

GENERAL THEORY OF APPORTIONMENT

By

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LEGISLATIVE REAPPORTIONMENT

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GENERAL THEORY OF APPORTIONMENT

ALFRED DE GRAZIA*

Apportionment is the division of a population into constituencies whose electors are to be charged with the selection of public officers. Since it is difficult to know at all times, and to calculate in terms of, the precise number of actual voters, registered voters, or qualified electors in the districts created by apportionment, systems of apportionment commonly use the total population as the numerical basis of division. An example of an attempt to do otherwise is the unenforced second section of the Fourteenth Amendment to the Constitution of the United States. It decrees that any state restricting the adult male suffrage of its inhabitants shall have its allotment of seats in Congress reduced by the proportion of the restriction to the total adult male population of the state.

To be inclusive in our concept of apportionment, we may regard constituencies of the whole state or nation as single-district apportionments, and we may also consider informal, non-legal divisions of the electorate as apportionments. However, it is generally understood that the central problems of apportionment arise from the determination of the constituencies of legislative assemblies. Therefore, save in the case of a district of the whole state or nation, apportionment is invariably a recognition or solicitation of separatist groupings in a society. Some statesmen and writers, among them Rousseau, Gambetta, and a number of leading eighteenth century revolutionaries in America, England, and France, believed apportionment only a necessary evil. Forced to admit the demand and need for apportionment, they sometimes tried to cancel its effects. For instance, the French Constitution of 1793, after providing territorial apportionment, solemnly declared that the "representatives elected in the departments are not representatives of a particular department, but of the entire nation, and they must not be given any mandate." This miracle, however, did not appear. History could not have given hope of it then nor can it now. Apportionment in some form remains an absolute requirement of representative government. And apportionment is separatistic in design and effects, just as are other stages in the process of representation.

Apportionment exchanges another important feature with the process of representation. A criterion of apportionment always contains a value. Representation is a relationship between a designated official and a citizen in which the actions of the official accord with the desires of the citizen. The relationship is a particular one,

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varying among individuals, and no device of representation extends to all persons equally. Every step in the process of granting representation to a citizen or group of citizens is a controversial one. From the determination of who shall vote to the provisions for control of the representative after he has been elected, the process of representation is subjected to a struggle over values, so that ultimately the system of representation favors in each detail some citizens over others, or extracts for favorable attention in policy-making certain attributes of individuals rather than other attributes. No system of apportionment and no system of suffrage, balloting, or counting is neutral. The process of apportionment, like the other stages in the process of representation, is a point of entry for preferred social values. The existing system of apportionment, whether legal, illegal, or extra-legal, institutionalizes the values of some group in a society.

An examination of the criteria by which constituencies are divided may clarify the meaning of the foregoing remarks. The criteria underlying a system of apportionment consist of one or more of the following: territorial surveys; governmental boundaries; official bodies; functional divisions of the population; and free population alignments. Of these five criteria, territorial surveys are most common in modern times. "Artificial" areas are cut out of the map and their populations serve as constituencies. Historically this method of creating constituencies has been associated with the rise of egalitarian democracy.¹ The territorial survey is resorted to in order to divide the population into contiguous districts composed of equal numbers of voters. Since this criterion is so widely used and involves the most important current problems, its discussion may be postponed until the other criteria are described and analyzed.

Apportionment by governmental boundaries is a part of all apportionment systems. The constituency of a nationally elective officer is the nation and the constituency of a local government executive is often the total electorate of his city or village. Thus the Argentine president is elected by direct popular vote of the nation; the American governor is elected by the voters of his state as a whole; and an American mayor is often elected by the total electorate of the city. This constituency of the whole is important politically if only because the officer acquires a large increment of prestige and authority from expressing sometimes the desires and sentiments of the collectivity of voters. Theodore Roosevelt wrote that "the executive is or ought to be peculiarly representative of the people as a whole."²

Corporate or collegial bodies, such as the American state legislatures, also use the criterion of governmental boundaries in apportioning seats. A favored device of early American state governments was to apportion seats solely according to the county and town boundaries in one or both houses of the state legislature.³ This procedure was abandoned in most state governments, since it invariably and openly

¹ ALFRED DE GRAZIA, *PUBLIC AND REPUBLIC* 24, 26, 49, 106-108 (1951).

² THEODORE ROOSEVELT—*AUTOBIOGRAPHY* 306 (1919).

³ ROBERT LUCE, *LEGISLATIVE PRINCIPLES* CC. XV-XVII (1930).

worked to the disadvantage of governmental units of heavy population density. Yet it is well to note that in a number of cases where the major criterion of apportionment is the territorial survey, the law may require some attention to the boundaries of existing units of government in drawing district lines.⁴

In late medieval times, governmental boundaries were the favored criteria in the representative governments that were then developing. In England corporate towns or boroughs that were so privileged by royal grant and the historic counties were each entitled to send two members to the House of Commons. Federal governments such as the United States are outstanding exemplifications of the use of governmental boundaries. Each state in the American union is authorized two United States senators, regardless of size or population. Until the passage of the Seventeenth Amendment, the criterion of governmental boundaries was supplemented by the requirement of election by the state legislatures.

Election by the state legislature constituted a second criterion of apportionment which overlapped with the state-wide character of the office. It could be called apportionment in terms of official bodies. The apportionment of the American Senate was not unique in this respect, however. The electoral college that serves in law as the constituency of the president is another example of such an official body. However, whereas the state legislatures were standing bodies, the electoral college is an *ad hoc* agency, created specifically to elect the president. Both the permanent and *ad hoc* types are found as the electing agents elsewhere. The French system of indirect elections of the national Senate and of the present day Council of the Republic have been founded upon electoral colleges composed of various officials and persons designated by local councils. The French system took much of its original inspiration from Condorcet who was an admirer of the American system of electing the president. The criterion used to create the apportionment is that the electors be previously designated to an agency charged with the elective function. When creating such special constituencies of a collegial body, the expectation is that the new constituencies will differ remarkably from their own constituencies, that they will be less rash, more discerning, and more knowledgeable. However, many more executive leaders or single officials are elected indirectly than are collegial bodies. The English prime minister, the European premiers, the *burgermeisters*, and the town managers are examples. The double apportionment of constituencies required of the indirect election of each member of a collegial body seems most often to be uneconomical and cumbersome, apart from its unpopular slant. Hence the *ad hoc* form is rarely used. More common is the use of a lower house to elect an upper house, or to create cabinets and councils, as exemplified so abundantly in the Russian hierarchy of soviets and presidia.

A fourth criterion by which constituencies may be cut out of a given population is by functional divisions. Functional groupings are non-territorial aggregates

⁴ 8 THE BOOK OF THE STATES 121-124 (1950-1951).

of persons who share social or economic interests. The degree of cohesion of the aggregates may vary widely, and different systems of apportionment of a functional kind make differing allowances for such varying cohesion. Thus, an ancient and persisting example of apportionment is by social estates. The early parliaments of the thirteenth century included, besides the commons, the estates of the nobility and clergy, sometimes organized separately and sometimes together. A fairly rigid class system stratified the population for purposes of apportionment. A much looser type of recognition of functional differences in apportionment is that which assigns representatives to localities on the basis of the amount of taxes the locality pays. For example, under the French Constitution of 1793 each department was allotted a basic minimum of representatives in the National Assembly, then allotted additional seats according to its population, and finally allotted seats according to the total taxes it paid. This last provision of the Constitution benefited the wealthier regions, and presumably indirectly the wealthier classes. In South Carolina from 1808 until the Civil War, a system quite similar prevailed in the apportionment for the lower house. One-half the total delegates were assigned to the districts and parishes in proportion to the whole population and the other half in proportion to the average of taxes paid for the ten years preceding the decennial reapportionments.⁵ The pre-World War I Prussian system of apportionment assigned representation on the basis of taxation also. The largest taxpayers, paying one-third of the total taxes, obtained the right to elect one third of the delegates to the *Landtag*, the middle tax-paying group another third, and the lowest another third. The top group consisted of about 6 per cent of the total electorate. In the American Constitutional Convention of 1787, consideration was given to the possibility of allocating representation according to the taxes paid by a state, but, partly because tax-paying areas were believed to coincide with areas of high population density, population was chosen as the basis for representation.⁶

Many other forms of apportionment based on functional groups have been employed. Not only estates and tax-paying groups but also nationality groups, university groups, professional groups, factory groups, and general occupational groups have been used as the criteria. Thus in Moravia, after World War I, the Germans and Czechs were given each a number of seats and cross-nationality voting was forbidden, and Turks and Jews were represented specially in the Greek Parliament. The English universities used to be represented by their own constituencies, as did William and Mary College once in the United States. Professional groups have sent representatives to the Greek, Hungarian, and Italian legislatures at one time and the practice continues in Ireland and Portugal. Russian factories until 1936 sent delegates to the local soviets or councils, that in turn elected the delegates to higher councils. Under the Fascist regime in Italy, the Chamber of Corporations

⁵ C. S. Boucher, *Sectionalism, Representation, and the Electoral Question in Ante-Bellum South Carolina*, IV WASHINGTON UNIVERSITY STUDIES II (1916).

⁶ II RECORDS OF THE FEDERAL CONVENTION OF 1787 582, 587 (Max Farrand ed. 1937).

was a national legislature based on constituencies composed of major occupations. This was the most complete attempt to this date to practice functional apportionment exclusive of territorial influences. The closest legal approximation to the Fascist Chamber in America has been the various authorities acting under the National Industrial Recovery Administration that, from 1933 to 1935, gave certain powers over prices, wage and work standards, and fair trade practices to groups composed of the delegates of the various firms of different industries.

A final criterion of apportionment is free population alignments. Advocates of this criterion deem it unjust to force constituencies out of social criteria such as geography or social estate or property. Rather, individuals ought themselves to choose their constituency according to whatever their dominant motive may be at the time of casting their ballot. This criterion is basic to systems of proportional representation, wherein the free and personal apportionment is joined with a multi-member district and a preferential vote to permit the representation of any group that achieves a quota of votes roughly equivalent to the total district vote divided by the number of seats to be filled. The criterion cannot be employed in majority elections. Election of several representatives at large, in which the constituency for a legislature is a single electorate in its entirety, produces generally a monopoly representation of the major political grouping of the geographical constituency. Hence it does not differ from territorial apportionment. The anti-territorial characteristics of free apportionment have not been sufficiently realized. J. Francis Fisher, an early American inventor of a system of proportional representation, declared that "it is not land, nor the owners of it, who form our constituencies, but the citizens generally; and that the opinions, principles, and interests of the people, which really ought to find expression in their representatives, can never be expected to conform to any possible territorial division."⁷ But in fact neither the free apportionment of proportional representation, nor any other system of apportionment has been able, in law or in practice, to dissolve the territorial basis for apportionment. A closer scrutiny of territorial apportionment may reveal the foundations of its strength.

Apportionment by territorial survey, it was noted earlier, has replaced governmental boundaries as the prevailing criterion of apportionment. The survey method historically increased in use as individualism increased. The English Levellers of the mid-seventeenth century were the first to demand a mathematical subdivision of the nation into election districts of equal population. The merchant and commercial classes did help to break the monopoly over representative government exercised from the thirteenth to the eighteenth centuries by the landed nobility and the untitled landlords, but they did not rationalize the representative system. The egalitarian democrats as typified by the Levellers did. The egalitarian democrats, with many supports of middle class origin to be sure, espoused a theory of representation that cul-

⁷ THE DEGRADATION OF OUR REPRESENTATIVE SYSTEM AND ITS REFORM 48 (1863).

minated in the individualism of the advocates of proportional representation like Fisher and John Stuart Mill.

But the egalitarian democrats never went so far as their intellectual leaders, for their interest base was in agrarianism. Thomas Jefferson, it must be remembered, was a physiocrat, an agrarian, and then an advocate of individual representation based on the territorial survey. Territorial representation, with equal representation to all men, was the ideal formula for a democratic rural society and was espoused as such by early nineteenth century democrats in America and elsewhere. "Equal representation," wrote Jefferson to King on November 19, 1819, "is so fundamental a principle in a true republic that no prejudices can justify its violation because the prejudices themselves cannot be justified."⁸ We cannot now know whether Jefferson's equally vehement agrarianism and dislike of cities would have changed his mind, when faced with the necessity either of carrying out the principle of equal representation and weakening the agrarian interest or else maintaining the preponderance of the agrarian element and violating his theory of representation.

Apart from its ultimate unagrarian operation when the cities had grown, apportionment by territorial survey, arising as it did out of the demands for individual equality, did some damage to localism. To maximize local influences, apportionment ought to be based on local units of government, as was originally the case in a number of American states and is presently the case in several. Then all the electorate in a given locale, who are possessed already of a degree of solidarity from economic, social, and political causes, will project that solidarity into the national or state legislature and reinforce it thereby. Since many "natural" units of local government are divided or combined in the geometry of apportionment, the full impact of localism on state or national legislatures is less than it might otherwise be. Nevertheless, territorial surveys that produce, in the language of the Congressional Apportionment Act of 1842 and other enactments, a "contiguous and compact territory containing as nearly as practicable an equal number of inhabitants,"⁹ will provide a considerable reflection of local interests. Although the representative will not be a mirror of the neighborhood, of what the Italians call "*campanilismo*" and the Germans "*kirchturmspolitik*," the mirroring, as the history of representation shows, will be vivid enough to cause widespread protests against the loss of a national interest.

And when the representatives, chosen from an apportionment by territorial survey, convene in a legislature, inevitably a number of them will form blocs that reflect not only their individual localities, but also more general local interests, regions, and sections. These interests will be reflected in the policies of the state or national legislature and the politics of the government. Every American state with any considerable urban population has undergone protracted conflict between

⁸ Archives of the Huntington Library, San Marino, California; quoted by Robert de Vore, "Gallery Glimpses," Washington Post, April 4, 1943, p. 48.

⁹ 5 STAT. 491 (1842).

rural and urban blocs, often regardless of party lines. Other countries have had the same experience. The representatives of the old counties of England fought the borough representatives during the great reapportionment struggles, adding a rural versus urban conflict to the larger conflict over the inequality of apportionment according to population.¹⁰ The French country interest has frequently ganged up against Paris and the cities in apportionment struggles.¹¹ In Norway, one long struggle between rural and urban representatives resulted in a compromise that placed a fixed apportionment of rural (100) and urban (50) districts into the constitution itself.

One cannot expect more generally satisfying results from systems of apportionment other than the territorial survey. Under all systems of apportionment, whatever the criterion used, some influential groupings in the population and some strong partisan interests will find themselves at odds with the *status quo* and inclined either to demand changes in the existing system or to work out their own apportionment schemes outside the law. However, there is little doubt that a flagrant contradiction between law and practice, such as exists between the legally stipulated criteria of apportionment and the actual apportionment in a number of American states, causes great moral uneasiness and discontent. It is one thing to say that any apportionment system favors some interest or attitude over another, and quite another thing to assert that every kind of manipulation of apportionment is merely another way of accomplishing this fact, and has no important moral consequences.

American state legislatures, which in this way scarcely vary from many other legislatures elsewhere, have often relied upon rotten boroughs and gerrymandering to preserve the existing proportions of seats or to increase the proportion of seats held by a single party or faction. Rotten boroughs are historical accidents that give disproportionate weight to the votes of a thinly populated district in relation to a thickly populated one, despite a prevailing belief that apportionment should be on the basis of equal populations. Although the American Senate satisfies the first requirement of the rotten borough it does not satisfy the second, for the Senate was never supposed to be based on the principle of equal populations. But rotten boroughs are found in American states, the legislatures of which have failed to carry out periodic reapportionments in order to adjust the size of districts to population changes. The most populous state legislative district in Illinois, for example, is about three times the population of the average district, owing to the legislature's failure since 1901 to carry out the apportionment procedure prescribed in the state constitution.¹²

Gerrymandering, on the other hand, is a positive act of malapportionment. It is a violation or evasion of law or tradition. Its special character emanates not from being a biased apportionment (for all apportionments are "biased"), but from its

¹⁰ DE GRAZIA, *op. cit.* *supra* note 1, at 49.

¹¹ G. LA CHAPELLE, *LES RÉGIMES ELECTORAUX* (1934).

¹² HAROLD F. GOSNELL, *DEMOCRACY: THE THRESHOLD OF FREEDOM* 178 (1948).

disharmony with the legal or conventional order. Any system of apportionment may be gerrymandered, although some systems, much as the free apportionment of proportional representation, are more difficult to gerrymander than others. The gerrymander most commonly observed in American politics understandably affects the prevailing system of apportionment by territorial survey. A particular gerrymander of a territorial apportionment may violate the stipulated condition that district populations be equal or that district boundaries be drawn solely with reference to enclosing a contiguous area and population or both. The objective of a gerrymander is to maximize the number of districts returning safe majorities for the apportioning group and to minimize the number of districts returning safe majorities for the opposition party or faction. The gerrymandering group usually seeks to draw district boundaries in a way that will concentrate its opponents' votes in as few districts as possible and will spread its own dependable majorities over as many districts as possible. Hence the success of a gerrymander depends upon an accurate knowledge of past voting behavior in the various constituencies and a reliable prediction about voting behavior in the future. Extreme gerrymanders, maximizing the predictive ability of the dominant faction, are usually prevented not only by various legal provisions but also by the erring legislators' consciences that provide generally some modicum of shame and by their fears of exciting too great a popular resentment.

Shame and fears notwithstanding, the temptation to gerrymander or encourage rotten boroughs is always present in a legislature, as succeeding articles in this symposium will show.¹³ The gerrymander and rotten boroughs are perversions of established legal and ideological principle, it is well to emphasize here, and can be distinguished readily from the more general struggle to achieve social values, of which the process of apportionment forms part. For instance, the debates in legislatures over the different mathematical techniques of accomplishing apportionments are not of the same moral stature. It is known that difficulties occur in apportioning seats to any legislature in which the number of seats is fixed. In the American Congress, for example, heated argument has arisen over the problem of assigning each state the proper quota of seats from the 435 available. What to do with the surplus votes in each state that simple arithmetic division leaves standing is the crucial question. As will be shown below, at least five different techniques can be used: the method of smallest divisors, of the harmonic mean, of equal proportions, of major fractions, and of greatest divisors.¹⁴ Each technique of apportionment benefits some states and hurts others. But the point here is that disagreement over the technique to be chosen, although it exhibits often the same play of interests as is displayed in debates over gerrymandering or the general criteria of apportionment, is on a different plane of values. For here, even given a principle of apportionment to which all would

¹³ Todd, *The Apportionment Problem Faced by the States*, *infra*.

¹⁴ Willcox, *Last Words on the Apportionment Problem*, and Schmeckebier, *The Method of Equal Proportions*, *infra*, and cf. SCHMECKEBIER, CONGRESSIONAL APPORTIONMENT (1941).

agree if they could, mathematical social science cannot provide an exact formula in accord with one principle. Such disagreement, therefore, may be regarded as a legitimate contest, to be tolerated as morally different from the contests occurring over malapportionment and the criteria for basic apportionment.

The chief problem of reapportionment centers about keeping such legitimate disagreement within bounds. When legislators are responsible directly for reapportionment, they tend to enlarge the scope of dispute beyond the inevitable minimum. Hence reapportionment is increasingly being entrusted to less involved personnel. The several techniques of achieving this greater objectivity will be described in succeeding articles. Among them are included the constitutional prescription of the apportionment itself; the constitutional prescription of the exact criteria and timing of apportionment; the standing legislative enactment that is quasi-self-executory; the standing legislative enactment that permits the executive to apportion if the legislature fails to take action; the initiative and referendum; the political executive apportionment under constitutional or legislative authority; and the non-political administrative apportionment or judicial apportionment under constitutional or legislative authority. All these techniques deny with reason that the legislature's conscience will suffice to provide a necessary reapportionment according to established and accepted criteria.

The act of apportionment, to summarize the preceding discussion, consists of the postulation of certain basic values as ones deserving disproportionate influence in the scheme of representative government, and of carrying them into effect in the division of constituencies. The several criteria and sub-criteria that may be used in any system of apportionment aim at long-range determination of the policy product of the government. Conflicting social groups and individual philosophies work constantly to preserve or change the established basis of apportionment. Basic changes in criteria of apportionment are part of the great historical revolutions. When struggle occurs in defiance of established canons, as in the cases of rotten boroughs and gerrymandering, it excites and fosters on both sides a kind of morality and behavior that tends to weaken the existing legal order. A basic rule of the game is being violated. When the struggle extends to the minor benefits of particular techniques of making an agreed-upon apportionment, only minor moral consequences are involved. This minor conflict of values can be prevented from spreading by various devices to remove temptations from reapportionment. Still the outstanding fact remains that no act of apportionment, legal or illegal, is neutral with respect to all men.

This fact is clear even if apportionment is taken to include only the formal or legal apportioning decisions taken by agencies of the state, such as the legislature. The fact is more meaningful if one considers the unofficial apportioning that constantly occurs in a society. Whatever the legal system of apportionment, other criteria will enter the system and modify it. For example, a legislature based

solely on territorial apportionment will represent a sense of the total community in various ways. Although there may be some truth in the allegation that legislatures are separatistic by nature, it is nevertheless true in some respects that the individual legislators are part of the total society, have enduring connections with it, and are compelled by such internal compulsions and by the external forces contained in the pressures from their constituencies and other constituencies and persons to act in terms of some state-wide or national consensus. Similarly, although a territorial survey may be made without regard to any principle save territorial contiguity and equality of population, other interests will make themselves felt. The most conspicuous example of such interests in American experience is the pressure group and its lobby. The lobby, practically viewed, is based on a functional constituency, self-apportioned; the numerous lobbies of a complex society are representative of groups denied the status of legal constituencies.¹⁵

Also, the political process, reacting to the legal system of apportionment, sub-apportions the people of a society. For example the technique of a balanced ticket, so common in American politics, overcomes the local territorial effects of the apportionment by survey by recognizing functional groupings in the society and apportioning candidates among them. Thus, within a given territorial district, a balanced ticket may include, as candidates for the various offices to be filled, persons from certain occupational groups, religions, income levels, nationalities, and right or left wing minorities. As it has developed historically, the territorial survey type of apportionment has granted, certainly, a disproportionate emphasis to localisms and especially to local property interests, but it has also been a rather loose kind of apportionment by contrast to other types and has permitted other criteria to be developed within its confines.

The unofficial apportionment that occurs within the legal system of apportionment is not the only change any legal system may be expected to undergo. Habituating themselves to the requirements of the law, various interests may work into the territorial system itself and derive benefit therefrom. A prominent historical example is the entrance of the commercial classes in England into the territorial apportionment system through the purchase of land.¹⁶ By the time the rotten boroughs of England were eliminated in the nineteenth century, the major commercial interests were fairly well spoken for from seats in the Commons that they had previously acquired by purchase. And the House of Lords was composed in part of men who had risen in commerce and industry and had been granted titles for one reason or another. The present interests of the urban centers of the American states are diffuse and only indirectly involved in the rotten borough condition, so it cannot be expected that they would become engaged in a direct intervention in country elections. Yet the urban interests are not rendered helpless by malapportionment and

¹⁵ E. PENDLETON HERRING, *GROUP REPRESENTATION BEFORE CONGRESS* 47, 50 (1929).

¹⁶ I W. E. H. LECKY, *A HISTORY OF ENGLAND IN THE EIGHTEENTH CENTURY* 250 (1888).

actually an urban political organization often bargains effectively for the city's interests with the rural representatives.

To suggest another case in which one type of apportionment may be transformed into another type by external forces, one may point to the careers of various kinds of proportional representation. Whereas the nineteenth century inventors of proportional representation viewed their work as fostering individualism and freedom of action in representative government, a major consequence of proportional representation has been the increase in cohesiveness of political groupings. Every effort is exerted to organize and discipline a quota of voters. The Europeans, with their list of systems of proportional representation, have faced this fact and radically reduced non-partisanship in elections.¹⁷

Finally, it must be realized that, since apportionment is only one stage of the process of representation, values that are blocked entrance into politics on that level may seek and find other levels at which they may enter and be counted. To illustrate what is meant by this point, we may depict the various levels of the process of representation at which the substitution of a value denied elsewhere may occur. A group of small businessmen, engaged in commerce and trade, would tend over a period of time to favor a system of apportionment, which, while in part based on territorial survey, would provide some disproportionate influence to those who pay more than average taxes. An arrangement such as that contained in the French Constitution of 1793 or the pre-World War Prussian system might be satisfactory. But if this were denied them, they could seek other means of influencing the structure of the representative system. They might seek property, tax, residence, or educational restrictions on the franchise. They might fight vigorously against limiting the franchise to land-holders. They might agitate also against limiting legislative candidacies to possessors of land, but might favor limiting candidacies to property-holders. They might seek to place all major financial officers of the government upon the ballot, rather than limiting the election to top political officers alone. They might not favor strongly the secret ballot, since secrecy would deny them the opportunity to form opinions about the votes of those economically dependent upon them. They might well be puzzled by the kind of election system to prefer, since the workings of the majority system depend so much on the character of the franchise and the party system. Under a severely limited franchise, they might well prefer a majority or plurality system of election, as did the American merchants of the Revolutionary Period. On the other hand, they would be generally unfavorable to any system that could allow more numerous groups than they to possess mandated or instructed representatives, whether such a system be of the plurality type or of proportional representation. They might well favor any or all of the numerous devices to limit the election system to certain kinds of decisions. Thus they might

¹⁷ F. A. HERMENS, *DEMOCRACY OR ANARCHY? A STUDY OF PROPORTIONAL REPRESENTATION* (1941). Compare the defense of PR by G. H. Hallet, *Is Proportional Representation a Trojan Horse?*, VI *SOCIAL RESEARCH* 415 (1939).

prefer financial referenda if experience demonstrated such referenda to be free of mass controls. They might also favor bicameralism, uninstructed representatives, checking organs of government such as an appointed judiciary, or other devices to mitigate the effects of a universal suffrage. In short, every step of the process of representation would present arrangements that might or might not be specially arranged to their advantage. Other social interests, such as a group of coal miners or a learned profession, might behave similarly. History, to be sure, rarely shows cases of such complete addiction of any specific group to the total process of representation, but numerous groups have behaved analogously to the hypothetical case with respect to several stages.¹⁸ And at any given point in time, when one examines the struggle centered about any particular feature of representative government, he finds a welter of interests engaged in determining the shape an existing or proposed channel of influence is to assume. It is in this sense that apportionment must take its place alongside numerous other variables that all together determine the long-range policy output of the government.

¹⁸ J. HOGAN, *ELECTIONS AND REPRESENTATION* (1945); I and II KARL BRAUNIAS, *DAS PARLAMENTARISCHE WAHLRECHT* (1932); I and II EDWARD AND ANNIE G. PORRITT, *THE UNREFORMED HOUSE OF COMMONS* (1903); KIRK H. PORTER, *A HISTORY OF SUFFRAGE IN THE UNITED STATES* (1918); LUCE, *op. cit. supra* note 3.