would get first consideration in Assembly reapportionment. And Brown had appointed an Hispanic, Assemblyman Richard Alatorre of East Los Angeles, as his reapportionment chief. Alatorre's duty, it turned out, was to satisfy Hispanics without sacrificing the seats of Anglo Democratic incumbents -- not an easy task.

Throughout the spring and summer the press carried numerous stories on Hispanic aspirations. "We want to make it abundantly clear that no longer will we allow our elected officials to cut the political pie for us," said one leader.[10] On another occasion, a Californios spokesman demanded that Congressman George Danielson of Los Angeles retire so an Hispanic could take his seat.[11] In the end, however, it all came to naught. Boatwright found that he could not deliver another Hispanic Senator without dismembering the district of President Pro Tempore David Roberti, so the new Los Angeles Senate seat went the way of the wind. Speaker Brown was forced to choose between his lieutenant Vicencia and the Hispanics; he chose Vicencia. The only heavily Hispanic Assembly seat held by an Anglo was the San Gabriel Valley district of Assemblywoman Sally Tanner, who had succeeded an Hispanic in 1978. She wanted fewer Hispanics in her district, not more; she got what she wanted. Hispanics had pointed to the Downey-Norwalk area for a possible new seat, but an Anglo incumbent repre-

senting those cities did not want more Hispanics in his district; he too got what he wanted. (When he retired three years later several Hispanics ran for his seat, but the Hispanic population was too small for them to prevail, and an Anglo succeeded him.)

The Republicans' goodwill toward Hispanics evaporated when additional seats started coming out of the GOP's hide. A new Hispanic congressional district was created, but it was made possible by the elimination of a Republican incumbent. There was no GOP support for that. Republicans were fair-weather friends: Hispanic districts were fine so long as it meant concentrating Democratic-voting neighborhoods into single districts and leaving surrounding districts to the GOP. When it required collapsing a Republican seat, the GOP lost interest.

Alatorre stayed on the hot seat through most of 1981, defusing the Hispanic fury with considerable skill. Alatorre made the point to the Californios that their political allies on all issues other than reapportionment were people like himself and the urban Democrats -- not the Rose Institute or the Republicans. Why help create a Legislature that will repeal the farm labor law, which Alatorre had helped author, or end biligual education, he argued. And Alatorre was good poker player and a master legislative deal-maker. He called Hispanics to his office and negotiated the Hispanic percentages of various districts. When it was in the Democratic Party's interest to create a heavily Hispanic seat, as in Santa Barbara and Oxnard, he did so. When an Anglo Democrat was at risk, Alatorre made the Californios accept something less than their original goal.

A good example of Alatorre's strategy is San Jose, the most politically active Hispanic community north of Los Angeles. In the Court Masters' plan, largely Hispanic east San Jose had been divided among three Assembly districts,

all of them held by Anglo Democrats. In 1980, Democrat Dominic Cortese had barely won his race, and his victory margin depended on a big Hispanic vote. The Californios demanded that the San Jose neighborhoods be united into a single district, which caused problems for all three Democrats. Cortese would be forced southward into Republican-voting suburbs, and might lose. Assemblyman Alister McAlister would lose his Anglo base in Milpitas and Fremont, which he opposed. Assemblyman John Vasconcellos, who supported Hispanics on most issues and was a strong voice for affirmative action in the Legislature, bitterly resented the notion that he should give up his own seat to make room for an Hispanic. Affirmative action stopped at reapportionment's door.

The three Democrats noted suspiciously that the Assembly Republicans were also promoting a plan that put all the Hispanics a single district, leaving Cortese with a very marginal seat. "The Democratic Party is not going to adopt a plan that slits its own throat," McAlister responded to the Republican-Hispanic proposal. "We're not East Los Angeles: the concentration of Hispanics is not that heavy. There is no block vote here." He went on to add a political reality: "The Legislature drafts the reapportionment bill and I can pretty well guarantee it will be significantly different from what (the GOP and Hispanics) are talking about."[12] McAlister gruffly professed not to be worried in the least about Hispanic plans for San Jose.

In the end he was right. Alatorre met with San Jose Hispanics and got them to agree to some minor shifts that made Vasconcellos's district a little more Hispanic, but left Cortese and McAlister what they wanted. Alatorre reminded the Californios of other political realities -- such as the fact that the Democrats would control the entire redistricting process -- and convinced them that any alliance with the GOP was fruitless. In the end, they went meekly along with the Democrats, even testifying publicly in support of Alatorre's San Jose

districts.

In the past two redistrictings, Hispanic communities had been divided to spread their voting base among various Anglo Democrats. For all the sound and fury of the 1981 Hispanic challenge, their statewide organization, and their access to the Rose Institute's computers, exactly the same thing happened again. No additional Hispanic Assembly districts were created, and the Hispanic population of one district was reduced to help the Anglo incumbent. Boatwright produced no new Hispanic Senate seats. One new congressional district did result, but in 1982, when a number of Anglo Democrats retired, Anglos won every primary save this one congressional district. The Hispanics found out in 1981 what they warned bitterly of in 1971: reapportionment is an incumbents' game. "You cannot, and I don't think the house will support, dismembering any incumbent just to achieve a racial minority district," Speaker Brown told the Los Angeles Times in a moment of candor.[13] The people of California were about to learn just how right he was.

The 1981 Congressional Reapportionment: In Your Mother's Arms

> Look, California bears my personal imprint. How many Democrats did Tip O'Neill save this year? How many did Jim Wright save? I not only rescued California for us, I also brought along some new faces to help out. Here, meet Congressman Berman, Congressman Lehman, Congressman Levine, Congressman Montoya, Congressman Kapiloff, all my creations. I alone reversed the trend.

Thus wrote California magazine in an imaginary quote in "Boss," its appropriately titled story on Congressman Phil Burton.[14] "You don't want to cross Phil Burton, the man who carved up California," the magazine warned. The Burton of 1981 would be far different from the Burton who drew a plan to save every incumbent in 1971. This was a Burton bent on revenge: he wanted to show up those Democrats who failed to support him for majority leader in 1976, to beat

the smug Republicans at their own game, and to rid the congressional delegation of those members he thought were bad for California.

One measure of goodness or badness was a Congressman's opinion of Burton's younger brother, John. Phil Burton won election to Congress in 1963 and was succeeded in the Assembly by John Burton, who was constantly tagged as Phil's little brother. John rose to become chairman of the Rules Committee and a respected legislator, but he never moved entirely out of Phil's shadow. At least as liberal as Phil, John nevertheless lacked his brother's fire in the gut and intensity of purpose. He managed to get along better with his colleagues -- even Republicans -- and maintained a caustic sense of humor.

In 1974, John discovered a chance to follow Phil to Congress when San Francisco Rep. William Mailliard abruptly stepped down, and once again the shadow of Phil Burton engulfed him. While John had an important subcommittee chairmanship, his entire career seemed to be guided by what Phil wanted. In the late 1970s, John's grasp on his congressional job -- and on reality -- began slipping, the result of what he later admitted was drug abuse. In 1980 Republicans sensed political weakness and, behind an attractive and aggressive candidate, made a run at defeating John Burton. They held him to just 50 percent of the vote in a district even Jimmy Carter was able to carry. Phil took this as a personal affront, and swore revenge. In January of 1981 he accosted Republican Congressman John Rousselot, whom he blamed for the Republican assault against his brother, and promised to dismember his district for the insult. "He told me, 'you're expendible, you're about to be taught a less in politics,' " Rousselot later recalled. A few months later, on a California delegation cruise on the Potomac, Burton cornered Rousselot again. "I had no choice but to listen or jump," Rousselot remembers. "He said, 'you've been bad for California. You're in trouble.' "[15] Rousselot knew exactly what was meant. As a freshman

Congressman 20 years earlier, Rousselot had been a victim of Unruh's 1961 congressional gerrymander. Now Burton planned to do the same thing again; Rousselot could go down in history books as the only Congressman to be gerrymandered out of his seat twice.

In early 1981 Burton reviewed his options. He assured himself he was the most knowledgeable player in the reapportionment game this decade. He did not have to worry about Republicans this time: there was no Republican governor to veto his plans. He had brought Willie Brown into San Francisco politics, and Brown was a loyal friend. What's more, he could do Speaker Brown a big favor. In true Chicago political style, he might find a way to kick Brown's enemies -- the ever-dangerous Berman faction in the Assembly -- upstairs to Congress by creating seats for them. This would please both factions in the Assembly's Democratic war. The national Democratic Party would respect his every wish, as would Speaker O'Neill and Majority Leader Wright. The more he could deliver for the Democrats in this 1981 winter of discontent, the better off he would be. Like Shakespeare's Richard III, Burton would have no time for "wanton ambling nymphs in this weak piping time of peace." He was "determined to play the villain."[16]

Burton's first move was to forge an alliance with Congressman Henry Waxman, veteran of the 1970s redistricting wars and godfather to the Berman faction in the Assembly. Howard Berman visited Washington and was convinced that his future lay in Congress, not in the Assembly where Willie Brown reigned supreme. Burton could find a way to bring Berman to Washington, and quickly engaged Howard's younger brother Michael Berman to help in Los Angeles County redistricting. Burton was informed that Berman's lieutenants in the Assembly -- Richard Lehman of Fresno and Mel Levine of Santa Monica -- also wanted to come to Congress. Michael would work on their needs too.

Burton also engaged once again Leroy Hardy of Long Beach State University. This immediately caused a strain with Michael Berman, who approached his job from a more political angle that did the scholarly Hardy. This year Hardy would do more than simply take care of California's seniority in Congress, which had been so important in past redistrictings. This year's talk was of saving the Democratic Party and helping Burton's friends.

Burton, Hardy and Michael Berman got out their maps and went to work. Two of their friends could be satisfied quickly by allocating California's two new congressional seats. (National reapportionment had raised California's total of 43 congressional districts to 45.) One of the new seats had to go to San Diego County, where Rep. Clair Burgener had a district that was overpopulated by 300,000 people. But all the growth in San Diego was in Republican neighborhoods; how would Burton help the Democrats here? Again he employed his time-tested device for reducing Republican representation: let the Republicans do themselves in. Although the GOP staff had drawn a plan giving San Diego a fourth seat the Republicans would win, they faced a problem in that the other three seats already had Republican incumbents. In the Reagan landslide, a Republican San Diego city councilman had captured a marginal district, and a young attorney had ousted veteran Democratic Rep. Lionel Van Deerlin in a neighboring heavily Democratic district. Burton grandly announced that he would allow San Diego's other Congressman, Republican Rep. Burgener, draw the county's districts. Burton knew full well that Burgener would protect the three Republican incumbents, and that a Democratic district would have to be created from the territory none of them wanted. Of course this is precisely what happened, although Burton took no chances and had Leroy Hardy draw the lines. So much for Republican hopes in San Diego County.

The second new seat was more difficult. Population growth dictated a new

district somewhere in the Central Valley. Just as Burton had found room for a seat in Bakersfield in 1971, he now discovered room for a new seat in Fresno in 1981 -- just where Berman ally Assemblyman Richard Lehman lived. But there was one hangup: Rep. Tony Coelho of Merced, a power in the delegation, would be pushed northward into Stockton to create this district, and he had close ties to Fresno-area agricultural interests. Stockton residents were strongly opposed to the water delivery plans supported by Fresno farmers, so Coelho didn't care to have Stockton added to his district. He had the clout to stop any new district he didn't like, and was known to be a Waxman antagonist in the Democratic delegation. Burton decided to finesse the problem: the new Lehman seat would include both Fresno and Stockton, connected by a long finger that avoided Coelho's district, leaving it where Coelho wanted it. The Lehman seat was an oddity, but it assured his ally a seat in Congress. It meant, though, that Stockton would be cut in half, with one segment attached to Fresno and the other running through the mountains to the Oregon border. Stockton residents -- and their incumbent GOP Congressman Norman Shumway -- protested bitterly. But the San Franciscan really didn't care how Stocktonians felt, and he assured Shumway he would have a safe seat. "You're in your mother's arms" was Burton's favorite way of telling a Congressman he would survive the line-drawing.

Nobody was as securely cradled in his mother's arms as brother John, though, and Burton spent much of the spring and summer crafting a seat John could never lose. He first detached heavily Democratic Vallejo from the seat of Rep. Vic Fazio of west Sacramento, a move an unhappy Fazio later attributed to "delegation politics."[17] Burton then jumped part of the upper San Francisco Bay to join Vallejo to Marin County, although neither place actually touched the other physically. He then jumped the Bay once again to add the juiciest Democratic parts of San Francisco. Phil Burton kept his own seat entirely within

the city, but gave brother John his best precincts, which Phil felt he did not need -- a move that later turned out to be a grave personal error. To balance the seat, John was given a portion of Daly City, although this meant displacing newly elected Democratic Rep. Thomas Lantos, and denied him some of his most Democratic precincts. But Burton found equally good Democratic territory for Lantos to the south, and assured both Lantos and brother John that they were in their mother's arms.

The John Burton district became celebrated as the worst gerrymander of the Burton plan, and perhaps the best known gerrymandered congressional district in the country. "My contribution to modern art," Burton would later call it.[18] Phil's yeoman effort would come to nothing when, in 1982, John decided not to run again. In the short term, however, the district did the trick: the only district in California history to cross the San Francisco Bay twice without the use of a bridge returned another Democrat in 1982.

One of Burton's favorite tools was secrecy, and he was particularly anxious that the Republicans and the Rose Institute not find out what he was up to, although Burton would occasionally call Alan Heslop at Claremont and cackle about what he was doing to his enemies. Whenever a fellow member of Congress inquired about the Burton scheme, he would joke that, "you're in your mother's arms, so don't worry." But as rumors of the Stockton-to-Fresno district and the John Burton creation began leaking out, other Congressmen suddenly began wondering just what Burton was up to. No one wondered more than Bakersfield Republican Congressman Bill Thomas, who had been designated point man for the GOP. Thomas had half hoped that Burton would negotiate districts with him as he had with Rep. H. Allen Smith in 1971. But Smith had been part of the old-school congressional network. This time around Burton enjoyed assuring Thomas that everything would be just fine if he'd leave Burton alone. Thomas, a far

more sophisticated politician, knew not to trust Burton and quickly surmised the one-man conspiracy against his party.

Burton also liked playing games with the Republicans. At one late-night function in Washington, Burton cornered a group of young Republican Assemblymen and started an animated conversation about his plans, pulling out a pen and drawing districts on the tablecloth in front of him. Keeping up with the fast-drinking Burton was hard, and the next day GOP Assemblyman Bob Naylor tried to reconstruct the districts from memory but could not. The hotel insisted that the function's sponsor, a Sacramento lobbyist, purchase the ruined tablecloth, and later she presented it to Naylor as a memento of the evening.

Slowly bits of the Burton masterwork came to Thomas's attention. Several Democratic Congressmen told him what Burton promised for their districts, and Thomas had the Republican staff in Sacramento analyze what Burton was up to. An inquiry to Burton himself brought forth, "Everyone north of the Tehachapis is in their mother's arms, L.A. is dog meat, and San Diego takes care of itself."[19] Thomas interpreted this to mean that Burton had finished drawing northern California, had evolved the new seat in San Diego, and had now turned to the thorny problem of redistricting Los Angeles. That was partially true, but not everyone in the north was "in his mother's arms," though Thomas could hardly have guessed which northern Congressman was in for the Burton treatment.

Of all the California House Republicans, the one closest to Burton politically was north coast Rep. Don Clausen of Santa Rosa, who had been protected in two prior Burton redistrictings. But Clausen was losing touch with his district, whose northern end had become a Democratic stronghold. Clausen wanted Burton to remove those northern Democrats, which he could easily have done, and Clausen's trust in Burton was so complete -- they both served on the Interior Committee, where Burton often got Clausen to do his bidding -- that

Republicans worried Clausen was divulging their strategy discussions to Burton. Yet Burton did not remove the Democrats from this senior Republican's district -- something he would have done in past years. Instead he took away Napa and Lake counties, Clausen's GOP stronghold, and left him with a district he could hardly win. In 1982 Clausen went down to defeat.

But the north coast was just a sideshow. Burton had produced two new districts for the Democrats in Fresno and San Diego, and safened brother John as well as weakening Clausen. But his masterpiece would be Los Angeles, where Burton saw the opportunity to take away three Republican seats. In the 1980 election, L.A.'s sixteen congressional districts had split eight to eight, with the GOP ousting two Democratic incumbents and holding one marginal seat. Before 1978 Democrats had elected eleven of the sixteen congressmen, and Burton decided to restore that ratio. His first target was the one marginal Republican district, Rep. Bob Dornan's Santa Monica and coastal district.

Dornan was an upset winner for Congress in 1976 and had been closely pressed twice thereafter. A flamboyant and militant conservative, he once swam the channel at Chappaquiddick to prove Teddy Kennedy must have lied about the incident there. Dornan was not well-liked by his colleagues, particularly on the Democratic side, and early rumors had Burton collapsing the district and moving it to San Bernardino County. But Burton's analysis of that county convinced him there was not enough room for a second seat there, and the local Democratic Assemblyman had shown insufficient deference to Burton when the Congressman came to Sacramento to talk about districts. So San Bernardino was forgotten, and Burton decided to keep Dornan's district -- but without Dornan. He cut the seat at its midpoint, just south of the Los Angeles airport, and united the heavily Republican Palos Verdes peninsula with parts of Long Beach and Orange County, already in a safely Republican seat. The

nothern and more liberal part of the district was pushed into west-central Los Angeles black neighborhoods by means of an anteater-like snout, magically transforming a marginally Republican district into a safely Democratic one -- made to order for Assemblyman Mel Levine, the Berman-faction Democrat. In the process, two absurd districts were created to the south. The first of these was a Republican seat for Rep. Dan Lungren of Long Beach that snaked along the Los Angeles harbor and then wandered through Long Beach searching out Republican neighborhoods. Lying on top of it was an equally elongated seat for veteran Democratic Rep. Glenn Anderson of Harbor City, a former lieutenant governor of California who was among the state's senior Congressmen. But Anderson -- like Dornan -- had a problem: Burton didn't like him, and Anderson was thought to have voted against Burton for majority leader in 1976. So, in the process of drawing the Levine seat, Burton took heavily Democratic Carson away from Anderson, assuring him of future Republican challenges. But Burton did not want to defeat Anderson, so he saw to it that every possible Democrat south of Carson went into his seat, which resulted in its bizarre configuration. Burton would punish Anderson for the 1976 insult, but leave him a seat in Congress.

Rep. Dornan soon announced he would run for U.S. Senate rather than try to hold his old district against Mel Levine. Burton also found a way to put another U.S. Senate candidacy to good use. After years of indecision, Rep. Barry Goldwater, Jr., decided in 1981 to abandon his congressional seat and seek the Republican Senate nomination. Goldwater represented a highly Republican seat in the San Fernando Valley and Ventura County, but right next door was the formerly Democratic seat won in 1980 by Rep. Bobbi Fiedler, an anti-busing Republican who upended Rep. James Corman by just 800 votes. With Goldwater stepping out of his seat, it was elementary map work for Burton to remove her home and most conservative precincts, and place them in Goldwater's old seat,

thus enticing Fiedler to seek re-election there, and then to form a new district with the good Democratic territory that remained of her district -- Sherman Oaks and Encino, the heavily Jewish valley suburbs that were the political base of Assemblyman Howard Berman. A perfect Berman seat meant that he and his friends in the Assembly would support the plan, thus removing the Democrat most threatening to Willie Brown in his own caucus, and thereby assuring Brown's support of the plan as well. Republicans would give up a seat because of Goldwater's retirement, not because Burton dismembered someone's district. The perfect solution.

But this solution ran afoul of just one man -- incumbent Democratic Congressman Anthony Beilenson of Beverly Hills. Beilenson already represented Sherman Oaks and Encino, and he did not want to give them up: losing them meant Beilenson would have to gain more conservative neighborhoods in the San Fernando Valley, another thing he did not want. Beilenson told Burton and Michael Berman that he would not go along. And Beilenson -- unlike the Republicans Burton was running into the ground -- had some powerful friends that counted. A former State Senator, Beilenson could look to Senate Democrats to help save his seat.

In July, Beilenson -- who had planned to spend the summer in Russia and Israel -- went instead to Sacramento to see old friends. By this time press reports on the Burton machinations, mainly through the spadework of the Sacramento Bee's Washington bureau, had produced outlines of the Burton districts, and the cloud of secrecy was lifting. Senate Democrats, who generally did not get along with Burton, assured Beilenson he would be protected. Beilenson's problem, they surmised, was with certain Democrats in the Assembly.

Congressmen Beilenson and Waxman shared most of the Jewish precincts on L.A.'s west side, but their approach to politics differed greatly. Beilenson, a

German Jew, was the typically reserved and educated liberal, a man respected for his willingness to delve into complicated issues. In 1967, as a Senator, he had authored the nation's most liberal abortion law, and convinced Governor Reagan to sign it. Waxman, descended from eastern European Jews, had worked his way up the political ladder in what were called the bagel boroughs. He was a master at the rough and tumble politics of West Los Angeles. Waxman's friends called Beilenson -- whom they regarded as a loner -- the Eugene McCarthy of California politics. Waxman had seen to it that Howard Berman made it into the Assembly in 1972, and now he would see to it that Berman made it to Congress in 1982. Beilenson would just have to move over and like it.

Waxman had a firm ally in this cause in Burton, who had a particular reason for disliking Beilenson. Tony Beilenson had cast his first vote as a new member of Congress for Jim Wright for Majority Leader, and Burton could never forgive that. Maybe he could understand Anderson's vote: he was, after all, a senior member with long ties to the Democratic leadership, which had backed Wright. But Beilenson was a fellow California liberal, and it was his one vote, Burton figured, that cost him the Majority Leader's spot.

Burton followed Beilenson to Sacramento, and he too paid a call on the Senate Democrats. Burton assured them Beilenson would have a heavily Democratic district in the plan, even if it was not quite as good as his current one. Burton also tried to squash the beginnings of a little revolt among Senate Democrats; they were talking about drawing their own congressional plan, and were being urged by Republicans to defy the great Congressman. Quotes appeared in Washington newspapers from Charles Manatt, the national Democratic Party chairman and a Californian, that the Burton plan was essential for the party. Manatt had asked Burton to carve out as many districts as possible[20] and, if Beilenson and Senate Democrats objected, they would endanger the

party's control of the House of Representatives. Burton also used a heavy hand. When he learned that Senate Democratic reapportionment consultant Alan Rosin was working on his own plan to help Anderson and Beilenson, Burton called and threatened him. "Remember Alan, I never lose. Never lose, never lose."[21] The implication for the Senate Democrats was clear: stay out of this fight.

Burton also made quite public his attitude toward Beilenson. "Every Democrat in California would exchange his seat for Tony's," Burton insisted. "Beilenson's at 59 percent (Democratic)," he yelled at a reporter over dinner at a Sacramento restaurant that summer. And then added for good measure, "Beilenson's a shit. That's on the record: Beilenson's a shit." Later that evening he worked himself into such a rage over the Beilenson problem that a patron at the restaurant came over and said, "Phil, I don't mind 'shit' and 'damn,' but I'm with my wife, and she doesn't like the 'f' word. Please keep it down."[22]

Finally Beilenson capitulated and told his Senate friends not to bother holding up the plan. His seat had been worked over several dozen times, and a spaghetti-like division of the San Fernando Valley was grudgingly drawn to satisfy both Beilenson and Berman. And now Burton had only one district left to form: the remnant of the political career of arch enemy John Rousselot.

In 1980, young Claremont Republican David Dreier had defeated Democratic Rep. Jim Lloyd in a GOP-leaning San Gabriel Valley district. Burton took all the Democratic territory he could find from that seat and from the district of GOP Rep. Wayne Grisham just to the south. He put Dreier and Grisham in the same seat, then forced it into much of Rousselot's best territory. The rest of Rousselot's district was parcelled out between two Democrats and another Republican. Rousselot was left with the option of running against one or another of his fellow Republicans, or of facing a Democrat in one of two nearly impossible seats to the south. And with some further wiggling of the lines,

Burton managed to make the former Rousselot seat into an Hispanic district -- an achievement in which he took great pride.

Rousselot and his Republican supporters in Sacramento never got a chance to see this seat until Burton turned some rough maps of his districts over to the Senate Democrats, who in turn passed them on to surprised and outraged Republicans. Despite the warnings, Rousselot apparently never believed Burton would actually do him in. In July, President Reagan agreed to add a special tax break for legislators' per diem to his major tax-cutting bill, a move legislators had pushed hard for. Rousselot was a member of the House Ways and Means Committee, and presumably could have held up the tax break for legislators had he wanted to -- perhaps in exchange for a good seat. In the same position, Phil Burton would have sat on the tax break until the California legislators agreed to his reapportionment needs, but such heavy-handed political bargaining apparently never occurred to Rousselot. The tax break went into the Reagan tax package without a single Democrat paying any price for it, and Burton went on his way to eliminate Rousselot.

Rousselot made another error in 1982. He had decided against running in either of the Republican districts since it would have meant a primary against another GOP Congressman. Instead he ran in one of the two Hispanic Democratic seats into which parts of his old district had gone. But he picked the tougher of the two seats and -- after spending $990,000 -- Rousselot lost to incumbent Democratic Rep. Marty Martinez. Rousselot received 46 percent of the vote for his million dollars. In the neighboring district, an unknown Republican who spent just $14,000 won 43 percent against Democrat Esteban Torres, a non-incumbent. Had Rousselot run there, he probably would have been re-elected, thus frustrating Burton's grand design. But he did not and, when the Burton plan finally became public, astonished Republicans found that Burton had

drawn six new seats for his party.

All summer long, news reports had warned of the forthcoming Republican disaster. "Democrats Hatching Plans for Gains in 1982," read one headline. "Demos Plan GOP House Cleaning Throughout State," reported the Sacramento Bee.[23] At one point GOP Rep. Thomas speculated the Democrats would try to expand the 22-to-21 split in the delegation to 25-to-20, or maybe 26-to-19, but none of the Republicans was ready for the calamity of the 28-to-17 plan which emerged at Burton's public unveiling of his redistricting in September. And they found more than just the six seats to complain about. Senior Republican Rep. Bob Lagomarsino of Ventura had a district where a Democrat might give him some trouble; apparently it had been fashioned for Assemblyman Gary Hart, another Berman ally. GOP Rep. Charles Pashayan of Fresno, who had been cooperating with the Democrats to get a safe seat in Fresno, found his district filled with Bakersfield-area Democrats, and he too faced a tough re-election.

On September 9, Congressman Burton and a nervous-looking Leroy Hardy walked into a Sacramento press conference room to discuss congressional redistricting. One reporter described Burton's two-hour show as "a virtuoso performance, more than worthy of a man who aspires to the Speakership of the U.S. House of Representatives." Dan Walters of the Sacramento Union described the plan Burton unveiled: "It resembles nothing so much as a jigsaw puzzle designed by an inmate of a mental institution. Districts dip and swirl around, picking up a few voters here, and a few more there."[24] Burton himself said of his brother's district, "Oh it's gorgeous, it curls in and out like a snake." A Republican staffer called it "a puzzle of bizarre political maneuvering."[25]

Burton provided little documentation for his districts, and there was only one wall map with brightly hued outlines of the districts. But to each question he responded like a computer, describing the number of people moved from

county to county, and at one point delineating all the streets that formed the San Francisco boundary of his own district. Of GOP complaints --Thomas described the plan as "cynical partisan gerrymandering" -- Burton oozed, "Bill is playing a role. I am sure that privately he's ecstatic with his new district, considering what I could have done."[26] He joked about the seat he had drawn for black Berkeley Democratic Rep. Ron Dellums: "He can't be beaten by a honky in the primary. He's in his brother's arms."[27] Finally, when asked the most pertinent questions, who would win these districts, the normally hyperactive Burton calmly replied, "I would have no way of making that estimate." The San Jose Mercury reported that "a howl of laughter erupted in the back of the room . . . but it did not stop one Republican consultant who was listening at the back. '28-to-17,' the consultant moaned."[28]

Passage of the bill detailing the Burton masterwork was a formality. Speaker Brown had earlier accepted the Burton plan because it removed potential enemies from the Assembly. At one point, however, he had asked Burton to find a seat for a Republican Assemblyman who was losing his district under the Assembly reapportionment, but Burton refused. He would take no prisoners this decade. Senate Democrats had enough trouble with their own redistricting, and once Beilenson gave in they were ready to do the party a favor. And legislative reapportionment by this point had degenerated into partisan warfare. All the Burton plan did when it hit the Legislature was make already-frayed tempers worse. On Friday, September 11, Burton's redistricting went before a joint Senate-Assembly conference committee for a hearing which lasted only an hour and included no maps of the districts. Although the Speaker had announced that no more business would be conducted on the Assembly floor that night, at about eight o'clock the plan was called up for a vote. Republicans showed a colored rendition of two of the more blatantly gerrymandered seats in

Los Angeles while roundly denouncing Burton, the Democrats, Speaker Brown and Howard Berman. But after an hour of speeches the plan sailed out of the Assembly on a 44-to-29 vote. Two days later the plan passed the Senate, although Burton this time did provide some maps for Senators to look at, and actually attended a caucus of Republican Senators in which he explained favors he had done for some GOP Congressmen. "There is no private agenda with Chappie or Shumway, is there?" Burton asked, looking at one of the Republican reapportionment consultants. The consultant nodded that these two Republicans were indeed in their mother's arms.[29] The plan passed the Senate on another party-line vote, and on September 16 Governor Jerry Brown quietly signed the Burton plan into law.

Of the many editorials on this redistricting plan, perhaps none was as scathing as that in the San Francisco Chronicle a few days following Burton's unveiling. Never a friend of the liberal Congressman, the Chronicle wrote of his plan:

> One stands in awe at the extent of Representative Burton's fraternal devotion. For brother John he had devised a district so weirdly all-encompassing, so disconnected and so selectively grabbing of honest Democratic votes that it is too rich and rare to be rated as a mere gerrymander. Here is a district that is part of four -- count 'em, four -- counties. It leaps bridges and bays and straits. It skirts affluent deadfalls. Its misshapen disjointedness is true tribute to the genius of Master Phillip.30

And most disquieting, this Burton performance was only the first round of the reapportionment prize fight.

The 1981 Assembly and Senate Reapportionments: Scorched Earth Warfare

The congressional redistricting was dropped on a Legislature already torn apart by its own line-drawing. Soothing promises of an "easy" redistricting had given way to a nasty battle one reporter called "a cat fight that (shows) the Legislature at its very worst."[31] As usual, the most fur flew in the Assembly,

but the most heavy-handed partisanship was to be found in the Senate.

John Doolittle's defeat of the respected Senator Rodda in 1980 had repercussions throughout 1981. The Democratic leadership decided on a two-pronged strategy: they would protect and strengthen the seats of all 23 Senate Democrats so there would be no chance of losing control of the Senate in 1982; and they would punish Doolittle and his friends in the faction of Senate Republicans led by Senator H. L. Richardson of Arcadia, who was blamed for the Doolittle campaign that ousted Rodda. They would also take good advantage of a serious cleavage in the Senate GOP caucus.

That caucus was led by Minority Leader William Campbell of Hacienda Heights, a former Assemblyman elected to the Senate in 1976, and by GOP caucus chairman Ken Maddy of Fresno, both of whom were viewed as Senate moderates and were generally well-liked by their Democratic colleagues. Some ten or eleven of the Senate's seventeen Republicans supported the Campbell leadership, but six conservative Senators were loyal to Richardson, who had tried on several occasions to oust Campbell. They included Doolittle, Senator Dan O'Keefe of Cupertino (who was not well-respected and who had serious problems back in the district), and John Schmitz of Orange County (who, despite a long career in politics, had developed into a disliked demagogue with his public attacks on women and Jews). Schmitz was planning a quixotic race for the U.S. Senate in 1982 -- which was later interrupted by disclosures he had fathered an illegitimate child -- and was a likely retiree from the State Senate, where he would not be missed. Democratic leaders had no reason to feel any kinship toward the likes of Richardson, Doolittle, O'Keefe and Schmitz, and no reason to help them in redistricting. And, thought Democratic leaders, if we strengthen the Campbell faction by eliminating its internal enemies, we will have an easier minority caucus to deal with.

But the first fish to fry involved the Democrats' own districts. Once again, as in 1971, Alan Rosin was hired to oversee the technical effort, and a staff was assembled under his direction to draw a plan. By mid-summer districts were made available to Democratic Senators, and most liked what they saw. All 23 Democrats were drawn winnable seats, and seven had Republican-voting territory excised from their districts. One Senator, Walter Stiern of Bakersfield, was probably saved from future defeat by the trade of the heavily Republican Antelope Valley in Los Angeles County for black areas in Pasadena. This was accomplished through what was probably the worst gerrymander in the Senate plan, a long finger that dipped down from the Angeles National Forest to place Pasadena in a rural Central Valley district. But it did the trick and, by August, Rosin could tell his employers that all 23 members of the Democratic caucus had seats the party should hold for the immediate future.

Taking care of the Democrats had proved relatively easy, although individual Senators constantly pestered Rosin with demands for minor changes. Rosin was embarrassed by announcements on several occasions from reapportionment chairman Senator Daniel Boatwright that the plan would be made public in a day or so, when Rosin knew they were weeks away from going public. The Senate planners had a serious decision yet to make: how to handle the Republicans.

To the Campbell-Maddy leadership, reapportionment was a distasteful but necessary business that they and Senator William Craven of Oceanside, their Reapportionment Committee vice chairman, wanted to settle rather than fight about. They had only the faintest hopes that 1982 would produce a Republican majority in the Senate, and they could read the handwriting in the wall when they learned of the Democratic plans to safen Democratic districts. Still, the safening of the Democrats helped several Republicans. Senator Maddy received

GOP voting precincts along the coast, making his marginal seat into a better GOP district. Craven liked the compact San Diego district drawn for him; Campbell traded Democratic-leaning suburbs in Los Angeles County for the wealthy neighborhoods in Orange County he had long wanted to represent. So the Republican leadership looked for ways to put reapportionment behind them as rapidly as possible, letting the Democrats safen Democratic seats in exchange for the good Republican districts. But the Democratic leadership was not inclined to settle the matter so quickly.

The Democrats wanted to make certain the Campbell-Maddy Republicans would support their plan, and so included a little vinegar along with the sugar. Senate seats are elected on a staggered basis, with all the even-numbered seats up one election, the odd-numbered seats up in the next. It occurred to the Democratic leaders that, if a Senator representing an odd-numbered district were given an even number, he could not run for re-election when his seat came up, or perhaps he would have to run for re-election in the midst of his term. Switching district numbers from odd to even, and vice versa, was a bit of reapportionment leverage never employed before. But as the districts became public in late August, Boatwright let it be known that he was prepared to switch numbers to punish Senators who would not support the Democratic plan. Senator Jim Nielsen of Woodland, whose district was being improved under the Boatwright plan, was told he might receive an odd number, and thus have no place to run when his term expired in 1982. Nielsen, a pugnacious Yolo County farmer, promptly announced he would then run against Democratic Senator Barry Keene of Santa Rosa. Barry Keene promptly rushed off to the Democratic leaders demanding that Nielsen's number be restored so he would not face a fellow Senator in the new district drawn for him. Boatwright complied, and Nielsen got an even-numbered district and a 1982 election.

But the Democrats were in no mood to be as accommodating with Senator Doolittle in a neighboring Sacramento district. He was due an odd number, providing for election in 1984, but Boatwright announced he was likely to get an even number, meaning he would have to run again in 1982 or leave office in 1984. And his already Democratic district was made even more Democratic by the addition of more urban territory and the loss of conservatives in the suburbs. Not only would Doolittle find it nearly impossible to survive, but he would not even be allowed to serve out his term before facing the voters again.

Doolittle was not the only Richardson ally to find himself in reapportionment straits. Los Angeles County needed to lose one seat, and Democrats had decided the unlucky incumbent would be Senator Ollie Speraw of Long Beach, another member of the Richardson faction who was no friend of Campbell's. It would have been relatively easy to extend Speraw's district into Orange County -- as had been done with Campbell -- and give him a decent chance at re-election, but Boatwright decided instead to create a new Democratic district in Orange County which used up the territory that would have been available to Speraw. The Democrats wanted to add this new seat to their total as as soon as possible, so a number switch was effected with the despised Schmitz. As a result, Schmitz's GOP portion of Orange County would not elect a Senator until 1984, although he was leaving office in 1982, but the Democratic district would elect its Senator immediately.

In the Bay Area, Senator O'Keefe was placed in a district with neighboring Republican Senator Marz Garcia, and another Democratic district was created from the excess. But Garcia, a Campbell supporter, was leaving the Senate to run for lieutenant governor: O'Keefe would have a place to land. Democratic leaders let it be known, however, that this Richardson protege would also suffer a number switch and be left without a district when his term expired in 1982.

Finally, Richardson himself was given the redistricting treatment. His compact San Gabriel Valley district was sent out into the San Bernardino desert; the new district would include Death Valley and Mount Whitney in an area larger than all of New England. Servicing this district and ingratiating himself throughout the desert would keep Richardson busy for the next two years, and he would be unable to plot the defeat of any more Democratic Senators. "They're trying to run me ragged over the next couple years, so I am not raising funds to go after them. They said, 'Well let's run Richardson out there with all of those jackrabbits and rednecks and conservative Democrats,' " said an unamused Richardson.[32] Amused Democrats claimed their nemesis would be happy in the desert: he was after all an active gun-owner and would surely enjoy shooting rabbits.

When Boatwright finally made his plan public in early September, it included 40 unnumbered districts -- a not-so-veiled threat that, if GOP Senators did not go along with his plan, other districts would receive the number switch. Both Craven and Senator Bob Beverly of Manhattan Beach were warned to expect number switches if they were uncooperative. Richardson called the plan a plot between Democratic leaders and Campbell and Maddy: "Their little sweethearts they took care of because they liked them . . . they don't pose a threat to them," he said.[33] And he let his enemies in the GOP caucus know what would happen to them if the plan passed: "Any Republican candidate that would vote for this abortion deserves a Republican primary opponent. This plan is tantamount to saving the Democratic butt,"[34] snarled Richardson. Democrats smuggly thought of Al Rodda, and figured this was due revenge.

Richardson's biggest problem in fighting the Democratic plan was his lack both of good data on it and of a knowledgeable reapportionment staff. While the Richardson political operation had usually been among the best, he had no one on

his Capitol staff familiar with the intricacies of reapportionment. The Senate Republican reapportionment operation consisted of Roger Canfield, a consultant working for Campbell, and a couple of interns. They had managed to buy a small amount of data from the Rose Institute, but had no computer with which to analyze districts or find exploitable Democratic weaknesses. The most experienced GOP reapportionment staffer was Peter Bontadelli, the caucus staff director under Maddy who had worked on the 1971 reapportionment. Bontadelli tried to help Senators of both factions in his caucus during the two years he was involved with reapportionment, but was hampered by the personal animosities that plagued many Republican Senators.

For now, though, Bontadelli's job was made easier by the fact that the Campbell faction found it necessary to oppose the Boatwright plan. Along with eliminating several allies, the plan also reduced the number of Republicans in the Senate from seventeen to fourteen, since Doolittle was likely to lose in his district, and the Schmitz and Garcia seats were made into Democratic districts. The Republican leadership was in no position to cast a blind eye at the plan, despite its beneficial districts for various Senators and the damage it did to Bill Campbell's opponents in his caucus. "We believe this is a preliminary document," said Campbell of the Boatwright lines. "Hard negotations will take place."[35]

For ten days, from September 1st through the 11th, various factions discussed strategies and settlements. The attack on Richardson had forced an accommodation between his faction and the Campbell leadership, and Campbell was openly talking of a GOP weapon still in the formative stages -- use of a referendum to overturn the Democratic plan. He made it clear there would be no alternative but a referendum if a plan was passed putting the total number of Republicans below seventeen, especially through number switching; but the Democratic leaders, primarily President Pro Tempore David Roberti, were

unmovable in their insistence that Doolittle be harmed and a new Democratic seat be formed in Santa Clara County.

Senator Boatwright's attitude made accommodation all the more difficult. He not only had Republicans hopping mad at his plan, but Hispanic leaders -- who voiced satisfaction with the Assembly and congressional redistrictings -- harshly attacked Boatwright's Senate plan because it didn't produce the additional Hispanic seats Boatwright had promised in the spring. Boatwright's lame response was to point out that he had made the Hispanic districts of two Los Angeles Hispanic Senators better for them, and added Hispanics to a black-held district. A Californios spokesmen noted that this would leave "blacks and Hispanics struggling against each other for political power for the rest of the decade. You are creating a conflict that is not in the interest of either the black or the brown community." Said Armando Navarro of Boatwright, "When it came time to produce, (he) did not produce."[36] Boatwright, realizing he could not satisfy Hispanics, lost interest in doing so and, as his plan moved toward a final showdown in the Senate, he angled to have a Board of Equalization seat drawn for himself.

On Friday, September 11th, Roberti brought the Senate plan up for a vote. Until then no district numbers had been assigned to the plan, and even the maps displayed in the hearing room just before the Senate vote had districts with names such as "East Sierra-L.A. Watershed" and "Santa Clara-Stanislaus." At the hearing, Assemblyman Bob Naylor of Menlo Park, who represented the O'Keefe-Garcia area in San Mateo County, inquired as to whether their district had an odd or even number. "Odd," mumbled Roberti. Naylor immediately began denouncing the Senate plan because voters in his area would have no Senator for two years.

Nevertheless, the Boatwright plan passed on the Senate floor a few hours

later on a 26-11 vote, despite the lack of seats for Senators O'Keefe and Schmitz and the Doolittle number switch. "There's not one of you Democrats who isn't delighted right out of his jeans with this plan. Your goal was to make things better for yourselves . . . but you better believe we would do the same to you," a frustrated Richardson said. "We're not going to stand here tonight and cry crocodile tears for you," retorted Roberti, "because the Democratic Party wants to survive and will survive."[37]

The Democrats had a little GOP help that Friday night. Three Republicans -- Senator Beverly, the former Assembly Minority Leader; Senator Craven, the GOP reapportionment vice chairman; and Senator Milton Marks of San Francisco -- voted with the Democrats for the plan. Beverly had been threatened with a number switch, as had Craven, who privately told his colleagues he wouldn't know what to do without his legislative career. Senator Marks was threatened with loss of his committee chairmanship. Twenty years before, as an Assemblyman, Marks had voted for the Unruh redistricting despite opposition from his fellow Republicans, and ten years before his seat was supposed to be eliminated in the Dymally redistricting plan.

But Republican anger boiled up against the three defectors. The Sacramento Union, a bitter foe of the Democratic redistricting, placed them on a Roll of Dishonor. GOP Assemblyman Gerald Felando of San Pedro, who was about to lose his seat in the Assembly redistricting, took the picture of Beverly off the wall in Minority Leader Hallett's office where it hung with other GOP Minority Leaders and stomped on it, breaking the glass. He then left the office, muttering about finding Beverly in a local bar and punching him in the face.

The Democrats had worked to get these three votes and, because of an intense desire to obtain a two-thirds vote for the Boatwright bill, they were willing to change O'Keefe's number if he would vote for the plan. This would

have permitted them to make the bill into an urgency statute -- which was immune from a referendum -- and to say the plan was fair and bipartisan because Republicans had voted for it. But they missed the two-thirds by a single vote and were unable to head off the referendum.

Among the critics of the Senate plan was the Rose Institute, which had bad relations with Senate Democrats and found good reason to criticize the plan from a "good government" viewpoint. The plan also received an unusual amount of bad press, particularly from Santa Clara County, which would have no Senator for two years. The San Jose Mercury, which had always taken an intense interest in reapportionment going back to the 1970s, reported outrage and incredulity at "the audacity of the decision by Democratic Senators to strip more than a million Californians of representation in the State Senate for two years" through the number switch. Two districts -- Senator Garcia's 10th district and Senator O'Keefe's 12th -- were supposed to elect Senators in 1982. Instead they had been combined into a new 11th district that would not elect a Senator until 1984: there would be no Senator for two years. "Blatantly unique, ridiculous, I couldn't believe it," were reactions of Santa Clara County citizens to the number switch. "Somebody must be smoking wild root," said former Senator Clark Bradley. Even the Democratic county chairman was quoted as saying the plan was "unconstitutional."[38]

In the final analysis, the great number switch probably netted the Democrats less than it was worth. Democrats were in no real danger of losing control of the Senate in 1982, particularly with the souring economic conditions that hurt Republican candidates that fall. O'Keefe ran in the Democratic Santa Clara district, whose number came up in 1982, but was defeated. The 11th district did elect a Republican in 1984 -- Senator Rebecca Morgan, who defeated both O'Keefe and Garcia in the GOP primary that year. Had the Democrats allowed

the 11th to hold an election in 1982, they might actually have won another district, since O'Keefe would have run there and probably have been defeated. In Sacramento the Doolittle number switch gave the Democrats an extra seat, but they lost the district they were trying to form for themselves in Orange County when Senator Ed Royce upended a favored Democrat. The attempted gerrymandering of the Senate did not have quite the precision of the Burton congressional plan, and the number switching left bitter feelings that lasted many months in the Senate. But the fury felt among Senators over the Roberti-Boatwright heavy-handedness was nothing compared to the partisan battle being waged simultaneously in the Assembly.

Despite all the hopes that the Willie Brown-Republican coalition would allow an easy reapportionment of the Assembly, internal pressures soon caused fissures in the coalition. Unlike Senator Roberti, Speaker Brown had no desire to punish anyone in redistricting: he assured his colleagues on several occasions that everyone would have a district in which to run. Brown's attitude toward redistricting was similar to that of the Campbell faction in the Senate: it was a distasteful job to be finished as soon as possible. But Brown kept running into problems. He spurned offers from the Berman Democrats in the Assembly to hire Michael Berman to staff the Assembly effort, instead hiring a former legal lobbyist, Jim Tucker, and a political scientist from the California Institute of Technology, Bruce Cain, to head the Democratic effort. Neither had been involved with reapportionment in the past. The Democrats refused an offer to purchase the Rose Institute database, which the Assembly Republicans had bought, and thus were engaged throughout the spring and summer in amassing their own data -- a laborious job made more difficult by their decision to build their database at the block level rather than at the larger census tract level. This slowed the Assembly redistricting for several months while the staff worked

frantically to complete the computerized datafile so they could begin drawing districts.

Brown was also criticized for his own indelicate talk about this delicate subject. Before one Democratic forum he said that minority Democrats would get first crack at the districts, followed by those Anglo Assemblymen who had supported him. He said that black Congressmen Ron Dellums of Berkeley and Augustus Hawkins of Los Angeles would have "veto power" over their districts because they were his allies. This brought an angry retort from Senator Roberti: "Reapportionment will not be accomplished in the first person singular by any legislator. Boundary lines should not be drawn on the basis of who supported Willie Brown for Speaker. . . . There are two houses which will draw the lines."[39] Roberti was also miffed by reports that Brown's Reapportionment Committee chairman, Richard Alatorre, was trying to draw himself a congressional district in east Los Angeles.

The Senate's problem with Brown was more fundamental than redistricting. Brown was flashier and more outspoken than his Senate counterpart, President Pro Tem Roberti, and Roberti resented it. The Assembly Republicans were also a good deal feistier than their Senate Republican colleagues, and neither Roberti nor Campbell had any particular liking for Minority Leader Hallett, a woman whom they felt saw too much black and white and too little gray in her legislative relations. They instinctively knew that Brown and Hallett would end up making their lives miserable.

Brown also came under increasing criticism from his own supporters and fellow Democrats. His comments on the difficulty in creating Hispanic seats -- "They're fine people, but if they're not registered to vote you can't help them very much"[40] -- angered Hispanic leaders, as did his refusal to agree to create more Hispanic districts. And he endured constant carping from the Berman

faction in his own Assembly caucus, which suspected that his coalition Speakership meant selling out the Democratic Party at a time when the party's electoral fortunes seemed perilously on the ropes.

But Willie Brown's biggest problem was a simple demographic fact: Los Angeles County had to forfeit two full Assembly districts in order to meet the constitutional one man, one vote reapportionment standard. None of the Speaker's friends in Los Angeles was planning to retire: two incumbent seats would have to be collapsed -- a painful process that would surely end the political careers of two Assemblymen. Early in the redistricting process the Republican staff had surmised that this would be the toughest nut to crack in Assembly redistricting. At a party in March, one of the Assemblymen who was likely to lose his seat approached a Republican consultant and asked if he could be saved. The consultant avoided a direct answer, knowing full well that the answer would probably be "no," as indeed it was.

This fact, and the likelihood that the two seats to be lost would be Republican-held, led the GOP to fashion a caucus reapportionment strategy to pressure the Democrats to collapse their own seats. The Assembly GOP effort was led by three members: Minority Leader Hallett, in her third term, and two second-term Assemblymen, Robert Naylor of Menlo Park and Ross Johnson of La Habra. But neither Naylor nor Johnson was unfamiliar with the process. Naylor had prepared one of the plans submitted to the Court Masters in 1973 and was an election law expert with a major San Francisco law firm before his election to the Assembly. Johnson had been on the staff of Assemblyman Jerry Lewis when he led the GOP effort in 1971. Hallett willingly deferred to Naylor and Johnson on tactical matters, but helped set the basic Republican strategy. It was to pressure the Democrats into not collapsing any Republican seats.

Republicans had a few advantages as they went into redistricting. Because

the GOP had purchased the Rose Institute database, they did not need to spend months putting a datafile together. They hired a redistricting consultant associated with the Rose Institute who had been on the GOP staff in the 1970s. He was immediately put to work drawing up a Republican plan for negotiating purposes. The GOP strategists decided not to go public with the plan as they had in 1971. Instead, individualized packets were put together to show various Democrats how well they would do under the Republican plan, in the hope that they would pressure Brown and Alatorre into accepting districts that helped them and, correspondingly, would help neighboring Republicans. The packets, which included computer printouts and colored maps, were called "sizzle packages" after a comment by Ross Johnson that the packages were intended to "sell the sizzle, not the steak." And to a limited degree they did just that. Republicans proposed detaching heavily Democratic Vallejo from the district of first-term Assemblyman Don Sebastiani of Sonoma, greatly strengthening his district. The Democrat to whom Vallejo was given liked the idea and insisted that Alatorre put Vallejo in his district, thus denying Democrats a shot at Sebastiani at the next election -- a missed opportunity they later regretted.

Assemblyman Naylor personally delivered the "sizzle packages" to a number of Democrats, enticing from them their own redistricting desires and details of what Alatorre was promising them. This information was fed into the computer, and the GOP analyzed the manner in which the desires of a particular Democrat might be made to benefit a neighboring Republican. Naylor also frequented Sacramento's numerous watering holes at night, button-holing Democrats to glean whatever information they might want to share in the confines of a darkened bar.

Republican suspicions -- and paranoia -- grew during the spring as attempts at formal negotiations with the Speaker and Alatorre were put off.

The Republicans were unaware of internal Democratic difficulties and the problems the Democratic staff was having with their own database. But lack of formal contact fed GOP suspicions that the Speaker, for all his assurances that every member would have a seat, might after all be planning a partisan reapportionment. They worried, too, about the need to drop two Los Angeles Assemblymen: they feared the victims would be Republicans.

Republicans escalated their pressure campaign at the time of the state budget bill's passage in June, and for a while threatened to hold up passage until reapportionment was acted upon. But this tactic was dropped when it became clear the Democrats were still weeks away from being able to act on a redistricting plan because of their internal data problems. The Republicans also decided to make use of the press in their pressure effort. The Democrats thought all along that the GOP was in cahoots with the Rose Institute, but in fact there was little contact between the Rose Institute and the Assembly caucus once the database was in place, and there was no joint strategic planning. But the Assembly Republicans did take advantage of one thing the Rose Institute was doing. As part of its effort to increase public awareness of the importance of redistricting, the Rose Institute had educated the state's political reporters on the process. With this heightened interest, reporters were looking for stories on the redistricting battle and, as a result, eagerly reprinted several internal Republican memos that were leaked to them. In several cases, the memoranda were written specifically to be leaked to the press as part of the campaign to influence Democratic thinking.

"GOP Sees Potential in Demo Remap" read one Sacramento Bee headline,[41] relating a memorandum that said Democrats would have to "absorb more than two full seats of Republican voting population" to save their 49 existing seats.[42] Attempts to gerrymander in the Democrats' favor would necessitate

putting their incumbents in more marginal seats, the memo reasoned, because of population growth in Republican districts. Republicans hoped that the skittishness among Democrats because of Reagan's 1980 landslide would lead them to insist on better districts for themselves and to refuse to accept territory currently in Republican districts. In this way, Republican districts would be saved.

To a degree the strategy was working. Alatorre found it more difficult than he expected to satisfy the 49 Assembly Democrats. Not until the middle of August were Brown and Alatorre ready to discuss districts in detail, and by this time the legislative session had only one month to run. Brown still had hopes for a bipartisan agreement, and the Democrats made available to Hallett an internal memo outlining the plan Alatorre was working on. Republicans found both good and bad in the Democratic plan. Brown had convinced former Speaker Leo McCarthy, who was planning to run for statewide office, that his San Francisco seat had to be collapsed. It was to be replaced by a seat especially drawn for a close ally and former employee of Speaker Brown, Sacramento Mayor Phil Isenberg. Republicans didn't mind this: it meant they would have a shot at a district in the Central Valley. The plan also preserved the marginal districts of several Republicans in Northern California and the San Fernando Valley. But the Democratic plan also had its drawbacks, and here was where the problems lay.

Republican Assemblyman Gib Marguth of Livermore had captured a strongly Democratic seat in southern Alameda County in 1980. The memo indicated the Democrats intended to combine his district with that of a neighboring Republican to create a new Salinas Valley seat which they dubbed the "Steinbeck seat." This would cost the GOP a district in the North, although the Republican hierarchy felt that the Marguth seat could probably be saved by some artful gerrymandering if bipartisan accord on a plan was reached. The memo also

indicated that the Democrats were thinking of creating another new seat for themselves in Bakersfield, which would hurt two GOP incumbents.

But Los Angeles County was the sharpest thorn. The Democrats had negotiated most of the area's Democratic seats, and in the process had settled on two Republicans to collapse: Assemblymen Bill Ivers of Pasadena and Gerald Felando of San Pedro. From the Democratic standpoint, attacking these two seats made good sense. Ivers's district had a large population of minority Democrats that could be used to offset Democratic population deficits elsewhere. Felando's seat was essentially a Democratic district won by a Republican in 1978. They were easy seats to eliminate, and there was even some Republican support for collapsing them. Ivers had experienced a close race in 1980 and would be hard-pressed in 1982. Campaign funds could be saved by avoiding another election in this district. Felando's seat could only be made safe by weakening a neighboring Republican district. Both districts would be the toughest in Los Angeles for the GOP to defend in future elections.

But there were also counterveiling pressures and, as the politics of August 1981 unfolded, everything broke in the wrong direction. Word had leaked out that Phil Burton was drawing congressional districts for Los Angeles Assemblymen Howard Berman and Mel Levine, which meant they would be vacating their Assembly districts. Why not collapse one of these districts and save the nearby Ivers seat, Republicans argued? Ivers had cast a vote for Brown for Speaker, and Brown's internal Democratic enemies included Berman and Levine. Why save their seats when they don't need them, while destroying Bill Ivers's chances of remaining in the Legislature? The Republican pleas took on an added urgency when it appeared that Tom Hayden, the former radical, was in line to run for Levine's seat. At a private meeting in Hallett's office, Republicans asked Brown if he really wanted to create a seat for Tom Hayden. Brown confessed this was

the last thing on this mind. Republicans figured that Hayden was enough of a bugaboo among conservatives -- even in the Democratic caucus -- that Brown could be dissuaded from preserving the Levine seat just for this flashy reformed radical and his chic actress wife, Jane Fonda. Might not the presence of Hayden and his Hollywood style in the Democratic caucus eclipse superstar Willie Brown, Republicans subtly suggested? Brown seemed to recognize the problem. Asked once in private if he wanted Hayden in his caucus, he replied that he certainly did not.

Late in August the first summit conference involving Brown, Alatorre and various Democratic legislators, and Hallett, Naylor and Johnson, was called in the Speaker's office. He laid down the general Democratic policy: they would create 31 seats for the 31 Assembly Republicans, and 49 seats for the 49 Democrats. That's fine, replied the Republicans, but what about seats for Ivers and Felando? The Democrats responded, you will get two safe Republican seats in the suburbs to replace them; surely you don't expect us to create 33 Republican seats when there are only 31 GOP members. What about your promise of a seat for every incumbent, Mr. Speaker, asked Republicans. From there the conversation went downhill, at one point becoming so heated that the staffs of both caucuses were asked to leave the room so members could hash out their problems without prying ears.

It is hard to say just when the Speaker's resolve to effect a bipartisan reapportionment went out the window. In his book on the 1981 redistricting, Bruce Cain, the Democratic consultant, says it was late August when Brown and his allies finally decided they needed to secure the votes of the Berman faction for their plan.[43] The Berman role in this change of heart is hard to determine exactly, but the Bermans wanted all along to get back at the Republicans who had thwarted Howard's chance to become Speaker. What better way than to use

the Speaker against his own supporters?

In the third week of August, individual Assemblymen began seeing maps of their districts, and Republican tempers flared as it became obvious there would be no collapse of the Levine-Hayden seat in order to save Ivers or Felando. At first there was some levity in the process: Assemblymen Gib Marguth and Bill Baker borrowed a coat from a large member of the Assembly staff and entered Alatorre's office with both of them wearing it, symbolizing the fact that they were both in the same district. Alatorre, who liked a good joke, howled when he saw them and immediately sent for a press photographer to snap a picture of the two men wearing the same coat. But other jokes did not sit as well. Some Republican Assemblymen were passing around the line that Alatorre, of Hispanic descent, was drawing district boundaries with spray paint. Alatorre did not find that funny at all. The Republican promises to support additional Hispanic seats had already cost him plenty of lost sleep, and he didn't appreciate jokes about his ethnic heritage.

The temper of the time is probably best exemplified by the experience of Assemblywoman Cathie Wright of Simi Valley. When escorted into Alatorre's office to see her new seat, she found her formerly compact district had been stretched from Vandenburg Air Force Base in Santa Barbara County to Lancaster north of Los Angeles. Wright, a woman of short fuse anyway, took the map and threw it on the floor, telling Alatorre he could put the district "where the sun doesn't shine." Alatorre retorted she would be safe for re-election in the district, and promptly kicked her out of his office. A Republican staff member remarked that the Air Force could fire a missile from Vandenberg and it would run out of fuel before it left Cathie Wright's district; and the closest thing to a community of interest in the far-flung district was the fact that it united all the state's condor refuges in the same Assembly district. Later, the Los Angeles

Times carried the following account:

> After hearing Wright was upset (about her district), Speaker Brown asked Alatorre "to show me exactly what you gave Cathie Wright. He shows me the Cathie Wright seat and the Cathie Wright seat is lo---ng," said Brown, stretching his hands wide. "I said, 'Richard what's your justification for a seat that looks like that?' He said, 'It's very simple, the bird people said we should unite the condors.' " Brown laughed raucously and clapped his hands. "And he said that with a straight face," Brown added.

The Times went on in all seriousness to discuss the plight of the endangered California condor.[44]

But the laughing stopped on September 1st, when the Sacramento Union carried the front-page headline "A Plot to Unseat Speaker Brown." The paper reported that Republicans had offered to make Howard Berman Speaker if he would deliver a plan for them, "as the complex struggle over reapportionment brought the Legislature to the brink of chaos." But Berman had reportedly rejected the offer. "Howard's with us," quoted a source close to the Speaker. But Brown, it said, "learned of the GOP plot over the weekend and was furious with Hallett."[45]

Many Republicans were as perplexed by the plot as the Democrats. It made no sense for Hallett to deal with Berman, who was thought to be on his way to Congress anyway, and it was accepted knowledge that he was the partisan redistricting hardliner in the Democratic caucus. Hallett denied she was making any deals with Berman, and Republicans hotly charged that Berman had planted the rumor himself to outrage the Speaker. If so, it did the trick and, from that time on, serious discussions of a bipartisan reapportionment came to an end. There was a perceptible hardening of positions. Republicans would have to accept the collapse of their two Los Angeles seats; only then would the Democrats talk about saving Marguth in the North. If Hallett and her caucus did not cooperate, the Democrats would do whatever was needed to bring their own members into line and pass a plan with Democratic votes only.

The GOP response was to escalate the smouldering war. After a Republican caucus Hallett announced that Republicans would cast no votes for any bill requiring a two-thirds vote until reapportionment was settled. This immediately caused her a problem, since the most pressing two-thirds vote bill then pending was to fund the fight against the Mediterranean fruit fly -- a crucial issue in Hallett's rural district. Republicans announced there would be an exception only for the Med-fly and other "public health and safety bills," but not for any other bills, even if it angered lobbyists and caused the death of Senate bills. This created a serious rift between the two houses. Senate Democrats feared that the GOP boycott of two-thirds bills in the Assembly would cause the death of their important bills, and immediately announced a counter-boycott whereby they would kill Assembly bills in retribution. Senate Republicans found themselves caught in the middle. The Richardson faction naturally was pleased by the Assembly militancy, since it was taking the worst bruising in Senate redistricting, but the Campbell faction, while opposing Senate reapportionment, nevertheless did not want to escalate the war by killing unrelated legislation.

Finally, the Assembly Republicans killed the one unrelated bill that was dearest to the Senate's heart -- a legislative pay raise -- and the Senate flew into a fury of denunciations of Hallett and her allies. After a lengthy GOP caucus, the Assemblymen decided not to provide the votes for the pay raise, thereby killing it and denying all legislators a 10 percent salary increase in the next legislative session. Senators' feelings were best expressed by one Senate Democrat who said of the boycotts, "Since they injected unorthodox and outrageous games in the process, killing good bills by both Senate Republicans and Democrats, we felt we had no choice (but to kill their bills). Obviously there is no place for this kind of tactic, but at the same time we can't reward them by ignoring it."[46] But the pay raise died nevertheless, as did dozens of other bills

that got caught in the Assembly GOP boycott in the last-minute rush to complete the reapportionment process.

As the Legislature moved slowly toward its September 15 adjournment, the Democrats acted to pass the Alatorre plan. Democratic unity did not come without a fight. Several of the old Berman loyalists complained about the way Alatorre's staff was changing their districts, and insisted that Michael Berman be called in to adjust things. The result, particularly in West Los Angeles, was a series of weirdly-shaped and elongated districts with fingers running here and there to find pockets of Democratic voters. Assemblyman Tom Bane of Van Nuys, the senior Assembly Democrat, insisted on various San Fernando Valley precincts which gave his district a shape resembling a well-known obscene gesture. It came to be known as the "Bane finger." With Berman's help, the Democrats formed five liberal districts in West Los Angeles that promised to re-elect their incumbents and hold the vacant Berman and Levine seats for the Democrats. A new configuration of San Diego County was developed to run one district along the coast and remove enough Republican pockets to make the three San Diego Democratic districts safe. "You didn't think of that one, did you?"[47] boasted Alatorre to Assemblyman Bob Naylor when the Democrats made their plans public in September.

When Alatorre first showed his lines to Democrats, several members had complained bitterly. Assemblyman Bob Campbell of Richmond was heard yelling at Alatorre over the way Contra Costa County was divided. A Democratic insider said later that there was no way the plan would have passed because of Democratic dissatisfaction, but that Republican opposition had driven the Democrats together. "The Republicans blew it by assuming they had Willie Brown in the bag. What they did was drive Willie and Howard together."[48] Whether it was GOP hardball that had driven them together, or the planted

rumors of a move by Republicans to dump Brown, or just the vagaries of politics, the fact was that by early September the coalition Speakership was in ruins and both parties were at each other's throats. By then the Democrats had decided to go ahead and pass the plans they wanted, Republican outrage notwithstanding. Republicans, too, had given up on legislative compromise; they decided to attempt a referendum to block the plans.

On September 8th Alatorre made the plan public, and the GOP saw for the first time the price it would pay for the battle. The Marguth, Ivers and Felando seats were gone, although two Republican-leaning seats in the suburbs were created. The Democrats had cleverly safened both the seat drawn for Mayor Isenberg and the so-called "Steinbeck seat" with the addition of distant Democratic territory. The Isenberg seat looked like a wishbone, and was a favorite seat for Republicans to highlight in condemning the gerrymandering aspects of the plan. The GOP claimed that this seat and others violated a state constitutional provision known as Proposition 6, which said that districts should respect the state's regions. Republicans saw their chances of winning these two open seats significantly diminished.

The GOP also howled about the remapping of Bakersfield, where the safely Republican seat of Assemblyman Don Rogers was transformed into a heavily Democratic district. Here the GOP's attempt to woo Hispanics was turned against them -- a matter in which Alatorre took much pride. He had negotiated with Californios all summer long, and had told them from the start he could not create additional Hispanic districts in Los Angeles or San Jose because of Democratic incumbent considerations. But when negotiations with Republicans broke down, he was able to offer the Hispanics GOP seats, and the Rogers district was increased in its Hispanic population at the same time it was being jammed with Democrats. Alatorre also put all the Hispanics in Santa Barbara

and Ventura Counties in the same district. This worked to the Democrats' advantage, denying Republicans a chance to win the Santa Barbara district. He then could say he was creating Hispanic seats -- just as the Republicans had wanted to do. At the hearing, a coy Alatorre marched most of the Californios' leaders before his reapportionment committee, where they proclaimed what great things the plan did for Hispanics. "I'm somewhat shocked favorably by the plan presented here today. From my standpoint, there's been substantial gains for the Hispanic community. There used to be 10 districts over 30 percent Latino. Now there's 16," said John Huerta, director of the Mexican American Legal Defense and Education Fund.[49]

Alatorre had brilliantly trumped the Republicans with their own hand. What he gave the Hispanics was meaningless: they could not elect an Hispanic in any of these new "over 30 percent Latino" districts, so he did not endanger any Democratic incumbents as the GOP had hoped. Instead, he justified hurting Republicans in order to help the Hispanics. If the GOP cried about Rogers, Alatorre could reply -- as he did -- you wanted us to help the Hispanics, look how happy they are!

Despite being outfoxed on Hispanics, Hallett and the Assembly Republicans immediately laid siege to the Democratic plan. Hallett assured reporters at a press conference following Alatorre's unveiling of his plan that the GOP would definitely refer this plan to the voters, as well as the Senate plan and Burton's congressional redistricting. "We will referend again and again, if necessary," Hallett vowed.[50] On Friday, September 11, Republicans got their first chance to vote on a plan when the Burton congressional redistricting hit the Assembly floor. "Ram it through, ram it through," chanted GOP Assemblymen as the Democrats did what they had to do and passed Burton's artful gerrymander. "It's the raw division of power for ten years," said Assemblyman Art Agnos of San

Francisco when the Alatorre Assembly plan came up several days later. "If you're on the short end of it, it's never going to feel good, and for that I'm sorry."[51]

Final passage of the Assembly plan was somewhat anti-climactic, with all passion spent and the outcome a foregone conclusion. The most interesting moment in the Assembly debate came when one Republican compared the Democratic remapping to the Holocaust, and said what the Democrats were doing to Jerry Felando matched what the Nazis had done to the Jews. An outraged Assemblyman Herschel Rosenthal of Hollywood rose and declared, "It is not only distasteful, but I don't understand how one compares the Holocaust with the loss of one or two seats in the State Assembly." A little later one of his colleagues said of Felando, "He can always go back to dentistry: it's not quite the same as it was in Germany."[52] That issue put aside, the Assembly passed the Alatorre plan on a party-line 44-to-35 vote, and adjourned its 1981 session a few hours later.

The Democrats had now completed the business of passing three reapportionment bills. If the GOP was to stop them, it would have to be done outside the legislative process. Two incidents reveal how the Democrats felt about their accomplishment. Just before the Assembly adjourned, after midnight on September 15th, Howard Berman approached one-time foe Willie Brown and smiled, "You are the best Speaker I never voted for, and I want to tell you I'm happy to be part of your leadership."[53] On the Assembly floor that very afternoon, Assemblyman Bob Naylor had related a conversation with Howard Berman's brother, Michael, in which Michael boasted that they were getting even for the speakership battle by turning Brown against the Republicans. Naylor bitterly compared Speaker Brown to the Ayatollah Khomeini, the only difference being that the Ayatollah lined his enemies up against the wall, not his friends.

There was another winner that night: Richard Alatorre. He had eliminated the Hispanic threat to the Democrats and delivered a plan. A few days before, in the Democratic caucus, Alatorre had been asked to make a report on reapportionment. "He rose," reported one newspaper, "performed an exaggerated strut to the podium, spread his arms in a gesture of success, and sauntered back to his seat without saying a word. One of his colleagues later remarked that it was the most eloquent speech he had witnessed in weeks."[54]

To the People: The Republican Referendum

"The likelihood is increasing that the voters, of all people, will be asked to decide which politicians should win the once-a-decade shell-game called reapportionment," reported W. E. Barnes in the San Francisco Examiner in early September.[55] By that time, an all but irrevocable decision had been made by Republicans to put reapportionment to the people through the complicated process of a state referendum. The California Constitution provides that: "The referendum is the power of the electors to approve or reject statutes. . . . The referendum may be proposed by presenting to the Secretary of State, within 90 days after the enactment date of a statute, a petition . . . asking that the statute or part of it be submitted to the electors." The Constitution also strongly implies, and it had been practiced in other referenda, that a valid referendum stayed the application of the referred law.[56]

So the Republican strategy in a nutshell was this: qualify a referendum, and the Democratic redistricting plans will be stopped in their tracks until the people have had a chance to vote on them.

But it wasn't quite that simple. The referendum had not been used in California for a quarter-century until, in 1981, one was filed against the Peripheral Canal. A proponent of a referendum had only 90 days to gather the

requisite signatures, which would be nearly half a million. Could that be done on such an obscure issue as reapportionment? Did it really stay the law and, if so, how would California handle the two additional congressional districts it had gained in the national reapportionment? The Burton plan was the only legislative plan allowing for the election of 45 Congressmen. In any case, the ultimate GOP goal was to run in the existing districts by killing off the Democrats' 1981 districts. Where would the Republicans get the money and organization to qualify this referendum in just three months time? What would the Supreme Court, loaded with appointees of Democratic Governor Jerry Brown, do with the referendum? How many referenda were needed, one for each plan or just one covering all plans? And finally, was this whole battle worth all the effort?

The notion of a referendum against reapportionment was first raised by Senate Republicans, and Senator Ken Maddy, an attorney with a good understanding of constitutional issues, asked his reapportionment expert, Peter Bontadelli, to research the issue. Bontadelli prepared several questions for the Attorney General to get a reading on the law and procedures involved. The Republican-oriented law firm of Dobbs and Nielsen, which specialized in election law, also began researching the issue. By mid-summer of 1981, with the actual districting lines still in the rumor stage, Bontadelli was able to report to Maddy and Minority Leader Campbell that a reapportionment bill could be referred, and an effort to qualify a referendum was feasible. But there were drawbacks: it would be terribly time-consuming and would cost at least $1 million.

Where to get the million? Legislative leaders turned for that answer to a Cuban-born medical doctor named Tirso Del Junco, chairman of the California Republican Party. Del Junco said, in effect, that if the state's GOP legislators felt that strongly about reapportionment, he would commit the $1 million raised at two Ronald Reagan fundraisers that was earmarked for 1982 state legislative

races to an effort to qualify a referendum. He said that if Congress wanted to be included, they should tap the Republican National Committee for funds, and the state's legislators and Congressmen could pool their money and effort.

Initially Senate Republicans saw the referendum as a negotiating tool. Once the party was committed, the Democrats would realize that the Republicans could qualify the referendum to stop their plans, and they might then bargain for a reasonable plan that nobody would want to refer. GOP leaders made it clear to Senators Roberti and Boatwright that they controlled the referendum: if they wanted to, they could make it disappear; but if they told Del Junco to go forward, he would go forward. Campbell announced the GOP's plans publicly, and Sacramento Bee political editor Martin Smith, in a prophetic column, outlined the stakes in a referendum: if the Republicans were not satisfied with the new districts, they could mount a referendum which would defeat the Democratic plans, and force a new reapportionment in 1983. He quoted an unnamed Democratic staffer as saying, "(The referendum) may be the sleeping giant in all this."[57] The Republicans even began circulating to the press a lengthy referendum campaign plan titled "Backstop," which detailed exactly how the GOP would go about gathering the half million signatures necessary for a successful referendum.

Early in September it became necessary to make the decision whether or not to go to the people. The GOP high command met and reviewed the situation. The Burton congressional plan eliminated four Republican seats, and gave the two new seats to the Democrats -- a six-seat Democratic gain. It would have cost the Democrats $3 million to win that many seats at the polls. The GOP had no choice with congressional reapportionment. In the Senate, a stay meant running in the old districts at the next election, giving the Republicans the possibility of winning control of the Senate. Boatwright's plan safened all the

Democrats, and the number switch would cost Senators Garcia, O'Keefe, Doolittle and Schmitz their seats. Interestingly, the pressure for the referendum came from the Campbell wing of the Senate Republicans, and Campbell promised staff support for the effort. The big losers in Senate reapportionment were members of the Richardson faction, and yet they were hardly to be seen in the referendum battle.

The Alatorre Assembly plan was the plan least damaging to the Republican Party. Although three incumbents saw their seats eliminated, two new Republican seats were created in San Diego County, and a number of marginal Republicans were safened. Alatorre had explained that turning Don Rogers's seat into a Democratic district was just a "slip of the pen" and, to relieve some of the outcry, he had revised Rogers's district to put his home precinct back in, and the GOP staff was convinced Rogers could survive with a good campaign. Thus the GOP was losing only one Assembly seat in redistricting. In its analysis of the three redistricting plans, the Rose Institute said the Assembly plan gerrymandered the least and generally had fewer outright violations of city and county lines. But Assembly Republicans were the maddest of all the factions. They had killed legislation -- even the pay raise, to the outrage of horrified Senators -- in order to punish Willie Brown. Hallett couldn't wait to get the referendum underway, and Naylor and Johnson vigorously supported her. Every Assembly Republican signed a letter to Del Junco asking him to commit the party to a referendum. Naylor assigned the Republican reapportionment staff, which was under his control, to the referendum effort, and his four-person staff began an intensive effort to find constitutional holes in the Democratic plans.

By September 18th, just hours after Governor Brown signed the bills into law and the 90 days had began to run, the Assembly staff began the laborious

process of proofreading the three referendum petitions containing the thousands of census tract numbers that were the legal language of the three redistricting bills. Lawyers then rushed the petitions to the Attorney General for titling, and within a week printers began turning out a complex seventeen-page petition that included the Assembly plan on white paper, the Senate plan on yellow, and Congress on pink. It would be necessary for the voter to sign only once to place his signature on three separate petitions which individually referred the three plans to the voters. Hallett, Del Junco and Senator Marz Garcia flew around the state in a private plane on a five-city press conference to drum up support for the plan. And on September 22 -- a week to the day following passage of the bills -- Del Junco, joined by Hallett, Campbell, Rep. Bill Thomas and several other Congressmen, stood in the White House Rose Garden and watched President Reagan sign the first petition. "While all states struggle with reapportionment, the situation in California seems to have gotten out of hand. . . . There's even one congressional district up in the San Francisco area that travels across the Bay twice without a bridge," remarked Reagan as he signed the petitions.[58] Of all the beaming politicians in the Rose Garden bill-signing photos appearing in California papers the next day, the one with the longest personal experience with reapportionment was the man with the pen. Ten years earlier a scowling Ronald Reagan had been dragged down to the Capitol in the middle of the night to explain to a legislative caucus what he would do about Assembly reapportionment. No one had to explain the issue of reapportionment to the former Governor of California.

So the referendum drive began, with Republicans seriously worried that they had only 60 days to gather the required half million signatures, since the final 30 days would be spent counting the signatures. The party leadership placed John Meyers, the Republican political director, in charge of the overall

campaign, and he contracted with a paid signature-gathering firm to supply 200,000 of the half million signatures for each petition. The Republicans also mounted a huge direct mail campaign in which they sent a petition packet to each of the 2.6 million Republican households in California. The complex package included three separate petitions with bold type urging recipients to sign them immediately. A picture of President Reagan signing his petition filled one side of the mailing, with the headline: "The President has signed his three petitions. Open this packet to sign yours." On the other side in bright blue was the President's signature, and the words: "Legal Notice, Emergency Referendum." The GOP spent $800,000 to send out the mailers, which included a plea for funds to pay for the massive effort. They then settled back to wait and see if anybody responded, while volunteers combed shopping malls looking for potential signers.

The Republicans need not have worried. All through the fall the Democratic reapportionment plans received a beating in the media. Editorials called on the people to sign the referendum, and excoriated the plans, particularly the Burton product. "The Reapportionment Syndrome: The Disease that Hurts Democracy," said the Los Angeles Herald Examiner.[59] A "brand of quack surgery that warrants criminal prosecution" said the Tulare paper about redistricting in that county.[60] It's a "sad spectacle, so flawed and with such damaging impact upon the political process that it should be revoked and replaced," wrote the San Francisco Chronicle.[61] "Take reapportionment away from the Legislature," KNX radio told its listeners.[62] "Redistricting Plan Must Be Rejected" said a Stockton Record editorial, commenting on Burton's surgery of that city.[63] "Unfair gerrymandering," "sense of the bizarre," "reapportionment sham," "gerrymandering's effort outrageous," "blatant gerrymandering," "our ten-year bloody ritual" read other editorials. The State Chamber of

Commerce got behind the referendum with an Uncle Sam-type character on its newsletter proclaiming "I want you to help qualify the reapportionment referendum."[64] "Ride elephant train to justice," the Peninsula Times Tribune told its readers. That paper was particularly incensed by the "district without a Senator" in the San Francisco Peninsula.[65]

The newspaper reactions set off a wave of public indignation. The Rose Institute had hoped to spark some interest in this arcane business by its conferences and studies, but the Institute's scholarly reports were lost in the public battle over the evils of gerrymandering. Relatively few Californians knew the details of line drawing, or appreciated its impact on the electoral process, but as one Republican volunteer put it after circulating petitions, "they know somebody in Sacramento is trying to steal something." A Mervyn Field poll in November reported that 80 percent of Californians disapproved of the redistricting methods, and 51 percent were ready to vote down the Legislature's plan. Only 28 percent approved of them, and only 12 percent thought legislators ought to be drawing their own districts.[66]

Almost as soon as the GOP mailers hit, the returns began coming in, and in far greater numbers than the Republicans had expected. They called off the paid signature drive as unnecessary, and began a massive effort to count the mail petitions and prepare them for distribution to county clerks for verification. On November 18, Tirso Del Junco appeared before cameras at the Los Angeles County Registrar of Voters's office with 650,000 signatures on the three petitions for the clerks to verify. The GOP announced it was turning in 922,000 signatures on each petition -- more than twice the number required to qualify the referendum. Del Junco told reporters that a total of 2,767,203 signatures were being submitted, "the largest number of signatures ever gathered in one effort." Del Junco could not resist a little boasting.

> Last summer I told a joint meeting of the Legislature's reapportionment committees that we would referend a Democratic gerrymander and we have done just that. If they insist in passing another gerrymander, let me assure them right here and now that we will referend again. It is not just the Republican leadership that opposes them now; it is hundreds of thousands of Californians.67

In all, Republicans had spent $1,257,000 in the referendum campaign, but the response to the mailer was so overwhelming that some $756,000 was contributed in sums averaging $13 by people who sent money with their petitions. Another $400,000 had been raised from incumbent politicians and from Republican National Committee sources, so the California Republican Party had really spent very little money. Del Junco was able to return the funds borrowed from the 1982 campaign accounts, and the GOP congratulated itself on a hugely successful undertaking. On December 15, the 89th day following the Governor's signature of the three bills, Secretary of State March Fong Eu announced that the three referenda had qualified with 87 percent validity -- more than 800,000 valid signatures on each petition.

The Democrats quietly watched the GOP hoopla. Their only overt action during the referendum drive was to call a special session for some welfare legislation, and to provide for the redistricting of the State Board of Equalization, which had fallen between the cracks in the rush to adjourn in September. GOP legislators suspiciously thought the Democrats might try to pass another legislative plan to thwart the referendum, but the Democrats decided to leave bad enough alone for the time being. The sole bit of action in the special session was an abortive attempt to draw a Board of Equalization seat for Senator Boatwright -- apparently as a Democratic effort to keep Boatwright from running for Lieutenant Governor. That brought a fiery response from Board member William Bennett, a long-time Democratic Party activist: "These are not privileges to be bestowed upon friends, sir."[68] Bennett, an incumbent, announced he would run in the seat being drawn for Boatwright. Calmer heads prevailed

and the bill was killed, but Bennett remained a bitter foe of the Democratic redistricting. Boatwright remained an ordinary State Senator.

To Court: The Democratic Counter-Attack

The same week in December that the Republican referendum officially qualified, the GOP also announced it was joining with the citizens' lobby Common Cause to sponsor an initiative to remove reapportionment from the Legislature and give it to a bipartisan commission. In their glee over having socked the Democrats with a one-two punch, the GOP was unaware that it was witnessing the high point of Republican success in the four-year battle over reapportionment in the 1980s. The Democrats had not allowed moss to grow underfoot. While the GOP circulated petitions, the Democrats prepared lawsuits, and in late October they struck back with a suit against the Republicans in the California Supreme Court.

The history of the courts in reapportionment had been fraught with problems in the twenty years since the one man, one vote rulings. In 1982, Chief Justice Rose Bird noted that this was an issue for the legislative branch, not the courts, echoing similar observations by the California Supreme Court in the 1970s when the failure of Governor Reagan and the Democrats to agree had thrust the courts into the redistrictings of that decade. The same month the Democrats sued against the referendum -- October of 1981 -- newspapers carried a minor item noting the death of Joe C. Carr, the former Secretary of State of Tennessee, and the defendant in the famous Baker v. Carr suit that had started one man, one vote. Professor Charles Bell of California State University at Fullerton marked Carr's passing with an article titled "Baker v. Carr: A Reform That Didn't Work."

Bell traced the history of the courts in the reapportionment process,

comparing the hoped-for equalization of representation with the gerrymandering that had actually followed.

> Perhaps most important, and most disappointing to all, is the fact that to date no court decision has prevented the states' legislators from boldly and brazenly reapportioning to suit their own personal needs. . . . It is clear that the supposed reform engendered by Baker v. Carr in 1962 has fallen far short of the ideals of equality and fairness which most of us hoped for at that time.69

Bell was proven right in a number of court decisions in 1981 and 1982 in which partisan judges reflected their party's political needs in shaping remedies for deadlocked reapportionments. In every case since Baker v. Carr, the courts had refused to consider partisan gerrymandering, instead making a fetish of equality of population in redistricting.

The California Supreme Court, however, had a better record than most. Its 1972 decision -- which left the old 1960s districts in place for the 1972 election rather than overturn the Governor's veto of the 1971 redistricting -- had been uniformly praised, and most observers seemed satisfied that the 1973 Masters' plans were fair and equitable. Indeed, Republicans were using the referendum process to keep the Masters' plans in place for another election. Now the Supreme Court of 1981 faced a political situation very similar to that facing the Supreme Court of 1971: a "truncated legislative process," as the 1971 Court put it,[70] in which reapportionment was incomplete. Once the Republican referendum qualified on December 15, 1981, the GOP could -- and did -- argue that the redistricting plans were frozen in place and could not be implemented. Would the 1981 Court manage to wiggle out of the political thicket as adroitly as the 1971 Court had done?

The personnel on the 1981 Court were vastly different from those on the 1971 Court. Gone was Chief Justice Donald Wright, a Reagan appointee. In his place sat the controversial Rose Bird, an appointee of Governor Jerry Brown who had gone from a cabinet post in his administration onto the Court, and had been

subject to a fierce confirmation battle in 1978 against forces led by Senator Richardson. Most Republicans cared little for Rose Bird, and suspected her of political motives. At a 1981 press conference, Minority Leader Hallett had referred to the Court as "Rosie and the Supremes,"[71] and later said, "I have no confidence in that Court, and no confidence they will rule on precedent, because they have been a political body."[72] Assemblyman Naylor noted that a politically-biased ruling would "drag the Court into an incredible political thicket. I think it would do serious damage for this Court to become involved (in partisan politics)."[73]

Republicans had reason for concern. Only one Reagan appointee still sat on the Court, Justice Frank Richardson. The other Justices included Stanley Mosk, the remaining Pat Brown appointee and the only veteran of the 1971 and 1973 reapportionment cases, and Jerry Brown appointees Otto Kaus, Allan Broussard and Frank Newman. Justice Matthew Tobriner had just resigned, and Bird appointed retired Appellate Court Justice Steven Tamara of Riverside to sit in his place. Tamara, like all the Justices but Richardson, was a Democrat. But the 1971 Court also had a majority of Democrats, and they had not acted in a partisan manner. GOP strategists hoped that the 1971 precedent and the inclination to steer clear of partisan politics would lead to a similar result this time around.

On October 26 the Assembly Democrats, using the San Francisco law firm of Rosen and Remcho, filed suit to stop the referendum. They were followed a week later by a suit filed on behalf of 21 of the state's 22 Democratic Congressmen (the only Democrat not supporting the suit was Rep. Glenn Anderson) asking essentially the same thing. This suit was filed by the firm of Irell and Manella, a Los Angeles law firm with ties to the Berman political operation. The Senate Democrats followed with a suit by attorney Conrad

Tuohey, a one-time Democratic candidate for office who had ties to Senator Roberti. The Democratic suits made three claims: the referendum petitions were defective and the Court should stop the referendum; the qualification of a referendum did not "stay" the reapportionment law; and at any rate the Court should impose the Democratic redistricting plans despite the referendum against it. The Democrats asked for an immediate hearing on their lawsuit -- a position strongly supported by Secretary of State March Fong Eu, who said she needed to know which districts to use for the 1982 election. The Secretary of State's office had instructed county clerks to be ready to use either the 1981 plans or the old Masters' plans for the 1982 elections.

The case to stop the referendum was based on the argument that the petitions then in circulation were defective for the rather technical reason that they instructed the signer to affix his address as registered to vote, rather than his residence address as the Elections Code required. Republicans, through the Dobbs and Nielsen law firm, responded that they had cleared their petitions with the government law section of the Attorney General's office, and that it followed a format set down in an instruction booklet from the Secretary of State. They also pointed out that numerous other petitions had used the form "address as registered to vote," including one presently in circulation calling for the recall of Chief Justice Bird. At one point the Republicans even considered a motion to remove Bird from the case: for her to rule the reapportionment referendum off the ballot on account of a defective petition would also affect the petitions to recall her, and a private letter was sent to the Chief Justice pointing out the potential conflict.

But Bird did nothing about this supposed conflict, and the defective petition argument seemed to be a highly dubious point. Republicans had gathered more than twice the necessary number of valid signatures: even if there

were a few invalid ones due to improper petitions, it would not disqualify the referendum. But at least one Justice -- Allan Broussard, a former Oakland Superior Court judge with ties to local Democrats -- appeared terribly bothered by the defective petitions issue. One of the Democratic attorneys later admitted it was nothing more than a smokescreen, that to throw out 800,000 referendum signatures on those grounds would have been outrageous. But rebutting the issue did require a lot of Republican legal time, and served to muddy the waters on the more essential questions: the "stay" issue and the question of which districts to use for the 1982 election.

On December 4, a unanimous Supreme Court consolidated the three suits, set briefing dates, and scheduled a public hearing for January 11, 1982. The Court also asked for comment by the parties on eighteen questions, six of which dealt with election deadlines for 1982, five of which questioned the defective petitions, and seven of which asked for comment on the "stay of reapportionment statutes" when the referendum qualified. This set lawyers for both sides scurrying to brief their case and answer the Court's questions. Democrats were pleased that the Court had accepted their suits; Republicans were pleased that nothing would be done to interfere with the certification of the referendum petitions, which was then just ten days away.

The Senate Democrats argued that not only did the referendum not "stay the statute," but a referendum against reapportionment was not permissible -- a point that Senator Boatwright had made throughout the fall. But precedent was against this: a referendum had been qualified in the 1920s and the Supreme Court had made clear in past cases that reapportionment could indeed be referred. The Assembly and congressional Democrats admitted that reapportionment was subject to a referendum, but insisted the statute should not be stayed despite the referendum. They argued that the Constitution did not specifically provide for a

stay -- which was correct -- and that former language providing for stays of referred statutes had been dropped in 1966. They also argued that to permit a stay would wreak havoc with the 1982 elections, since new districts were necessary for that election, particularly with the state's two new congressional districts.

The stay issue was argued most effectively by Attorney General George Deukmejian's office, which was a named defendant in the cases. Richard Martland, an Assistant Attorney General, made the point that historically all referred statutes had been stayed until the people had had an opportunity to vote on the issue. The Peripheral Canal law, for example, had been stayed, and would not be acted upon until the 1982 elections. "The Court has long recognized that a referendum which has qualified for the ballot stays the statute and renders it ineffective until adopted by a favorable vote of the people," wrote the Attorney General in his brief, citing a long string of cases.[74] Most objective legal scholars seemed to concur that this was the law, and that on December 15 the three reapportionment laws were frozen in place until a vote of the people accepted or rejected them. The Supreme Court listened respectfully to Martland, giving indications during the oral argument that it agreed.

This brought the issue down to the key question: which districts would be used in the 1982 elections? This was the essence of the fight. Since mid-summer, legislative Republicans confidently believed the Legislature would run in 1982 in the Masters' districts then still in place if the party could qualify a referendum -- which it had done -- and that success on the first two points -- the defective petitions and the stay -- necessarily led to victory on the third. The California Republican Party had engaged a large Los Angeles law firm, Sheppard, Mullin, Richter and Hampton, whose senior partner John Sturgeon was an active Republican. Their job was to keep the Democratic legislative plans

from being implemented by the Court, and to do this they launched a major legal attack on the Democratic redistricting. The Sheppard Mullin briefs would ultimately run to several hundred pages, leading a Court clerk to remark later that the reapportionment briefs for both sides could be piled several feet high.

Sturgeon and his attorneys, joined by members of the Republican reapportionment staff, laid out for the Court all the defects they could find in the Senate and Assembly plans. The Senate district number switch was related in detail, as were potential violations of the constitutional provisions relating to city, county and regional integrity. The briefs argued strenuously that both the Senate and Assembly plans gerrymandered the state, and that they violated the U.S. Constitution and the reapportionment guidelines accepted by the Court Masters in 1973 and later implemented in the California Constitution. The Senate plan, they said, needlessly disenfranchised 1.2 million people through the number switch.

The lawyers found a particularly appealing target in the Assembly plan. Because of the haste with which the Legislative Counsel's office had prepared the final amendments for the floor debate on September 15, the plan had numerous errors. The Republican staff went over it with a fine-toothed comb and found some 150 census tracts improperly assigned, causing a total population variance of some 19 percent between the districts, which was constitutionally impermissible. Among the errors cited was a nineteen-mile gap in the famous Cathie Wright district, and the fact that the 700,000-acre Angeles National Forest was not assigned to any district. Carol Hallett called a press conference to highlight the errors in the Democratic bill, displaying maps with all the mistaken census tracts in bright red. The GOP aim was to deter the Court from imposing the Democratic plans because of their constitutional violations, defects in the plans themselves, the disenfranchisement caused by the number switch,

and the generally seedy process the Democrats had used to pass the bills in September. Bob Naylor sent the Court a declaration which said the process of passing the bills "allowed for no meaningful public testimony or comment (and) deprived legislators of useful and necessary information on which to base their votes."[75] Sheppard Mullin summarized its case against the plans: "Ordering elections under (the Democratic plans) would do irreparable damage to the integrity of the political process in California. Not only are the bills unconstitutional, but the people view them as reeking of dirty politics."[76]

The Democratic response to the errors was to insist that the statute itself provided for correcting unintentional mistakes, which all of these were, so that the final product reflected legislative intent. The Assembly noted that its staff had gone over the bill with the elections division of the Secretary of State's office and corrected the errors, depositing with the Secretary of State maps reflecting the intent of the Assembly in passing the bill. This, the Democrats insisted, was the plan before the Court, not the horror of unassigned census tracts the Republicans were touting. Thus the Court faced another problem: which plan was the real thing? Was it the bill as it passed on September 15, which both sides agreed was defective, or the bill as cleaned up by the Democratic staff? Assemblywoman Hallett sent Speaker Brown a strong letter protesting an administrative repair of the Assembly plan. "We would like to know whether it is now the policy of the Assembly that staff may rewrite legislation after we have passed it, and may, therefore, enact their own private version of the laws of California."[77]

The Senate Democrats largely ignored the number switch, hoping the Court would do likewise, but did note that the Supreme Court said in 1973 that some people would necessarily go without Senators anytime the Senate was reapportioned, because of the staggered terms. The essential Democratic arguments to

the Court largely ignored the Republican assaults on the constitutionality of the plans, and the details of district number switching and last-minute error correction. The Democratic brief prepared for the Assembly by Joseph Remcho, a former member of the Fair Political Practices Commission and an expert on government law, made the case for using the Democratic plans regardless of the referendum. Remcho made three basic points.

First, he said, the old Masters' districts are clearly unconstitutional, while the new districts are presumably constitutional. The Republicans could not argue that the districts as corrected failed to meet the federal one man, one vote standard, even if they quibbled about the shapes of districts. Nor could they deny that the old districts were grossly over- and under-populated according to the 1980 census. Second, the Court had before it a plan passed by the Legislature and signed by the Governor. Thus the job was already done, and the Court need not face the unpleasant prospect of accepting someone else's plan or drawing up its own. And third, if the Court did not accept the legislative plan,

> it would have the potential to usurp not only the authority of the Legislature but that of the people as well. If the Court imposed its own plan, and the people voted (in the referendum) to approve the Legislature's plan . . . the constitutional plan enacted by the Legislature, signed by the Governor, and approved by the people would have no effect in 1982.78

This was the heart of the Democratic argument for the legislative plans -- that the situation in 1981 was unlike that of the Court in 1971 when the Governor's veto had killed the plans. Here all the referendum did was allow a vote on the plans; they were still alive unless specifically voted down by the people. By convincing the Court of this difference between 1971 and 1981, the Democrats hoped to give the Court a peg on which to hang a favorable ruling -- even if the Court accepted the Republican argument that the referendum was valid and did stay the effect of the laws.

The congressional case presented a somewhat different situation, one which the Democrats found more hopeful. The Court in 1971 had imposed the vetoed congressional plan because California had gained five House seats, which somehow had to be provided for. This time California had gained two new seats, and so a plan had to provide for election of two more Congressmen. The Irell and Manella brief argued that the Court had no choice but to impose the Burton plan for the 1982 election. All parties agreed that the referendum petitions had the effect of reinstating the old congressional districts, which provided for only 43 seats, not the 45 California was due. The Burton plan was the only constitutional alternative, and the Democratic brief pointed proudly to the fact that the population deviation in the Burton plan was close to zero. Federal law mandated equal population for congressional districts.

The Democrats had one problem: the Republicans had produced two congressional plans of their own, a so-called "good government plan" drawn by the Assembly Republican staff, and a plan submitted by the GOP congressional delegation. But Irell and Manella pointed out that neither plan had been passed by the Legislature, whereas Burton's plan had, and was now ready for implementation by the Secretary of State, and neither of the other plans had been pre-cleared by the U.S. Justice Department as required under the Voting Rights Act. Irell and Manella stressed that the Burton plan was, therefore, the only constitutional alternative providing for the necessary 45 districts.

But the Democrats got a break: the Republicans, who had fought the Burton gerrymander so effectively in the press and media, became confused as to how to handle it legally and went to the Supreme Court with two conflicting theories. The Republican Congressmen had hired as their attorney an old colleague, former Rep. Charles Wiggins, Richard Nixon's stoutest defender on the Watergate committee and an impressive attorney then practicing in Orange

County. Wiggins filed a suit in federal court asking the district court to impose its own plan as soon as the referendum qualified. He responded to Irell and Manella's State Supreme Court suit arguing that the Court should impose a plan drawn for congressional Republicans by Tom Hofeller, formerly of the Rose Institute and now special consultant to the congressional Republicans on reapportionment. This GOP plan, he said, involved less gerrymandering and was more accurate than the Burton plan in creating equipopulous districts. Wiggins was banking on the Court here doing what a court in Illinois had done -- accepting a privately-drawn plan that was closer on population than one considered by the Legislature in that state. But he was also asking a Court made up of six Democrats and one Republican to choose a Republican plan (Hofeller's) over the official Democratic plan (Burton's).

And Wiggins had another problem. The Republican National Committee had hired the Los Angeles firm of Gibson, Dunn and Crutcher, home firm of U.S. Attorney General William French Smith, to represent them. The RNC had developed a policy of asking for at-large elections where congressional plans were deadlocked, and Gibson, Dunn and Crutcher filed a brief calling for at-large, statewide election of California's two new congressional districts -- something the Democrats insisted was not allowed. Wiggins agreed with the Democrats on this point. He had been a member of Congress in 1967 when a law was passed apparently disallowing at-large elections. Wiggins told the Court he felt this was an alternative not available to it. This caused a public rift with the RNC, whose firm insisted that at-large elections were the way to resolve the problem. During oral argument in January, a somewhat perplexed Rose Bird asked the RNC's attorney if he was arguing against the position of the Republican delegation's attorney, and he admitted he was. So, not only did Republicans face the difficult prospect of stopping implementation of a Demo-

cratic plan before a Democratic Court, but they ended up arguing among themselves before that same Court.

In the oral argument itself, Wiggins -- who made a forceful presentation -- dropped his insistence that the Court implement his Republican plan, arguing instead that the primary election in June be delayed until the fall so the people could first vote on the referendum. That was probably the only viable course to stop the Burton plan. If the people actually rejected it, as every bit of evidence suggested they would, then the Court surely could not implement it. So the objective was to have the election before it became necessary to decide which plan to use. Some Court Justices, the rumor mill reported, were looking at this alternative. Another practical alternative suggested to the Court, but not aggressively pursued by the Republicans, was to create the two additional seats out of excess population in existing districts. A map doing this was actually prepared, and it would have had the attraction of leaving the existing districts in place while providing for the two new seats. There was probably more likelihood of the Court adopting this solution than imposing a Republican plan or letting the two seats run statewide, as suggested in the competing Republican positions.

On January 11 nervous attorneys, followed by a hoard of reapportionment hangers-on and the press, filed into the ornate Supreme Court chamber in San Francisco, filling every available seat. The oral arguments began at 10:00 a.m. and lasted three hours. Republicans departed the chamber at 1:00 p.m., walking ashen white into the warm San Francisco sun. It had become clear to them that Rose Bird had taken control of the case and intended to rule for the Democrats. She would, they believed, override Justice Broussard's concern that somehow the referendum should be thrown out because the petitions were defective, and grant the Attorney General's point that the referendum did stay the effect of the statute. But her questions centered on the remedy if this were the case, and she

laid out for the attorneys the "least disruptive solution" to the problem. The referenda would appear on the June ballot, but the Court could not assume that the public would reject the districts. If districts other than the Democratic ones were used, it could have the effect of unnecessarily delaying redistricting for two years. "At least we would have a plan that has been adopted by our duly elected representatives," Broussard said in backing Bird's position. "I think that is the worst possible thing the Court could do," responded John Sturgeon for the Republicans. "That would put the Court right in the heart of the political thicket without a machete."[79]

On January 27, a Democratic Assemblyman who claimed some pipeline to the Court told Hallett the Democrats had won the case. It was a four-to-three decision, with Tamara the deciding vote. He had resisted going along with Bird, but in the end "was reminded where his political loyalties lay" and gave her the fourth vote to impose the Democratic plan. The next day the Court handed down its decision, written by Chief Justice Bird, and it was indeed just what the Republicans had feared.

Although the petitions were technically defective, the Court ruled that the Republicans had relied on the Attorney General and the Secretary of State, and thus it would not throw out 800,000 valid signatures on the basis of a minor technical defect. The Court also found the qualification of a valid referendum does stay the law. So the Republicans won on that point as well. Then came the tough question: which districts to use for the 1982 elections. The Court stressed that it could "adopt reapportionment plans that are not final within a framework of a state constitution," and it specifically rejected the Republican National Committee's argument that the two new congressional seats run at-large. "The only practical and constitutional alternative available for use as a temporary Court plan for this election is the 1981 congressional reapportionment law."

So the Burton plan -- despite the near-universal condemnation of its gerrymandered districts -- became the plan for use in electing California's Congressmen in 1982 -- just as Phil Burton had said it would.

With that peg in place, and unanimous support on the Court for this position, Bird's opinion next asked, "If this Court must adopt the 1981 congressional reapportionment . . . is there any reason this Court should not also adopt the 1981 Assembly and Senate plans?" Here the Court divided four-to-three, but Bird managed to convince the majority to depart from its 1971 precedent of running in the old districts on her "least disruptive theory." The Democratic districts were, after all, equal in population, and the old districts were not.

> Use of the Legislature's 1981 plans will also minimize the potential disruption of the electorate and the political processes of the state. At the primary, the new reapportionment plans will be either affirmed or rejected. The Court cannot and should not attempt to predict the outcome of the referenda.

If the new districts were accepted by the people but not implemented, "the state will be faced with the anomalous situation of an election under seriously malapportioned, unconstitutional districts." If the people reject the new districts, some disruption will occur and the Legislature will have to adopt new districts for 1984. Bird repeated the Democratic arguments that these districts had not been rejected by any governmental entity, just that they were put before the people for a vote. She also insisted the comparisons with the 1971 situation were not appropriate because then there had been a plan signed by the Governor.

> By law the Court must adopt the plan which is most constitutional and least disruptive. If the Court were to adopt the old district plan, it would not only do violence to our state and federal constitutions, but the action might be construed as an impermissible judicial statement about the success of the referenda.80

So the majority decided the new Assembly and Senate districts would be used along with the new congressional districts as the Court's "temporary" plan for the 1982 election.

The Bird majority made no mention of the GOP's arguments that the new districts were on their face unconstitutional, either because of number switching or violation of city, county and geographic region lines. The Court seemed to see no need to discuss these factors since this was just a "temporary plan" for the 1982 elections, although no one familiar with the process saw the Democratic plans as "temporary." And Rose Bird stuck it to the Republicans with a final twist. Each party, she ruled, would pay its own Court costs. The Democrats had arranged for the state to pick up the cost of their Senate and Assembly suits, but the Republicans had to pay to defend their referenda out of their own pockets. A later appeal on this inequity brought forth no response from the Court. It was, as GOP attorney Chip Nielsen put it, a case in which Republicans had won all the battles but lost the war.

Bird's majority comprised herself and Justices Newman, Broussard and Tamara. But there was a strong dissent by Justice Mosk:

> A bare majority of this Court have become entangled in the "political thicket" by ignoring their obligation of neutrality on a partisan issue, a neutrality that can be observed only by maintenance of the status quo in legislative districting until the people speak at the forthcoming election.81

Stanley Mosk was not fooled by a lot of talk about "least disruptive solutions": he knew a political decision when he saw it. So did the Democrats in the Legislature: they broke into cheers when the Bird decision was announced from the podium in the Assembly.

The most vigorous dissent came from Justice Richardson, the only remaining Reagan appointee, who said the Court should have followed the 1971 precedent: impose the congressional districts but leave the old legislative districts until the election to determine if the people want them.

> Today, and by the thinnest of margins, the majority accepts as its own and in its entirety, a legislative package, the validity of which is under very serious referendum challenge. . . . The majority completely disregards (the) stay and imposes upon the people of Califor

> nia a state legislative reapportionment plan which has been stopped dead in its tracks by operation of law and which is heavily veiled in a cloud of political uncertainty.

Richardson went on to compare the 1981 referendum to the lack in 1971 of a gubernatorial signature; he found the two situations "wholly analogous," noting that the 1971 situation required running in 1972 in districts that were more malapportioned than the ones the Republicans were proposing for 1982. He insisted that nothing in the federal one man, one vote law required imposition of the Democratic plans for population purposes. In Richardson's view, the Bird majority had not only issued an unnecessarily political decision, but had not based the decision on good law. He also pointed out that the voters would now be faced with an "intolerable anomaly" whereby if the voters were to reject the Democratic plans -- as indeed they did -- the new Legislature elected under those same plans would draw districts applicable for the rest of the decade -- as was to be the case. The Bird ruling was the one most disruptive to the political process because it could result in legislators being elected from districts the people had specifically rejected. Not leaving the old districts in place until after the referendum vote made the Court a partner in a sham -- the "worst possible scenario" -- in which legislative districts would "draw life only from our fiat issued in defiance of the people's recently expressed will."[82]

Before the case was argued, the betting around the Legislature was that the Court would do what it did in 1971 -- stay clear of political attack by giving each side a little bit. Justice Richardson would have supported a decision imposing the Burton congressional plan because of the two new seats, and Bird could have written an opinion implementing that plan but following the 1971 precedent for legislative districts. That decision could have had the unanimous support of all seven Justices, and provided evidence that Chief Justice Bird was as wise as Chief Justice Wright in handling reapportionment cases without

imbroiling the Court in partisan politics. Bird's motives in delivering this major Democratic victory were never quite clear. Perhaps she feared that elections in the old Senate districts would help her bitter foe, Senator H. L. Richardson, who had tried to deny her confirmation in 1978. She certainly knew that the number switch, which she refused to reverse, cost his allies their seats. Perhaps she felt that imposing the Burton plan would have brought down the wrath of her opponents anyway, so why not go all the way and deliver for the Democrats in the Legislature too. But the GOP's legal presentations against Burton had been weak -- even Justice Richardson agreed it was illegal to run congressional districts at large, and he never gave serious consideration to the adoption of the Republican delegation plan over Burton's plan -- so Bird probably could have gotten away with imposing just the Burton plan. As it was, she opened the door to a round of attacks on the Court for its partisan political decision.

A few days after the decision, the Republicans met in their annual state convention in Monterey and authorized the beginning of a recall movement against Bird. A few weeks later, legislative leaders and Tirso Del Junco met in Senator Campbell's office and planned a recall campaign. Although Campbell supported the notion publicly, he argued privately that a recall would gain the party nothing because Governor Brown could simply appoint a similar Chief Justice in her place. Eventually the party decided to spend its money elsewhere, and dropped the recall. Senator Richardson tried to put a recall together using a deputy district attorney from Orange County as organizational point man, but the plan never got off the ground. The Republican Party's antipathy to Bird -- as a party and not just as individuals -- stems from the reapportionment ruling, and denying her reconfirmation in 1986 became a holy crusade with Republicans after reapportionment. The Court decision was also subject to heavy press criticism around the state. "Into a Thicket with Phil," the San Francisco

Chronicle's editorial on the decision, called it "appalling, intolerable and everything else dissenters are saying." The Court, said the Chronicle, "has fallen into the gerrymandering thicket along side of Phil Burton, who is of course delighted to have it there."[83]

In June, Republicans succeeded in bringing about Justice Richardson's "intolerable anomaly" by defeating the three plans with referendum votes exceeding 60 percent on each plan. But by then the referendum was meaningless: the now-rejected districts were the law of California for the 1982 election. And by this point Republicans were trying to pull another rabbit out of the reapportionment hat by joining with Common Cause and cloking themselves with the mantle of reform to sponsor the establishment of a reapportionment commission.

The People Again: Proposition 14 and the 1982 Election

Reapportionment commissions were nothing new. They had been proposed in the Legislature as far back as 1973, when one-term Assemblyman Bill Bond of Long Beach developed a proposal to give reapportionment to a non-elected commission. At that time he asked the Rose Institute for some advice as to what criteria should be used in drawing up the districts, and Alan Heslop, who always believed criteria were the key to stopping gerrymandering, wrote up some basic guidelines for him. In 1979, freshman Assemblyman Bob Naylor introduced a commission proposal, again using "good government" criteria to guide district line-drawing. Common Cause had also made reapportionment reform in the form of an appointed reapportionment commission one of its major policy goals.

At the height of the legislative battle over redistricting late in 1981, members of the business-oriented California Roundtable, along with Common Cause representatives and Alan Heslop, met to discuss a commission initiative.

They engaged the services of attorney Chip Nielsen, whose law firm was then involved in defending the Republican referendum. After several inconclusive meetings, it became clear that some entity was required to sponsor and fund an initiative campaign -- if a successful effort were to be undertaken -- and none of the participants had the million dollars or so it would take to qualify an initiative. So they turned to the Republican Party, then in the final stages of the successful referendum campaign.

Republicans were well aware that little would be gained if they killed the 1981 reapportionment only to have the Democratic leadership and Governor Brown turn around and enact the same plans again in 1982; they were shopping for an alternative to legislative redistricting. Although Republicans were highly suspicious of the liberal-oriented reform lobby Common Cause, which had joined with the Democrats and Jerry Brown to enact the Political Reform Act in 1974, they began to see a common interest in reapportionment reform. Tirso Del Junco was quick to recognize the ultimate gain to the Republicans from non-legislative reapportionment: anything was better than more Phil Burton plans. The leadership among legislative Republicans consisted of the more politically astute members, those who saw the alliance with Common Cause as a chance to break the Democratic stranglehold on redistricting. Senator Maddy became an advocate of a reapportionment commission, and helped to convince Senator Campbell that this was a smart political move for Republicans. Oddly, the Richardson faction initially opposed joining forces with Common Cause -- which it viewed as a bunch of woolly-headed liberals -- and the Richardson political organization did little to help qualify the resulting initiative, although among all the Republican groups, he stood to gain most by getting reapportionment out of the hands of the Legislature. In the Assembly, Gordon Duffy of Hanford, who was planning to run for Secretary of State, quickly embraced the idea, and

announced he wanted a role in helping to negotiate the initiative with Common Cause. Minority Leader Hallett gave it her blessing, as did Assemblyman Bob Naylor, who was about to become Minority Leader succeeding Hallett and made it a key part of his program for 1982.

In November, with most of the work on the referendum done, GOP strategists turned their attention to the initiative. A negotiating team consisting of several Republican staffers and Common Cause representatives began meeting to draft the commission initiative. By early December the drafting group consisted of top Republican staffers: Peter Bontadelli and Jack Stewart for Maddy and Campbell; Tom Dey, head of the Assembly staff, for Naylor; and John Meyers, GOP political director, for Del Junco. Common Cause was represented by: Walter Zelman, its executive director; Robert Girard, a Stanford Law School professor and an author of the Political Reform Act; and Susan Rouder, the state head of Common Cause. Over several intense negotiating sessions the two sides hammered out a proposal. The Republicans wanted commissioners appointed by the Assembly and Senate caucuses, and by the state party. It was agreed that six commissioners would be so appointed, three from each political party. Common Cause wanted "citizen commissioners" and, after much haggling, both sides agreed that four citizen commissioners would be appointed by the senior presiding Justices of the State Court of Appeals. A complex formula was developed whereby votes from both partisan and citizen groups would be necessary to pass the redistricting plans.

The most difficult area involved writing the "good government" criteria, and the group eventually modified several Rose Institute suggestions. "Each districting plan shall provide fair and effective representation for all citizens of the State, including racial, ethnic and language minorities, and for political parties," read the opening paragraph of the criteria section. It followed with

specific instructions that two Assembly districts were to be joined to create one Senate district, and ten Senate districts were to form a Board of Equalization district. All districts were to be composed of "convenient contiguous territory with reasonable access between population centers" to deter gerrymandering. Language was also included on population equality and compactness, on preventing Senate district number switching, and to insure that city and county boundaries were respected.[84] Proponents were certain when they finished writing the criteria that they would effectively prevent future gerrymandering and assure competitive districts.

On December 16 a final draft was agreed upon and Chip Nielsen, who was sitting in on the negotiating sessions, was asked to prepare it for submission to the Attorney General's office for titling -- the first step in qualifying it for the November ballot. Meyers was able to commit the party to put forth the funds necessary for the qualification effort, and Susan Rouder for Common Cause and Tirso Del Junco for the Republicans were named the official proponents. The Assembly staff sent a memorandum to the Republican caucus grandly announcing that,

> following lengthy discussions with Common Cause, representatives of the Roundtable, party officials, and the Senate Caucus, an agreement in principle has been reached on a Redistricting Commission proposal to be jointly sponsored for the November ballot.85

Common Cause then faced the difficulty of trying to bring its former Democratic allies on board to make it a truly bipartisan reform effort. Common Cause's other major policy reform -- public financing of elections -- enjoyed strong support among many Democrats but had little Republican backing. But Democrats were not buying the reapportionment commission. Zelman and Rouder met with Assemblyman Doug Bosco of Eureka, Democratic caucus chairman, to discuss the proposal. According to Bosco,

Rouder said she would like to have our support (for the initiative) but

> we couldn't change it. She said the balance they had reached with the Roundtable and the Republican leadership was so delicate that they were afraid if they changed any of it, it would fall through. I told her that was hardly the way to get our support.86

Democrats decided to oppose the initiative, but would spend little money trying to defeat it. They could read the probable results in a February 1982 Field Poll finding that 79 percent of voters disapproved of the system of reapportionment where politicians drew their own districts.[87]

The initiative qualified in mid-summer of 1982, although the GOP had to spend more on the effort than it planned. Mailers to all Republican households brought in less money and fewer signatures than had the earlier referendum mailing, and the party was forced to purchase several hundred thousand signatures through a petition-gathering firm. Still, all indications were that the initiative was on track toward an easy passage as the fall campaign opened up. And then something funny happened.

Common Cause did what it could to round up support for the initiative, which appeared as Proposition 14 on the November ballot, and the press and media gave it strong editorial support. But there seemed to be a perceptible lack of interest in the issue. Mervyn Field reported in October that only about half the electorate was aware of the reapportionment commission, and the vote breakdown among those aware of the issue was 24 percent in favor of Proposition 14, and 17 percent opposed.[88] Many of those opposing it said they did not see the need for another commission in state government -- indicating to the close observer that the reform proponents were losing some conservative voters that should be on their side. The Republican Party was now focusing on the hot campaigns for Governor and United States Senator, and in funding legislative campaigns. Del Junco even traveled to Washington to round up financial support for Proposition 14, but there was little interest there, too. A moderate campaign organization was set up under the direction of consultant Larry Peck,

who had a great deal of experience in running campaigns, but little money was made available: the campaign was only able to purchase slightly more than $100,000 in radio commercials -- hardly enough to have an impact in a huge state like California.

In late October, some Republican politicians began to sense that Proposition 14 was slipping away. Intense opposition surrounded Proposition 13, a water conservation measure, and Proposition 15, a gun control law, and observers feared Proposition 14 would be caught up in a general negative vote at that part of the ballot. Tracking polls for Republican candidates showed a tightening vote for the reapportionment initiative, which most people still knew little about. In October the Democrats announced they would not try to stop Proposition 14, and the Sacramento Bee reported that, "Knowing the Democrats are unlikely to put up a fight, the Republicans are planning a relatively modest campaign to promote Proposition 14."[89] Nothing could have been worse for the proponents. The lack of a campaign translated into lack of interest, and Proposition 14 died on the vine like a delicate plant caught in a summer heat wave. Just before the November vote, a Republican staff member sent a memorandum to the political director of the Republican National Committee asking that some emergency funds be sent out to California to help save the initiative, which was clearly losing, but no response was forthcoming. On election day Proposition 14 lost by a vote of 45 percent for, 55 percent against. Later the RNC political director was to admit privately that the failure to get behind Proposition 14 was one of the worst mistakes the national and state Republicans could have made. For, on that same election day, the Democrats had picked up six congressional seats in California, and were poised to turn right around and enact the same Burton gerrymander for the next election.

But the 1982 election did bring some good news to Republicans. In a major

upset, underdog Attorney General George Deukmejian won the governorship in the closest race of the century. He actually lost the vote cast on election day, but eked out a win based on absentee ballots. The state Republican Party, flushed with its success in statewide appeals to qualify the referendum and Proposition 14, decided to send absentee ballot applications to every Republican household. About a hundred thousand extra votes were gained this way, and that was just enough to put Deukmejian over the top. Thus it may have been that the long reapportionment war, which in 1982 netted the GOP small returns, did indirectly help elect a Republican governor for California. Certainly without the absentee ballot effort Deukmejian would have lost.

While Democrats made major gains in Congress due to the Supreme Court's imposition of the Burton gerrymander, the legislative results were less dramatic. Republicans actually gained a seat in the Assembly despite the Alatorre plan implemented by Rose Bird. The GOP managed to knock off two Democratic incumbents, hold the Don Rogers district, and win two new suburban districts -- a net gain of one seat, giving them 32 districts. A careful examination of the results after the election showed that Republicans probably would have done about the same had they run in the old Court Masters' lines. They could have gained an additional three Democratic open seats, but might have lost two of their own. And Assemblymen Marguth, Felando and Ivers might well have lost running in their marginal seats. So, for all the fury and protestations over Assembly reapportionment, in the end it hardly made any difference. In the Senate, Republicans lost two seats: the number switch defeated Senator Doolittle in Sacramento; and Senator O'Keefe lost, running in a Democratic but conservative district in Santa Clara County and the Central Valley. Had the Senate run in the old seats, the GOP would probably have knocked off Democratic Senator Walter Stiern, but would have lost O'Keefe anyway, so the

results there were somewhat inconclusive. Democrats could take some pleasure in the fact that their Assembly nemesis, Assemblywoman Hallett, lost her bid to become Lieutenant Governor to former Speaker McCarthy, and they could take solace in the fact that the great master himself, Congressman Phil Burton, had escaped defeat in what turned out to be the most interesting congressional race under his plan.

In an excess of fraternal devotion, Phil Burton had transferred his best precincts along the San Francisco waterfront to his brother John, who then turned around and announced he was retiring from Congress. Phil had not faced a serious election race since his first campaign for Congress in 1963, and certainly did not expect one in 1982. But he failed to consider Republican Senator Milton Marks when carving up San Francisco. Marks was the one politician who had actually beaten a Burton, upending John in a special election for the State Senate in 1967, and after fourteen years in the Senate Marks was growing restless and looking for greener pastures. The old Phil Burton district included the south Mission neighborhoods that had been his political base upon his first election to the Assembly in the 1950s, but Phil rotated his district from a north-south division of San Francisco to create an east-west division, thus placing the most loyally Democratic precincts in brother John's district. The line resembled the 1951 Republican gerrymander that put Democratic Congressman Franck Havenner in an untenable district which he lost to a Republican in 1952. It also placed those parts of San Francisco where Milton Marks ran strongest in Phil's district.

Marks was the legendary survivor of San Francisco politics. A liberal Jewish Republican, he first sought partisan office in 1952 when, as a young attorney, he ran against Caspar Weinberger for the GOP nod in what was then a heavily Republican 21st Assembly district in the Marina and Presidio. He lost

but, when Weinberger retired six years later, Marks easily won the district, and in the 1961 reapportionment it was made even safer for him. Following his election to the Senate in 1967, he defeated a succession of Democratic county supervisors. After 1974 he was the last partisan Republican holding office in overwhelmingly Democratic San Francisco. A poll early in 1982 revealed an astounding fact: Marks was better known than Burton, and actually led him in a match-up for Congress. Marks decided to take the plunge.

The Democrats also took a poll, and an incredulous Phil Burton suddenly faced political reality. Marks, who knew every nook and cranny of San Francisco and hardly ever missed a civic event, could defeat the powerful Burton on his home turf. While Burton had plotted and schemed in Congress, and spent most of a year developing his redistricting plan, his home base was neglected, and suddenly his re-election was in doubt. Angry Republicans, smelling the blood of their hated foe, opened their pocketbooks to Marks. They did this despite Marks's record of liberal voting and the likelihood he would be as liberal in his voting in Washington as Burton was. But that was not the point: it was get-even time. In all, Republicans and conservatives provided Marks with $837,000 for his effort.

Burton, well aware of his peril, did not sit idle. He raised $779,000 of his own, much of it from labor sources who made saving Phil their number one priority in 1982. Environmentalists rallied to his cause because of his environmental record in Washington, as did a number of other liberal activists. But the toll of a hard-fought re-election race was rough on Burton, who had not had to campaign for two decades. He was excoriated in the local press. Over a headline reading "Burton: The Arrogance of Power," the San Francisco Examiner said, "Burton's action as boss of redistricting is insufferable at the most fundamental level, affecting the integrity of the democratic process itself." The

paper called for the election of Milton Marks to Congress.[90] Marks's campaign posters carried a picture of a scowling Burton next to the words, "The Arrogance of Power." Perhaps the most amusing incident in the campaign came when Burton was asked about Proposition 14, the redistricting commission which was intended to take away the very powers he had exercised so expertly the previous year. "That's a very profound question. I'm torn by the clashing values involved in that proposal. I've not fully made up my mind," he said.[91] Of course, Burton was not troubled by any "clashing values"; he was in a race for his political life because of his own reapportionment abuses, and he knew it.

On November 2, Burton won re-election by 59 percent, holding Marks to just 41 percent despite early polls showing Marks winning. That was 19 percent ahead of Republican registration and 7 percent better than Ronald Reagan had done in the district in 1980. But San Francisco had passed beyond the pale of electing Republicans. Republican attorney Dennis McQuaid, running in the neighboring district which Phil had drawn for brother John, far exceeded GOP registration but lost also. Phil had survived, but at a terrible cost. Pictures taken at his headquarters on election night show an exhausted Burton sweating under the bright lights, but with a great burden lifted from his shoulders. He had taken the best the Republicans could throw at him, and he had beaten them not only in his own backyard in San Francisco but in every other district in the state: Phil Burton had nary a political loss that night. While his political life continued to thrive, his physical life did not: five months and one week later he was dead.

On Saturday night, April 9th, Burton collapsed at his San Francisco home and was dead before doctors arrived. One observer surmised that Burton's body had finally exploded from the intense pressures of his personality. Burton had been in poor health for some time, but was not one to forego nights of intrigue and scheming in darkened bars. The campaign against Marks wore him out, and

finally the toll was too great. "Death of Titan" read the Examiner headline the next day.[92] More than a hundred members of Congress flew to California for his funeral, although some may have come just to make sure the crafty Burton was actually in his grave. Willie Brown conducted a special memorial service in the Assembly chambers. Following the funeral, carloads of Democratic politicians adjourned to a North Beach bar to reminisce with several hours of Phil Burton stories. Of that commodity, at least, there was no scarcity. Nearly two years later, outgoing Democratic National Chairman Charles Manatt was asked how the Democrats had survived the 1984 Reagan landslide with so few losses in their congressional districts -- only one California Democrat had lost, despite Reagan's historical re-election sweep. He answered with four words: "God and Phil Burton."[93]

Back to the Drawing Board: The 1982 Reapportionment

Senator David Roberti admitted that this was the one thing they never figured on: election of a Republican governor along with the defeat of Proposition 14. That unusual result, though, meant that Democrats had to hurry through a second round of reapportionment plans -- made necessary by the people's rejection of the 1981 lines in the referendum election -- before Democratic Governor Jerry Brown gave up his office to Republican George Deukmejian. Governor Brown called a special session in December of 1982 to do just this.

This reapportionment was, of course, precisely the "intolerable anomaly" that Justice Frank Richardson warned of. Legislators elected in the districts rejected by the people were redrawing the lines to assure themselves safe seats for the rest of the decade. In the Assembly and Senate, at least, the passionate fires of 1981 had cooled, and both sides seemed determined to work out a compromise. Democrats wanted no part of a future referendum which could give

decision-making power in subsequent reapportionments to the Republican governor.

Senators Roberti and Campbell met early in December, and Roberti offered to let the Republicans shape the fifteen districts they then held as they saw fit, in exchange for their support of a redistricting bill. Roberti had no need to accomplish anything more in reapportionment: he had assured the Democrats control of the Senate for the decade by safening his own seats, and two Republican-leaning seats would come up for election in 1984 as a result of the number switch. He really had nothing more to gain from the process. Campbell's internal enemies in the GOP caucus were gone -- three Richardson Senators were no longer there -- and he wanted peace. Only one lone fly still buzzed about threatening to despoil this ointment.

Sacramento County now had two Senators because of the number switch. Senator John Doolittle had run for re-election when his term was half over, but had lost to new Senator Leroy Greene. Roberti told Campbell he could do anything with Doolittle he liked as long as Democratic Senator Greene was not harmed. In effect, this meant finding Doolittle a seat somewhere else, and the only possible place was in the mountains and suburbs north of Sacramento. These areas were then represented by Senator Ray Johnson, a veteran Republican and supporter of Senator Campbell's leadership. Johnson had been elected to the Assembly in 1964, but lost his seat in the 1973 Court Masters' reapportionment. He returned to Sacramento when he defeated long-time Democratic Senator Randolph Collier in 1976, and was given a safe seat in the 1981 reapportionment. Without consulting Johnson, Campbell allowed Doolittle to propose a district placing Doolittle's home within its boundaries by means of a small dip in the Sacramento County line, while removing Johnson's home county of Butte. Campbell assumed that the elderly Johnson would gracefully retire and allow

Doolittle to inherit his seat in 1984. No such luck.

The moment Johnson found out what was going on he raised a ruckus as only a senior legislator can. He demanded that Roberti and Boatwright tell him what was going on, but they took a Pilate-like stance that this was a Republican problem for the GOP to resolve. There was enough population for just two Senators in Sacramento and the mountains, and Leroy Greene had to be one of them. Doolittle and Johnson could fight over the other. In the end Johnson was outmaneuvered: Roberti went along with whatever Campbell wanted; Doolittle demanded the right to shape the district as he desired, with Johnson's home county out of it; and the Richardson Senators supported Doolittle. Campbell was forced to summon his own supporters for this power play, despite considerable grumbling that he was tossing his long-time friend and supporter Ray Johnson to the sharks in order to help out his arch enemies Doolittle and Richardson. Senator Ken Maddy was out of the state during all of this, unable to play a role, and the situation quickly got out of hand. Johnson bitterly condemned Campbell on the Senate floor, and some Senators wondered how Campbell could abandon an ancient ally so readily. Senator Ollie Speraw, who was also losing his seat, had gone to Campbell and asked about an arrangement to save himself too, but Campbell told him he would have to cut his own deal. Throughout all of this Richardson lay quietly in the weeds, hoping the fracas would provide enough votes to oust Campbell as Republican leader.

The Senate reapportionment passed in late December, and provided an improved seat for newly-elected GOP Senator Ed Royce, who had won the Democratic-intended Orange County district made possible through the Orange County number switch. Republicans ended up with fifteen good districts -- equal to their number in the Senate but down two seats from the seventeen they held in 1981. But as Campbell later put it, "we're happy": every Republican but

Johnson had a seat. Roberti was also pleased that the Senate consisted of fewer Richardson-faction Senators. But the Senate reapportionment did not end there. In the spring of 1983 Johnson announced he was quitting the Republican Party to seek re-election against Doolittle as an independent, and Roberti immediately moved to protect Johnson's position on the Senate Rules Committee. From then on, the conservative Johnson became a Roberti supporter on key legislation, and Roberti managed to win himself another Democratic vote in all respects but party label. In 1984, however, Doolittle outpaced the older Johnson and managed to win the district in his own right -- despite covert Democratic assistance to Senator Johnson.

The fight had another unexpected consequence. For all the skill with which the Richardson Senators had been excised from the house in redistricting, Senator Richardson managed to put together a coup and oust both Campbell and Maddy in mid-1983. The new Richardson-installed leaders -- Senator Jim Nielsen of Woodland as Minority Leader and Senator John Seymour of Anaheim as caucus chairman -- were both former Campbell-Maddy loyalists. Richardson had gotten a tiny measure of revenge for the insults of the past two years.

Many Republicans felt that Senator Campbell had ridden the reapportionment tiger none too well, and had focused too little on the fundamental problem of holding together a minority caucus that was bitterly divided due to personality clashes. Campbell was a responsible legislator who did not relish a long war with the Democrats over redistricting. Yet Roberti and Boatwright made it impossible for Campbell to lead his caucus to a settlement of a war he did not want. In the end he fell from the tiger and was eaten by it, having to endure the embarrassment of personal denunciations from a long-time friend and supporter and, ultimately, his own ouster as GOP leader.

Reapportionment in the Assembly took a slightly different route. Speaker

Brown was furious with Republicans for perceived misdeeds in the 1982 election campaigns and for their refusal to vote for his re-election as Speaker, so he stripped them of all committee chairmanships in December of 1982. For a while it looked as though Assembly reapportionment would go the same way in 1982 as it went in 1981, particularly when Democrats unveiled a plan which placed eight Republicans in four districts. But this was a feint to bring the GOP to the bargaining table. The Felando and Ivers seats were not at issue -- Felando was still in the Assembly due to his having won a contested GOP primary in June, and Ivers was forced to retire -- so a sweetheart reapportionment was not difficult. Speaker Brown, after some prodding, agreed to a better district for Assemblyman Rogers, and new Minority Leader Bob Naylor and outgoing reapportionment committee chairman Richard Alatorre sat down and negotiated a package creating 32 safely Republican seats and 48 seats as safe as possible for the Democrats. Once a conceptual deal was struck, the Republican and Democratic staffs were ordered to work together in drafting a bill.

A top political aide to the Speaker, Bill Cavala, was called in to make sure the deal stuck. Cavala had experience with reapportionment and, along with chief redistricting consultant Jim Tucker, worked closely with the GOP staff -- which, incidentally, proved it was as good at gerrymandering as its Democratic counterpart had been. More than 100,000 people were rippled across several Republican districts in Los Angeles to provide a base of GOP voters for Don Rogers. In the process, a district was drawn for GOP Assemblywoman Marian LaFollette that curled in and out of the canyons of northern Los Angeles County. It resembled the best products of the Burton-Berman handiwork, and a portion of its border was created by neighboring Berman-drawn Assembly districts. LaFollette resisted the oddity, although it would assure her political safety. For some time she carried an outline of it in her purse as proof that legislators

should not draw districts.

Saving Rogers required creation of a district with 30 percent Hispanic population, since his was to be one of the "30 percent plus Hispanic" districts that Alatorre had promised the Hispanic leaders. Republicans, on the other hand, felt the district had to have 37 percent Republican registration. Only a painstaking dissection of the city of Bakersfield could achieve both goals. Bakersfield's other Republican Assemblyman, Phil Wyman, resisted the loss of some good sections, and in the end the map of Bakersfield looked -- in the words of one Republican consultant -- as though the city had been destroyed in hand-to-hand combat. None of this would have been necessary, Republicans reminded critics of the obvious gerrymandering, had the people not rejected the Republican-Common Cause reforms embodied in Proposition 14.

Passing a second congressional districting plan was not quite so simple. The Republicans had won nothing in Congress, so the Democrats had nothing to give them in exchange for settlement. But they did have some concern over how to go about re-doing Congress, and the congressional Democrats found themselves facing an incipient revolt among their legislative colleagues. Many Democrats, particularly in the Senate, pressured Speaker Brown and Assemblyman Alatorre to keep Phil Burton out of the picture this time, since his presence had rankled so many people. "Phil Burton is not going to be involved in reapportionment," a somber Alatorre assured reporters in November.[94] No one believed this -- least of all Congressman Burton, who was busy explaining how he intended to redraw things. And Burton claimed to be in a generous mood:

> Before I submit a new reapportionment plan to the Legislature, I will meet with all my colleagues, Democrats and Republicans, to review their individual needs. There's no reason why Republicans couldn't be helped. But they can't ask for something unreasonable. After all, they lost the election.95

Burton did intend some changes in the more outrageous aspects of his 1981

plan, and he was intent on reclaiming some of the good Democratic precincts in San Francisco to avoid a rerun of the harrowing Milton Marks campaign. He undid the district that jumped the Bay twice without a bridge, and brought one district that ran from San Mateo to the Sierras back within the Bay Area. But Burton stayed away from Sacramento, and left the sensitive negotiations on southern California details to Howard Berman. Berman, now a freshman Congressman, went to Sacramento to deal with legislative Democrats in Burton's place. When he arrived, Berman found himself in the midst of an intra-party catfight. Black Assemblywoman Maxine Waters was charging that the new Burton-Berman plan had given veteran Rep. Augustus Hawkins a bad district in order to safen neighboring Bermanite districts. Hawkins, dean of elected Democrats who had represented Watts in the Assembly and Congress since 1934, was really in no trouble. His district had, however, been extended into Downey -- a white enclave -- and might pose primary election problems for his successor. That presumptive successor happened to be Maxine Waters, who would not allow any congressional bill out of the Assembly until she was satisfied. In addition to that problem, Senator Boatwright was threatening to prohibit any congressional bill from passing the Senate. Boatwright said he was "fed up" with Burton's tactics: "I'm not going to go through that again. What it boils down to is that I don't like boss-ism in politics."[96]

The possibility of passing a congressional plan -- with all that it meant for the state's six new Democratic Congressmen and the Democrats' prospects for holding onto the House of Representatives for the rest of the decade -- all boiled down to a few hours on Wednesday, December 29. Assembly Republicans had tried to hold up the Berman-drawn bill in the Assembly, but Berman had carefully worked out an arrangement to give unfavorable parts of Downey to Rep. Glenn Anderson; this satisfied Assemblywoman Waters, who allowed the bill

out of the Assembly. The result was a district for Anderson even more absurd than the one that had been rejected by the people in June, with Downey gobbled up through a long turkey neck from the main parts of the district. But the plan became stalled in the Senate, which was due to end the special session that same night. For hours Berman patiently worked the Senate floor. Five of the 25 Senate Democrats were opposed to the bill and, with no Republican Senators for it, there were too few votes to pass it. "No one on the floor knows what's in this bill. A covey of Congressmen has been hanging over us in the past two or three days trying to tell us what to do," complained Senator Marks.[97] But Berman was nothing if not persistent, and he had learned a great deal about the passage of congressional reapportionment plans from the master, Phil Burton, in the past year. He did not give up.

A possible twenty-first vote was that of Senator Henry Mello of Santa Cruz, who was against the bill because, for the first time in any reapportionment plan, his county was being divided. Only if the division was undone would he vote for the bill. Rep. Leon Panetta of Carmel, a highly respected Democrat, was in Sacramento to help Mello object to the way in which Santa Cruz County was treated. Burton got Panetta on the phone from Washington and shouted at him that his intransigence was imperiling the Democratic reapportionment and the whole future of the Democratic Party in the House. But Panetta would not budge.

After several hours of conversations, the logjam was broken. Mello would vote for the bill if the division of Santa Cruz County was reduced and 8,000 more people shifted into the Panetta district. Michael Berman, who was handling the technical job for his brother, prepared amendments making the changes, and they were adopted by the Senate. In doing this, however, the Panetta district and its neighbor were both unbalanced, putting their populations outside the require-

ments of the federal one man, one vote rulings. But there was no time to make the necessary adjustments to resolve this and, late on Wednesday night, Mello gave the plan his vote and it was passed to the Governor. The Democrats had come so close to losing this bill that another reapportionment bill already on the Governor's desk had to be withdrawn and used as a vehicle for the Berman plan.

So the Republicans lost the fight for Congress once again. Their only success in this episode came as a result of Senator Campbell's insistence that the seat of Rep. Bob Lagomarsino of Ojai, a former Republican State Senator, be preserved. One version of the Berman plan had made the seat Democratic for a future pickup, but Berman gave in on that point since his main concern was to save the districts the Democrats had already won. No Republican Congressmen had come to California to lobby against the Berman plan, and most of the GOP members in Washington seemed satisfied to wash their hands of the whole affair and let Berman and Burton have the seats they now held. The remaining seventeen Republicans were, after all, in pretty good shape under the plan. A referendum was briefly filed against this plan, but no one had the heart to try to qualify it, and it died. Ninety days after the end of the special session the final Burton masterpiece became the law of California. By that time, though, the Congressman who has masterminded it was in his grave.

The Republican National Committee did, however, decide to make a legal fight out of this plan, using its own reapportionment experts in Washington and Chip Nielsen's law firm in California. After the plan was enacted, Michael Berman "corrected" the Mello amendment by moving the extra 8,000 people out of Panetta's district so the districts would not be constitutionally defective. He also cleaned up a number of errors that had resulted from the haste with which the plan was passed in December of 1982. The Republicans sued in federal court over this, but in 1984 amended their suit into a general attack on partisan

gerrymandering, asking the federal court to hold that gerrymandering itself was unconstitutional, a violation of the 14th Amendment. The issue eventually made its way to the United States Supreme Court. In the short run, however, Burton and the Berman brothers got the plan they wanted, and re-elected all but one of the heavily Democratic California congressional delegation at the next election.

On January 2, 1983, Governor Jerry Brown signed the three reapportionment plans into law. Early the next day happy Republicans gathered in crisp but clear weather to witness their new Governor, George Deukmejian, take his oath of office. Although a veteran of past reapportionment wars as State Senator and Attorney General, it was confidently believed that reapportionment would not affect the new Deukmejian Administration. Everyone assumed this issue was finally put to bed, that reapportionment for the 1980s was over and done with.

Roles Reversed: The 1983 Sebastiani Plan

Could the reapportionment dog hunt again? It seemed ever so unlikely as 1983 unfolded. A new Governor was in office, beset immediately by a major state fiscal crisis. Democrats and Republicans both were sorting out a new relationship with George Deukmejian. He dispatched his top political aide, Sal Russo, to Washington in January to see if there was any interest in continuing the remapping battle; Russo reported back, "Nobody's got the time and energy and the ability to get all the divergent viewpoints down to a consensus."[98] GOP Congressmen were satisfied to challenge the latest Burton-Berman creation in the courts, and the Assembly and Senate reapportionments seemed settled.

Then into the picture came young man Sebastiani. An Assemblyman from the Napa-Sonoma winegrowing region, Don Sebastiani was the thirty-year-old younger son of August Sebastiani, who had built the Sebastiani family winery into one of the state's major wine producers. The winery was now run largely by

August's older son, Sam, and younger brother Don had become bored with the business and gone into politics with a 1980 race for the Assembly. He was the first Republican to represent the Napa Valley in the Assembly in several decades, quickly establishing himself as a highly conservative maverick, often casting the lone vote against various pieces of social legislation. Until the end of 1982, Sebastiani had never taken the slightest interest in redistricting, but the back-scratching aspects of the December legislative settlement rankled him, and Sebastiani began thinking about how to undo it. He found eager support in several Republican campaign consultants who would be looking for something to do in the off-election year of 1983, and who did not like the sweetheart gerrymanders which created all too few competitive districts in which a campaign consultant might be called upon to run a campaign. His own political supporters reminded Sebastiani that reapportionment might give him statewide name identification as a political reformer -- a useful commodity should he seek higher office some day. In January Sebastiani decided to launch an initiative to redraw the district lines.

Republicans had failed to convince the public to go with a reapportionment commission in 1982, but Sebastiani became convinced that the public would support reform when put in the context of individual legislative districts. Present the public with a plan which keeps cities and counties together and draws nice compact districts, and the public will support it and reject the Legislature's self-serving gerrymandered districts, he argued. Put two maps on the wall, and the public will choose the "good government" plan over the gerrymander. Sebastiani engaged consultants Allan Hoffenblum and Joe Shumate, both of whom had worked on countless GOP campaigns, and dispatched them to Claremont's Rose Institute to draw new Assembly, Senate and congressional districts on the Institute's computers. With the technical assistance of

Henry Olsen, a student at Claremont McKenna College, the Sebastiani staffers developed a legislative plan with two Assembly districts forming one Senate district, and a new congressional districting plan. The lines looked very clean on a map. In February Sebastiani made his lines public, showing them to legislators and the caucuses' reapportionment staffs for the first time. He also went to Washington to drum up support for his proposal among Republican officials and Congressmen.

The response was somewhat less than overwhelming. Democrats quickly and strongly denounced the plan as a Republican gerrymander. "The private view in both caucuses was that Don Sebastiani was a loon," Democratic Assemblyman Gray Davis of Los Angeles later told an interviewer. "We thought this was the mad mental meandering of a wealthy winemaker."[99]

The Democratic staff told its members that the plan would cost them three Assembly seats "off the top," and that three of the Berman-drawn Los Angeles congressional districts were eliminated. Even some Republicans were less than ecstatic over the proposal. Senator Bill Craven of San Diego, who found himself living outside the district drawn for him, said the plan was "unconscionable," and Rep. Bobbi Fiedler of Chatsworth was quoted calling Sebastiani a "disgruntled wealthy man."[100]

Undeterred, Sebastiani began putting together the statewide organization and funding he would need to put his plan, which was in the form of a statutory initiative, before the voters. Shumate and Hoffenblum were put in charge of various aspects of the qualification effort. Ray McNally, a public relations expert then working for the Assembly Republican caucus, was hired to coordinate a press effort. Parker Montgomery, a Silicon Valley high technology executive, offered to head the fundraising operation. Montgomery began soliciting pledges of financial support and before long had $1,000,000 pledged for

the qualification drive. Wealthy Republicans, sensitized to reapportionment by the long wars of 1981 and 1982, were willing to help.

Almost immediately, however, the campaign ran into difficulty. Neither the official Republican Party nor the legislative GOP reapportionment staffs had any input into the drafting of the plan, and Ed Reinecke, the new state party chairman, was unwilling to commit Republican dollars to the effort. Sebastiani was insisting that the plan was non-partisan, a "good government reapportionment," and to prove this he had paid no attention to the needs of individual legislators in drawing the districts. But several powerful GOP legislators found themselves either living outside their districts or otherwise injured by the plan. There was, for example, no readily available district for Senate Minority Leader Jim Nielsen, and former Minority Leader Bill Campbell's home was outside his district. Democrats, of course, were furious about the plan: they viewed it as just another attempt to elect more Republicans. Montgomery almost immediately fell into disagreement with Sebastiani over management of the effort and pulled out. By early spring it appeared that the qualification drive would die on the vine. When asked how the plan would be put to the people, Sebastiani assured everyone he could get Governor Deukmejian to call a special election on it so it could be passed in time to take effect for the 1984 election, but the Governor gave no indication he was willing to take this unusual step. Sebastiani also quarrelled with his attorney, Chip Nielsen, whose firm had helped to prepare the initiative, and he too withdrew from the effort. Publicity about Sebastiani's troubles and the appearance of Republican disinterest in his plan led both Democrats and the Governor's office to conclude he would probably not succeed in qualifying the initiative.

But reapportionment seems to have a life of its own. Among the legislators supporting Sebastiani's effort was GOP Senator Ollie Speraw of Long

Beach, who had lost his district under the Senate plans. He was a client of Allan Hoffenblum, and a wealthy man in his own right. The Sebastiani Senate plan had a seat he could run for, and Speraw decided to ride to the rescue by loaning Sebastiani a quarter of a million dollars to send out mail asking for signatures on the initiative. Even without Montgomery's help, Sebastiani was able to raise enough money to hire a petition gathering firm, which reported back that the public was still interested in reapportionment and still angry about the Democratic gerrymanders. To the great surprise of many political observers in Sacramento, on June 13 Sebastiani submitted nearly 700,000 signatures to county election offices, and politicians quickly realized that he had indeed qualified his initiative. Now they took a much closer look at it, and Democrats in particular did not like what they saw.

At least ten Democratic Assemblymen were imperiled in their re-election. The Majority Leader, Assemblyman Mike Roos of Los Angeles, was in a district with another legislator. Four Senators -- three of whom were Democrats -- would have no seat in which to run in 1984 because of district numbering in their area. The Berman congressional delegation claimed the plan was anti-Semitic because it placed four West Los Angeles Jewish Democrats in two districts. Republicans saw similar results. One analysis which was circulated among legislative Republicans showed the number of GOP Assemblymen rising from 32 to between 37 and 45. The Senate would increase from 15 Republicans to between 18 and 22. The congressional delegation would grow in GOP strength from 17 to between 20 and 25. The Democrats did not argue with these figures: some openly admitted that if Sebastiani went into effect, their control of the Legislature would disappear. A seat by seat analysis, undertaken by the Assembly Republican staff, indicated that "had we run in these seats in 1982, it is probable (Republicans) would have elected 36 members." The analysis said the

Senate under Sebastiani would be 19 Republicans and 21 Democrats; the congressional delegation "as many as 23 Republicans . . . six more than (at present)."[101]

What to do about all of this? Republicans, particularly in the Assembly, sat back to enjoy watching the Democrats squirm about reapportionment for a change. And squirm they did. "Everyone was fat and happy until Don came along and kicked the table over," Ray McNally remarked.[102] But the Democrats were not exactly impotent, and they moved rapidly into action. There was a good chance of defeating the Sebastiani proposal at the primary in June of 1984, when the Democratic presidential primary would bring out many voters. But the Democrats could be deeply endangered if the Governor were to call a special election for that fall: if it passed, the Sebastiani plan would be in effect for the 1984 general election. So the Democratic strategy was to do everything possible to keep the Governor from calling a special election. Sebastiani in the meantime was pressuring Deukmejian in every imaginable way to call one. Because of the lateness of the actual qualification of the plan, which the Secretary of State certified on July 6, the only dates available for a special election were December 6 and December 13. Sebastiani told the Governor's office that the Secretary of State needed to know by December 15 what districts would be in effect for 1984, so December 13 was the last day on which a special election could be held. This meant that the Governor would be required by law to call the election by July 18 for it to take place on December 13. The Democrats dreaded the thought of a December election -- there had not been a December election in fifty years -- and had visions of angry GOP voters trudging to the polls in the dead of winter to get even with the Democrats for Phil Burton's thievery. At all costs, they had to stop the December election.

June is budget month in California, and the first Democratic ploy was to

attach to the budget bill language that would not allow elections to be held other than on the regular June and November dates. But the California Constitution states plainly that the Governor may call "a special statewide election for (an initiative) measure."[103] So that idea was dropped. The Democrats then came up with another clever ploy: call a special Democratic presidential primary election the same day as the Sebastiani special election. Amendments were drawn to the budget "trailer bill" -- a piece of legislation which generally accompanies the budget bill to make necessary legislative changes -- requiring the election of presidential convention delegates for the July 1984 Democratic National Convention if a December special election were called. Democratic National Committee officials protested the amendments, since they might require that the Iowa caucuses and New Hampshire primary be held before the California vote, and would raise havoc with the presidential nominating process. But California Democrats were by now so concerned about the Sebastiani election that they paid little heed to national Democratic concerns. The amendments went into the budget trailer bill, and the budget became embroiled in the Sebastiani fight.

The Governor and Republican legislators protested these attempts to curtail the gubernatorial power to call a special election, and GOP Assemblymen refused to vote for the budget trailer bill. Democrats then refused to provide the votes for the budget, the first one submitted by Republican Governor Deukmejian, and the state faced a minor fiscal crisis as the budget deadline of July 1 came and passed with no bill on the Governor's desk. In the meantime, other Democrats were putting similar pressure on Deukmejian to deter his calling the special election. Said Attorney General John Van De Camp, a Democrat:

> In my view the Governor will be making a serious mistake if he calls the special election. By doing so, he'll divide this state politically in

> a way which is unparalleled. To call it will only poison the well further. The Sebastiani reapportionment initiative is strictly a partisan measure aimed at gaining a majority edge for the present minority party, the Republican Party.

Van De Kamp went on to question the constitutionality of the Sebastiani plan.[104] Secretary of State March Fong Eu, also a Democrat, wrote Deukmejian a "Dear George" letter stating that "the orderly implementation of new reapportionment plans, should they be approved by the voters in December would, in all likelihood, be impossible because of timing problems." She also pointed out that a special election would cost $14 million.[105] Secretary Eu's letter brought a strong response from Assemblyman Naylor, who noted that in 1981 she had told the California Supreme Court she needed to know district lines December 15, and a December 13 special election would permit this.

> The so-called problems Secretary Eu points to are figments of someone's imagination. They were not problems when the reapportionment plans were drawn by members of Eu's own political party. Secretary Eu's letter is loaded with misleading, trumped up charges that amount to partisan poppycock. . . . She even contradicts written statements she had made herself in the past.106

Republicans thoroughly enjoyed watching the Democrats react toward the Sebastiani plan with much the same fear and dread the Republicans had displayed two years earlier when the Democrats had the upper hand. Wrote Dan Walters in the Sacramento Union,

> Republicans are looking for some revenge. They want the Democrats, who have so often forced the Republicans to back down in these partisan skirmishes, to be consumed with the same impotent fury that they have so often experienced. They want the Democrats to be dinged on reapportionment the way they were dinged.

Walters called it a "blood lust in the Assembly."[107] GOP legislators -- particularly the ever-feisty Assemblymen -- were marching en masse to the Governor's office to urge him to call the special election.

By mid-July Deukmejian sensed he had no choice but to call the election. For one thing, it appeared he would not get a budget until he did so. Democrats

made one final attempt to dissuade him. Contacting Sal Russo, they offered to support a slightly revised Proposition 14 reapportionment commission to be effective for the 1986 elections -- but only if the special election were not called. Discussions were held between Democratic Assemblyman Davis and GOP Assemblyman Ross Johnson, and a draft was actually prepared. At noon on July 18, Democrats made a firm offer to place another reapportionment commission on the ballot if the special election were not called. But as so often happened in reapportionment in the 1980s, the two ships passed in the night. July 18 was the last day on which Deukmejian could call the election, and there was not enough time to implement the Democratic offer, so it fell between the cracks. Just before five o'clock -- the last hour of the last day on which the Governor could act -- Deukmejian called for a special election on December 13.

Democratic leaders, unable to pressure the executive branch of government to save them from Sebastiani, turned then to a far friendlier forum -- the California Supreme Court. Within days of the special election call, they filed a suit prepared by Democratic reapportionment expert Joseph Remcho challenging the special election on the basis of a so-called "once-a-decade" reapportionment rule. All through the spring and summer there had been talk about the once-a-decade rule, and both Sebastiani's attorneys and the Governor's office were well aware of it. Several members of the Governor's staff had told him of their concern that it could be used to thwart the special election.

The once-a-decade rule had its source in three old cases dealing with legislative representation. There was nothing in the California Constitution indicating how many times the state could reapportion itself; indeed, in Oklahoma a redistricting initiative had appeared on the ballot following the Oklahoma Legislature's plan. A case in 1907, however, and another a few years later, spoke of the power to reapportion being exercised only once per decade.

In a 1962 case, Yorty v. Anderson, the Supreme Court noted that "the power to form legislative districts . . . could be exercised but once during the period between one federal census and the succeeding one."[108] The primary basis of the Remcho lawsuit was that this power to reapportion had been exercised for the 1980s when the 1982 statutes were signed into law, and California could not be reapportioned again either by statute or through the initiative process. Remcho also relied on a 1951 opinion of then Attorney General Edmund G. Brown in which the question of multiple reapportionments in a single decade was squarely faced. Brown's opinion read:

> The matter is attended with some uncertainty, because there is no body of authority on the subject. . . . In our view of the matter, however, we believe that after the districting statute has become effective, the lawmaking power of the state may not make a second revision, whether by means of a legislative enactment or an initiative statute.109

Political historians remembered that this opinion related to a Democratic attempt to overturn the Laughlin Waters 1951 gerrymander which was passed to benefit the Republican Party, and that Democratic Attorney General Brown's opinion actually went against the interests of his party. But it was directly on target and, in some respects, was a stronger case than previous court decisions for a once-per-decade rule. In fact, it was written by Leonard Friedman, then a deputy attorney general, who later went on to serve a distinguished career on the appellate bench. Remcho and the Democrats were hopeful that this ancient opinion upholding the Republican plan of 1951 would come to life thirty years later to dispose of the pesky Assemblyman Sebastiani and his 1983 plan.

The Democrats also contended that the disenfranchisement caused by numbering of Senate districts -- a favorite argument of the Republican opponents of the 1981 plan -- would leave 700,000 people without a Senator for two years, and leave some without a Senator for four. The Democratic congressional delegation also joined the suit, arguing that the congressional

districts in the plan failed to meet the federal constitutional standard of one man, one vote.

Sebastiani had engaged the large San Francisco law firm of Pillsbury, Madison and Sutro to defend his initiative, and the firm had assigned two attorneys with Republican political ties -- Fred Lowell and Vaughn Walker -- to prepare a defense. They were appraised by the Assembly GOP staff that there were indeed population defects in the Sebastiani plan, and errors needing correction, particularly with the congressional districts. This caused problems: the Republicans had strenuously condemned the 1981 Democratic correction of population errors, and were in federal court challenging the changes made by Michael Berman in the last congressional redistricting bill.

But the Sebastiani plan, the attorneys felt, was on better ground on the other issues. Any Senate disenfranchisement was largely the fault of the 1981 Senate bill with its tricky number switches. And, the attorneys insisted, the 1982 plans were not yet effective because they had not been implemented; therefore, there was still time to challenge them through the initiative process. The Pillsbury, Madison and Sutro brief contained a lengthy critique of the 1982 plans, pointing out their similarities with the 1981 plans which the people had rejected. They could also cite a Legislative Counsel's opinion obtained by Sebastiani which said that the people could adopt a new reapportionment plan for the 1984 elections. Much of the impetus for the special election came out of this opinion, which stated that the initiative could be used as long as the election adopting the new districts occurred before the Legislature's districts went into effect. Sebastiani's attorneys argued to the Governor that waiting until the June primary was too late for a special election because the once-per-decade rule would then be in effect to stop it.

The Legislative Counsel's opinion also quoted liberally from Chief Justice

Rose Bird's opinion in the 1982 reapportionment case in which she advanced the "least disruptive" theory as a way for the Court to resolve reapportionment matters. A special election would be permissible, the opinion noted, "because the California Supreme Court is reluctant to disrupt an otherwise constitutional electoral and political process."[110]

Most Republicans -- and even a few Democrats -- doubted the Court would involve itself in the Sebastiani fight. There was no doubt of the Governor's power to call the special election, even if the date of December 13 could be criticized. The Secretary of State and the individual counties would have time to put a new plan into effect if it were adopted in December. If the plan itself was open to constitutional challenge, that would be the time to raise the issue. And, most important, the Democrats had an excellent opportunity to defeat Sebastiani at the polls. Through the summer his plan had received a great deal of bad press, despite yeoman efforts by the publicist McNally to defend it as a politically neutral and "good government" redistricting. Shortly before astronaut Sally Ride visited the capital after her historic venture as the first woman in space, Sebastiani was heard to remark that he supported women in space as long as they were given one-way tickets. Women's groups denounced him as a sexist, and attacked his plan for endangering the election of several women legislators, as well as its impact on women's issues. A state coordinator for the National Organization for Women said, "This is not a partisan issue. This is an issue of whether this society moves forward on a host of issues, including child care, welfare, education, and job training."[111]

Assemblyman Sebastiani was the only Assemblyman to vote against a resolution honoring Martin Luther King's 1963 "I have a dream" speech, and was roundly accused of racism. Both black and Hispanic groups were critical of his plan, and had filed briefs against it with the Supreme Court. Democrats in the

Assembly said that the district drawn in Watts for Assemblywoman Maxine Waters had more blacks in it than any district this side of Lagos, Nigeria, and that the plan was a racist attempt to pack blacks into a few districts. Hispanics complained that Hispanic Congressmen were outside their districts. Jewish groups complained about the loss of West Los Angeles districts, and it was even darkly hinted that Sebastiani was looking for Arab oil money to pass his plan in order to do in allies of Israel in the California delegation.

The Democratic campaign against Sebastiani took on some of the characteristics of the Republican campaign against the Burton plans two years earlier. Some Sebastiani supporters noted wryly that, with a Court comprising one woman, one black, one Hispanic and a Jew, the Democrats had trotted out defects in his plan that harmed each of these ethnic groups. The Supreme Court had accepted the case early in August and scheduled arguments for August 31. Although the Democrats were doing a highly effective job of discrediting the plan before the Court actually heard the case, Republicans refused to believe the Court would actually throw Sebastiani off the ballot. On August 31, however, the Republicans once again got a glimpse of the California Supreme Court in the political thicket.

Although Justice Frank Richardson questioned Remcho closely on the sanctity of the initiative process, the real fireworks began when Vaughn Walker rose to defend the special election. The other six Justices harshly challenged his points on the once-per-decade rule. "We have to put a stop to reapportionment sometime," said Justice Stanley Mosk, "otherwise we will have one initiative after another."[112] Chief Justice Bird asked what the Court should do about a plan that might discriminate against women. The black and Hispanic Justices, Broussard and Reynoso, seemed particularly hostile in their questions. Even Justice Otto Kaus was not favorable. Some observers saw in the Kaus, Broussard

and Reynoso questioning a subtle bit of revenge against the Republicans and Governor Deukmejian for opposing their 1982 confirmations. When the hearing was over, Sebastiani supporters walked from the courtroom sure the election would be cancelled.

On September 15, just two weeks later and two years to the date following the passage of the 1981 Democratic plans, the Supreme Court, on a six-to-one vote, took the Sebastiani initiative off the ballot; the election was thereby cancelled. All six Democrats on the Court, led by Bird, ruled it off the ballot; the one Republican, Justice Richardson, dissented. The majority said Sebastiani wanted it to create "an exception to the constitutionally mandated and long established rule that redistricting may occur only once within the ten-year period following the federal census."[113] This it was unwilling to do. The Court did not care that the legislative plans were not yet in force, nor that Sebastiani had qualified an initiative aimed at reversing legislation that was nearly identical to the plans the people had rejected in 1981.

Angry Republicans denounced the ruling, contending that Bird's Court had effectively forced upon the people a 1981 plan they later defeated at the polls in 1982, and then had prevented the people from overturning the progeny of that plan in 1983. Richardson's dissent began,

> For the first time in 35 years this court has removed from the ballot a qualified initiative measure, thereby preventing the people of California from voting on a matter of great importance to them -- reapportionment. . . . I regret this defeat of the people's right to vote.114

Sebastiani said the decision kept a bipartisan incumbent protection plan in effect for the decade. "You cannot vote anyone out of office now in California,"[115] he stated angrily. Governor Deukmejian said, "It is a sobering step for the highest court in this state to tamper with the people's right to determine how they should be represented.[116] While Republicans expressed outrage, Senator Roberti

said he was "thrilled" by the decision.

The following year, at a Democratic meeting in Oakland, Speaker Willie Brown said of the ruling and the Sebastiani threat, "Sister Rose and the Supremes took care of that little matter,"[117] a quote that was widely repeated and apparently caused the Court some embarrassment. Several Democrats confessed privately that they never expected Bird to save them from the Republicans a second time, and at any rate, they admitted, the once-per-decade rule was pretty weak ground. The three cases on which it was based had all come before the reapportionment revolution of one man, one vote. And there had been two reapportionments each in the decades of the 1960s, 1970s and 1980s. So much for the sanctity of once-per-decade redistricting.

Rose Bird's second sally into the political thicket may have been unnecessary. There was widespread evidence by September that Sebastiani would probably have lost at the polls. A Los Angeles Times poll in August showed the initiative losing among all voters by a vote of 47 percent against, 36 percent for. Even among high-turnout voters, only 46 percent favored it; and among the one-fifth of voters most committed to turn out, it was ahead by only 50 percent to 45 percent.[118] These figures suggest that opposition to Sebastiani's initiative was nearly as great as its support, and the Democrats were well organized to go after him. He had, in fact, received unusually bad press during the summer. One reporter wrote of him after it was all over,

> From the beginning this was a tale of political manipulation and deception, an object lesson that there are political creatures who will spare no expense in an effort to buy whatever they need to expand their influence and power. . . . Right now (Sebastiani) is nothing more than a defeated politician full of self righteous sour grapes.[119]

Perhaps the best indication of the problems Sebastiani would have faced had the election gone forward is to be found in the off-the-record remark of a member of the Governor's staff about Sebastiani: "He's persona non grata around

here. He's the most uncooperative, abrasive little so and so you could ask for."[120] Deukmejian had not appreciated the pressure Sebastiani put on him to call the special election, but only Deukmejian could have made the Sebastiani initiative successful. Sebastiani himself was out of money by August, and the qualification drive left him far in debt. The Democrats would have put as much money into a campaign to defeat him as was needed: their opinion of Sebastiani matched the Republican bile toward Phil Burton. Only the Governor could have raised the Republican money necessary to win the election, and George Deukmejian did not relish the thought. With Sebastiani's defeat in the Supreme Court, Governor Deukmejian was given the opportunity to take the lead on this issue for himself, coming out from under the shadow of the young Assemblyman whose dip into reapportionment waters had caused one of the first political crises of the Deukmejian Administration.

And Now the Governor: 1984 and Proposition 39

Not since Governor Goodwin Knight had a chief executive taken office with no prospect of being affected by reapportionment. Governor George Deukmejian assumed office the day after outgoing Governor Jerry Brown signed the final redistricting bills into law. The legislative plans passed by two-thirds votes and were therefore immune to referendum. Since no referendum was qualified against the congressional plan, it would go into effect on its own. Unless Deukmejian were to serve a third term, he would escape the 1991 reapportionment. So it appeared he could enjoy at least eight years of respite from this issue.

But Deukmejian's career was in many ways intricately tied to the redistricting issue. He had won election to the Assembly in 1962 in a seat made safely Republican by the vote for the 1961 plan of his predecessor, GOP

Assemblyman William Grant of Long Beach. Grant retired, and Deukmejian was the beneficiary of his largess. In 1965, the State Senate was reapportioned. Several of the proposed Senate plans handled Long Beach in a manner that would have made it difficult for Deukmejian to win a Senate seat, but the plan that was finally adopted created a safely Republican seat and he was easily elected to the Senate in 1966. As a Senator, Deukmejian was a Reagan loyalist. An unsuccessful primary race for Attorney General in 1970 meant he was still in the Senate when the 1971 reapportionment rolled around. But that bitter fight did not affect him: his seat remained safe and he deferred to Senator John Harmer, who was to lead the Republicans on the issue. The Court Masters' reapportionment in 1973 affected Deukmejian very much, however, and it appeared that his career might be a victim of the GOP strategy to throw redistricting to the courts. Long Beach suddenly veered leftward and Republican registration in Deukmejian's home area dropped. The Masters drew a district placing Deukmejian's political base in the district of Senator Joseph Kennick, a popular Democrat. In 1974 Republicans lost the Long Beach area Assembly and congressional districts, but the Supreme Court had declared that only even-numbered Senate districts would be up for election in 1974, and Deukmejian's term in his old district ran until 1976. So, by that quirk of fate, he did not have to face Kennick in the Democratic-leaning district in the worst possible Republican year. Instead he ran for re-election in 1976.

Kennick retired, but even against a non-incumbent Democrat Deukmejian came close to defeat in 1976, winning the Democratic district by only 8,000 votes, 52 percent to 48 percent. The California Journal reported that only a "strong following among Democrats" had saved Deukmejian from defeat in the reapportioned district.[121] Two years later, though, Deukmejian rode the Republican resurgence following Proposition 13 to an impressive win as Attorney

General, where in 1981 -- as the state's top lawyer -- he again confronted the reapportionment issue. Deukmejian was the defendant in the first Democratic lawsuit since, as Attorney General, his office had prepared the official title for the Republican referendum petitions. Democrats contended he had misstated the law in holding that a qualified referendum would stay the effect of the Democratic redistricting plans. But Deukmejian was on sound legal footing, and presented a vigorous defense of the stay issue in the Supreme Court. At least on that one legal point, the Supreme Court agreed with the Attorney General.

Deukmejian had expected the Supreme Court to follow its 1971 precedent and permit legislative elections to be held in the old districts. He was highly critical of the Court when it did not, and the decision known as Assembly v. Deukmejian was added to a long line of cases in which he felt the liberal California Supreme Court had misapplied the law.

As Governor, Jerry Brown's sole action involving reapportionment was to sign the bills quietly into law in 1981, and then to do the same thing once again just hours before leaving office in 1983. He never confronted reapportionment except on a 1981 talk show in the Bay Area. Assemblyman Bob Naylor managed to get the Governor on the line on live radio and asked him to explain how he could have signed into law such a dreadful gerrymander as the Burton congressional plan. Brown stumbled awkwardly through an answer, and Naylor was quickly cut off by the moderator. Brown served out the remainder of his term with the reapportionment issue never again being mentioned.

But Deukmejian had been Governor less than half a year when the issue -- in the form of the 1983 Sebastiani special election -- thrust itself into the midst of his delicate negotiations with Democrats over the state's mounting fiscal crisis. Deukmejian never wanted to call a special election in the middle of winter, but was convinced by Sebastiani supporters that the plan would be viable

only if it were passed by the people before 1984. So calling the election became a distasteful but necessary act, with Deukmejian's staff warning him the Court would possibly void the special election call -- as indeed it did. He also resented deeply the pressures imposed on him by the Democrats over the issue. Reapportionment had torn the Legislature apart for three years; it was the central factor in the many bitter personal antagonisms among legislators when he took office. It was, as someone said, like a dead rat on the kitchen floor: someone had to pick it up and dispose of it. Following the Sebastiani fiasco, with still-outraged Republicans demanding that something be done, Deukmejian decided to see to the rat himself.

Shortly after the Court threw Sebastiani off the ballot, Deukmejian convened a meeting of Republican leaders and told them he wanted to draw up another reapportionment commission and put it on the ballot in 1984. Deukmejian had been prodded in this direction by his political advisor Russo, who assured him that the Legislature then serving was frozen in place by the 1982 bipartisan reapportionment. This meant it was likely there would never be a favorable Legislature for the Governor to deal with, even if he served two full terms. Deukmejian was unhappy with the attitude of Democratic leaders toward both his Administration and his solutions to the state's fiscal problems. Especially ornery were Senate Democrats who, for no particular reason, were keeping him from living in the Governor's Mansion, and were unusually hostile on many policy issues.

In October of 1983, Deukmejian convened a series of drafting sessions at which representatives from all affected Republican groups were invited. In attendance was Senator Pete Wilson, a veteran of the 1971 Assembly reapportionment, who threw his support behind another commission. Rep. Bill Thomas came and assured the Governor that the GOP congressional delegation would

back another commission drive. As usual Assembly Republicans were most hawkish. Assemblyman Dick Mountjoy, sitting in for Minority Leader Naylor, assigned GOP staff to help Russo and the Governor's legal advisors develop the language for a commission. Naylor later agreed to introduce the proposal in the Assembly so there could be a public hearing on it. Chip Nielsen was called in to give his legal advice. Senator Jim Nielsen attended as the new Senate leader, and directed his staff to assist as well, as did state GOP chairman Ed Reinecke, the former Lieutenant Governor.

The resulting product bore a close resemblance to Proposition 14, with one important difference. Rather than partisan officeholders, as was the case with the first commission, the Governor's commission would consist of eight appellate court justices. This attempt to remove partisanship from the commission ran into problems almost immediately. Common Cause, which had been appraised of the progress of the drafting sessions, vigorously opposed using sitting justices -- that would "politicize" the courts -- and the justices themselves objected to the idea as well. Deukmejian backed down in the face of this opposition and agreed with proposals from several quarters that retired justices be used instead. Thus the commission was rewritten to employ eight retired appellate court justices, chosen according to a complicated formula that would allow four Republican-appointed justices and four Democrat-appointed justices to serve. An impasse-breaking mechanism was also included, and most of the Proposition 14 criteria were written in as well. The proposal also called for the creation of new districts in 1986.

On November 14, 1982, Governor Deukmejian released his proposal to the press and sent the initiative to the Attorney General for titling so it could be circulated. Like Proposition 14, it was a constitutional amendment, which meant obtaining nearly one million signatures before it could be put on the ballot.

Deukmejian dispatched Sal Russo to run the qualification effort, which would consist of paid signatures and a direct mail pitch to all California Republicans -- the fourth time in two years they had been asked to sign petitions relating to reapportionment. The Democrats, of course, viewed all this with some trepidation. The Republicans would not repeat the mistake of 1982 and fail to put money behind this initiative -- not with Deukmejian's name and prestige on the line. Deukmejian's political advisors were talking about the Governor raising and spending $5 million to win this fight. Where would the Democrats find $5 million to stop him?

One of the first Democratic moves was to persuade the Governor to drop the proposal entirely by offering a compromise. Common Cause was still not happy with the initiative, although it now called for retired judges instead of active ones. Common Cause wanted a commission with "citizen members," appointed by the judges, rather than judges themselves, whether active or retired. Deukmejian's supporters rejected this out of the fear that a citizen commission would be dominated by its staff, leaving the same people who drew the existing gerrymanders to draw the commission districts. It was better, they argued, to know who the commissioners would be in advance, and a commission of retired appellate justices -- there were fewer than 40 qualified to serve -- would mean a membership known in advance. Deukmejian argued that retired judges had done a good job as the Court Masters in 1973 and would be capable of rescuing the state from this mess in the 1980s.

A major critique of Deukmejian's initiative in the eyes of Common Cause -- a critique echoed by many Democrats -- was the fact that the commission would consist of elderly white males. Only one woman and one black were among the 37 judges listed as eligible for the commission in a report of the Legislature's Joint Committee on Campaign and Election Reform, and the ages

of the retired justices ranged from 58 to 95, with the average age being 73.[122] Common Cause was highly troubled by this lack of diversity among the prospective commission members. Supporters countered that the initiative instructed the justices to draw plans reflective of the entire state, that federal rulings required that minority rights be protected in reapportionment, and that there can be no sexual bias in districting. One cannot draw a pro-woman or a pro-man district. Nevertheless, Democrats managed to entice the sole retired woman jurist, former Justice Shirley Hufstedler, to head the campaign against the measure. Hufstedler was an active Democrat who had resigned from the bench to accept the post of Secretary of Education in the Carter Administration, and had been mentioned as a candidate for first woman on the U.S. Supreme Court.

The Democratic tactic against the Deukmejian initiative was different from their response to Sebastiani. Instead of trying to bludgeon the Governor into dropping his proposal, as they had tried to stop him from calling the Sebastiani special election, they decided to apply a little honey. The new Senate chairman of the Reapportionment Committee was Senator Bill Lockyer of San Leandro, who was more sensitive to the bruised feelings over redistricting and not opposed philosophically to a commission. He and Assemblyman John Vasconcellos of San Jose, who co-chaired the Joint Committee on Campaign and Election Reform, held a series of hearings on the issue of reapportionment commissions in December, and Lockyer opened up a private line of communication from the Democrats to the Governor through Sal Russo. Lockyer proposed a modification of the commission the Democrats had offered earlier, at the height of the Sebastiani imbroglio. He would support a commission similar to the one proposed by the Governor, but it would not redistrict until 1988. The Democrats, Lockyer made clear, really worried most about the year in which redistricting

took place: they did not firmly oppose a commission for the future, but would not go for one which did the job immediately. The main enticement to Republicans and conservative interests of the Deukmejian proposal, on the other hand, was the immediate reapportionment to be done in 1985 and put into place for the 1986 election. The Governor's initiative specifically overrode the once-per-decade rule promulgated by the Bird Supreme Court by means of an amendment to the Constitution.

Early in 1984, while petitions to place the Deukmejian initiative on the ballot were circulating, Lockyer moved a bill establishing such a commission out of the Senate Reapportionment Committee on a bipartisan vote. But other more hawkish Democrats were not interested in any kind of a compromise, and would fiercely resist any new redistricting this decade. Lockyer was promptly chastised by President Pro Tem David Roberti, and angrily resigned his committee chairmanship. Deukmejian reconvened the group that had drafted the initiative, and Russo explained that there were signals that some Democrats wanted a compromise. Unfortunately, however, the Lockyer experience was making compromise more difficult. Walter Zelman, executive director of Common Cause, tried for a while to mediate, once bringing Michael Berman and Sal Russo together to see if any common ground existed. In the end, the Governor took the position that if a united Democratic Party brought him a firm proposal for a different kind of commission, or a date other than 1986, he would consider it; meanwhile, he would go forward with qualification of the initiative. The Democrats never brought the Governor a proposal which all factions could support and, by the summer of 1984, the Deukmejian effort had achieved the necessary number of signatures to qualify the initiative. It was to be Proposition 39 on the November ballot.

Once again, war was declared. The Democrats convened several meetings,

both in Washington and California, and decided immediately to assess themselves $1 million from individual campaign coffers to fight the initiative. At a conference of Assembly Democrats at Yosemite, a decision was made to concentrate all campaign efforts in 1984 on defeating Proposition 39 and on re-electing the 48 Democratic Assemblymen. There was worry that failure to stop Proposition 39 could cost Willie Brown his Speakership because redrawing the lines for 1986 would so disrupt the 1985 legislative session. California Democrats demanded that the Mondale-Ferraro campaign not write off California: only they could induce the high turnout that would be necessary to defeat the reapportionment initiative.

The stakes were very high. As Robert Fairbanks wrote in the California Journal:

> It isn't mentioned in the ballot arguments, but the Democratic Party in California is facing a threat like none before. If Propositions 39 and 40 (a campaign finance reform sponsored by GOP Assemblyman Ross Johnson) are approved by the voters in November, the party and its liberal policies could go into an eclipse for a decade or more.123

Congressman Henry Waxman warned that the Democrats might lose anywhere from 11 to 15 seats in the congressional delegation from a commission reapportionment, which he said would be biased toward Republicans. Other Democrats warned that the Rose Institute would take over redistricting under a commission because they could provide the best staff and data. Most of all, the Democrats worried about the amount of money Deukmejian could command for his measure, for this time the Republicans would not be caught napping. Reps. Henry Waxman and Howard Berman began canvassing their Hollywood supporters and Washington special interests for funds. House Speaker Tip O'Neill signed a fundraising letter to Washington lobbyists asking for money. Finally, after a long series of discussions, the Democrats decided on a campaign firm to direct their efforts -- the company called BAD Campaigns, headed by Michael Berman and

Carl D'Agostino. Perhaps it was poetically just that Berman, architect of much of the Burton plan, and D'Agostino, who had been on the reapportionment staff in the 1970s, would now try to defeat one more Republican effort to overturn their plans.

Public campaign financial statements showed that Governor Deukmejian had nearly $2 million in his campaign warchest, and Democrats feared he was willing to put it all toward the initiative campaign. But after its successful but costly qualification effort, the initiative campaign -- Californians for Fair Representation -- was deep in debt. Pleas were made to GOP legislators to put some of their funds toward the initiative, but for many Republicans the issue of reapportionment was fading from immediate personal concern. Indeed, some secretly hoped the Deukmejian proposal would go away: it could imperil the nice safe districts they were now getting used to. Although congressional Republicans undertook a fundraising effort in Washington to counter the Democratic drive, there was perceptibly less intensity of support for Proposition 39 among Republicans -- who viewed the whole issue less emotionally now -- than among Democrats -- who saw it as a dagger aimed at the party's heart. The pro-Proposition 39 campaign was slow off the mark and remained in debt until the fall, when Deukmejian lent it large amounts of his own campaign funds.

The pro-Proposition 39 campaign suffered other problems. In charge of the campaign were Sal Russo and Doug Watts, whose firm, Russo-Watts, Inc., was credited with having rescued the faltering Deukmejian campaign late in the 1982 election, turning a likely defeat into the Governor's narrow victory. But Watts was now the media director of the Reagan-Bush re-election campaign, spending most of his time in Washington. He was not able to give Proposition 39 his full attention, although he had taken the assignment of coming up with creative advertisements. Russo was busy with leftover duties from the Governor's staff,

from which he had taken leave, and spent much of the summer helping to put together the California delegation to the Republican National Convention, which Deukmejian was to chair. He also found it necessary to raise funds to fill a nearly empty treasury for the fall campaign. Thus the Republicans were unprepared when the first Democratic television commercials began running late in September. Berman and D'Agostino purchased major blocks of television time early and dominated the airwaves until mid-October. They also came up with a theme for their commercials that bothered many Republicans.

In a meeting with an editorial board, one of the Deukmejian supporters was accused of liking judges "only when they are retired."[124] This pointed up a Republican problem: GOP conservatives had criticized judges and the liberal California Supreme Court for more than a decade, and now Governor Deukmejian was asking conservatives to give the crucial job of reapportionment to retired judges. Berman and D'Agostino decided on a campaign theme that played on this dichotomy. They developed a commercial showing a judge being dragged into the backroom while a voice warned that getting judges into reapportionment would give California a corrupt, Chicago-style judiciary. Another commercial showed a newly sworn-in judge promising to "take care of the party when the time came." Both commercials played on the voters suspicions of partisan judges and their dislike of the whole seedy business of reapportionment. The ads asked viewers to vote against reapportionment as though it were the evil. To some degree the Democrats were taking tactical advantage of the Republican hysteria about the evils of reapportionment which had given the word itself a bad name. Although members of the state judiciary were said privately to be furious at Berman and D'Agostino for comparing them to Chicago-style hucksters, the Democrats sensed the commercials were working.

When the Republicans got on the air in mid-October their ads were much

more soft-sell. Their campaign was based on a theme of "Fairness not Politics," adopted following poll results showing what people thought was the most important element in redistricting. After a fair amount of internal Republican criticism of the commercials, however, they were toughened, hitting hard at the abuse of reapportionment by politicians and the conflict of interest in legislators drawing their own districts. Governor Deukmejian himself cut a commercial that was broadcast widely, but his campaign seemed to be having some trouble developing its theme. Billboards blanketed the state with the "Fairness not Politics" slogan, but the GOP's polling showed slippage in support for the initiative, which had been ahead in the earlier polls.

A second set of Democratic commercials used actors Jack Lemmon and Jack Klugman to warn of the perils of involving judges in politics and the costs involved in another reapportionment. The Klugman spot in particular played on the theme that reapportionment itself was something shabby and we did not need any more of it. Lemmon wielded a gavel as he lectured viewers on the importance of keeping judges out of politics. None of the Democratic commercials mentioned that the judges involved would be retired, and so there was really no intrusion of politics into the judiciary, but the commercials did play heavily on conservative fears about the trustworthiness of the judiciary.

Republicans countered with new commercials of their own and with newspaper advertisements showing the shapes of gerrymandered districts in the Legislature's plan. "No, this is not a psychiatric exam," was the teaser headline in one newspaper ad. The campaign also made extensive mailings to Republican households telling them of Governor Deukmejian's strong support for the initiative. One mailing into Orange County stressed that virtually every elected official in that county supported Proposition 39, and made a special appeal to Republicans to support their Governor. GOP polls showed that the proposition

was having problems among Republican voters, particularly in southern California.

But for the several millions of dollars spent on both sides, the issue seemed to be having little or no impact on the people. A Field Poll late in September showed that only 27 percent of Californians knew about Proposition 39, and 14 percent were for it while 6 percent opposed it.[125] These figures were similar to Field's polling for Proposition 14 two years earlier, and they did not shift much as the campaign progressed. Democrats knew that to win this battle they would have to confuse the issue, since a confused electorate will usually vote "no" on a ballot measure. D'Agostino admitted later that the GOP's greatest fear was that the Democrats would get controversial Speaker Willie Brown into the debate by making it a referendum on him,[126] but there were no such efforts. Republicans did not want to be accused of racism by running against the black Speaker, and were satisfied to have the Legislature's conflict of interest be the issue.

In the last week of the campaign Russo knew the proposition would probably lose, and the Democrats were cautiously optimistic they would win. Other measures on the ballot -- the hotly contested Jarvis IV tax reduction plan, for example, and two Ross Johnson initiatives on welfare and campaign reform -- looked like losers, and they might drag down Proposition 39. Some Republicans feared that the era of good feeling ushered in by President Reagan had caused such contentment that people would not want to change anything, and were willing to forget about reapportionment. And on election day the Deukmejian measure lost by a vote of 46 percent for, 54 percent against. It even failed in Republican Orange and San Diego Counties, and did particularly poorly in Democratic strongholds. A post-election examination of the vote revealed electoral patterns that matched almost exactly the rejection vote on Proposition 14 two years before. For all the time, money and fury expended over this issue

in the two years following the defeat of Proposition 14, it seemed not to have affected the people one iota.

Democrats congratulated themselves on a brilliant campaign which had given the popular Republican Governor his first black eye. But perhaps the truest comment on the Democratic campaign was uttered by the ever-candid Speaker Brown at a post-election conference. The anti-judge commercials, he said,

> were the most extensive collection of con jobs I've ever seen. (They had) absolutely nothing to do with Proposition 39. . . . We're running a campaign against judges; we figured the people of California would buy it. . . . By mid-October you were convinced that if you were "yes" on Deukmejian's Proposition 39, you were "no" on the proposition that had to do with corrupt judges. The results were just spectacular.127

The Speaker's "shocking honesty," as Sacramento Bee political editor Martin Smith put it, scandalized some observers and embarrassed a few of his fellow Democrats. "I don't think there was a thing in that campaign that could be called a con job. Apparently the Speaker was in his show-off mood," responded Howard Berman. "I thought our campaign was great, and the issues raised were legitimate," added Senator Roberti.[128]

But the Democrats -- and not a few Republicans -- were beyond caring anymore. Only one state legislator lost in 1984, and only one Congressman. The incumbent gerrymander had served its purpose, and finally the reapportionment war was over. The final gun had been sounded, the last flag waved, the last speech given.

Epilogue: What Have We Wrought?

Early in 1981 the Chamber of Commerce asked whether reapportionment in the 1980s would be as contentious as that of the 1970s, whether Californians would see:

> an inability by the Legislature to concentrate on equal representation for all California citizens in accord with the "one man, one vote" concept because of a paralysis caused by survival-oriented incumbents, inter- and intra-party squabbling and interest group pressure for special districts?129

Indeed, the state saw this in abundance over four years.

In the end the Democrats prevailed, although they probably would have lost without the crucial assistance of the California Supreme Court in its two key rulings on the referendum and the Sebastiani plan. But Republicans cannot blame all their problems on the Court. Twice they went to the people with their own reforms, and twice they were rejected. Had the Republicans not been caught napping with Proposition 14 in 1982, things might have been different. The most remarkable accomplishment of the Democrats in the reapportionment saga was the preservation of the Burton plan from a volley of attacks.

Just as the Republican referendum was getting underway in September of 1981, Common Cause challenged the Republicans to "put principle on a par with politics and add backbone to the party's call for a reapportionment referendum by circulating, at the same time, an initiative petition calling for creating of an independent, bipartisan commission to do redistricting in the future."[130] Republicans dismissed this out of hand: they had not yet realized their common interest with Common Cause in a redistricting commission. Had the GOP placed a commission on the June 1982 primary ballot along with the referenda, however, it might have succeeded in passing that reform. Feelings were still red hot on the reapportionment issue in June, but by November the passions had cooled and the GOP was busy with other campaigns, and the redistricting commission initiative fell through the cracks. The reformist advice of Common Cause could have been a key strategic move in the redistricting war.

The GOP made other errors. Assemblyman Sebastiani should have qualified a constitutional amendment instead of a statutory initiative for his plan. There

was some historical basis for a once-per-decade rule, and his attorneys had discovered it early in the qualification process. But Sebastiani was strapped for funds -- particularly when Parker Montgomery pulled out as his financial angel -- and could not afford to get the number of signatures required for a constitutional amendment. But it would have blocked the Democratic attack on the special election, and he should have realized the need to make his initiative "Rose Bird-proof."

In one sense, though, the Republicans did not do too badly. The second reapportionment plans gave them an opportunity to safen districts won from the Democrats in 1982. Assembly Republicans actually came out of the process a little better off than they were when they started, with 32 seats made safer for their incumbents. They had just 31 seats, several of which were very marginal, when reapportionment began in 1981. In the Senate the overall result was a two-seat loss for the GOP, but again marginal districts were made safer. Only in Congress did the Republicans take a bloodbath which radically changed the numbers. The Burton plan effectively repealed all the gains of the first Reagan landslide in 1980. The GOP picked up three seats from the Democrats that year, but the Burton gerrymander performed so well in 1984 that Republicans defeated only one Democratic Congressman -- Orange County's sole Democrat, Jerry Patterson -- despite a Reagan landslide even larger than that of 1980.

The GOP had a final chance to kill the Burton plan in January of 1983 by qualifying a second referendum against it. Governor Deukmejian could have called a special election on that referendum in late 1983, with far less political heat than his Sebastiani special election call, and the Burton plan might have been killed once and for all. With a Republican Governor, the GOP need not have feared another Burton-style gerrymander. To do this, however, would have required leadership from the Republican establishment in Washington, and none

was forthcoming. Individual Congressmen were not in a position to launch a referendum from three thousand miles away, and this final chance to stop Burton slipped away. Republicans have pursued legal action against the Burton plan since then, but it remained in effect to help Democrats resist the Reagan landslide in 1984.

And finally, the future. Much is said and written about the need for reapportionment reform. Congressman Burton is dead now, and many Democrats speak with sincerity about wanting to avoid such an imbroglio again. But Burton teaches one simple but important lesson: it is impossible to remove politics from politics. Whether or not reapportionment is such a conflict of interest that it must be removed from the Legislature, the fact remains that the people had two opportunities to do so and turned down both. Burton, for all his machinations, had a simple and understandable political goal in reapportionment: to protect the liberal agenda from the Reagan revolution by loading the California delegation with liberal Democrats. While the people rejected the specific boundaries Burton drew to accomplish this in the referendum, they were not so distraught about Burton as to take from him the power to draw districts as he saw fit. For all the politicians' intensity on reapportionment, the public remained -- save for the immediate period of the referendum -- surprisingly ambivalent on the issue. When the public did speak, however, it was with a consistently negative voice, turning down in succession the three Democratic plans and the two Republican-sponsored commissions.

The reapportionment battle of the early 1980s pitted two philosophies and two parties against one another in a classical political struggle. As Willie Brown once said, redistricting is the most fundamental and most important personal issue a legislator confronts, and legislators did indeed act very much as politicians concerned with their own survival and self interest -- but then who

would have expected them to act otherwise? For Governor Deukmejian, his initiative was an effort to reform a process he knew from personal experience to be flawed. For Assemblyman Sebastiani, it was an opportunity to challenge the established political order as only a true maverick can.

The motives of the California Supreme Court, however, are less clear. One cannot criticize politicians for being politicians, or mavericks for being mavericks. But the Court should have heeded the wise advice of Justice Mosk: reapportionment is at the heart of the political thicket, and only a foolish Court would have entangled itself the way the Bird Court did. It paid a price in credibility that was perhaps greater than that paid by the myriad politicians who played the redistricting game in the 1980s. And it leaves unclear how reapportionment will be resolved in 1991, when the time to redraw the lines rolls around again.

Footnotes

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3. San Francisco Examiner, June 19, 1981.
4. San Francisco Examiner, June 21, 1981.
5. San Francisco Chronicle, June 18, 1981.
6. San Francisco Chronicle, August 5, 1981.
7. Press release from the office of Assemblywoman Carol Hallett, June 16, 1981.
8. Santa Barbara News Press, April 7, 1981.
9. San Gabriel Valley Daily Tribune, May 3, 1981.
10. Peninsula Times Tribune, May 21, 1981.
11 Peninsula Times Tribune, May 21, 1981.
12. Oakland Tribune, March 24, 1981.
13. Los Angeles Times, April 30, 1981.
14. "Boss," California Magazine, November 1981, p. 96.
15. Ibid, p. 97.
16. Richard III, Act I, Scene 1, lines 17, 24, 30.
17. Interview with Congressman Vic Fazio, December 1982.
18. Statement of Rep. Philip Burton at press conference, September 9, 1981.
19. "Boss," California Magazine, November 1981, p. 64.
20. Sacramento Bee, August 28, 1981.
21. "Boss," California Magazine, November 1981, p. 97.
22. Ibid, p. 90.
23. Sacramento Bee, May 12, 1981.
24. Sacramento Union, September 11, 1981.
25. San Francisco Chronicle, September 10, 1981.

26. Sacramento Bee, September 11, 1981.

27. San Francisco Chronicle, September 10, 1981.

28. San Jose Mercury, September 10, 1981.

29. This occurred at a closed door meeting of the Senate Republican Caucus on September 15, 1981.

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31. Sacramento Union, August 29, 1981.

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33. Sacramento Bee, September 3, 1981.

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36. Los Angeles Times, September 3, 1981.

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39. Los Angeles Times, January 21, 1981.

40. Los Angeles Times, April 30, 1981.

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45. Sacramento Union, September 1, 1981.

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47. Comment of Assemblyman Richard Alatorre at the hearing of the Assembly Committee on Elections and Reapportionment, September 8, 1981.

48. Sacramento Bee, September 20, 1981.

49. San Francisco Examiner, September 9, 1981.

50. Los Angeles Times, September 11, 1981.

51. Sacramento Bee, September 16, 1981.

52. Sacramento Bee, September 16, 1981.

53. Sacramento Bee, September 20, 1981.

54. San Francisco Examiner, September 9, 1981.

55. San Francisco Examiner, September 9, 1981.

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58. Statement of President Reagan, Rose Garden signing ceremony, September 22, 1981.

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60. Tular Advance Register, September 10, 1981.

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62. KNX radio editorial, September 21, 1981.

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77. Letter from Assemblywoman Carol Hallett to Speaker Willie Brown, January 6, 1982.

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100. Ibid.

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