

August 17, 1964

Mr. William Hughes Mulligan, Dean
Fordham School of Law
140 West 62nd Street
New York, New York 10023

Dear Dean Mulligan:

Our work has begun. As requested, I am presenting here, for your comments and approval, a plan that would let the Committee have before it all that it needed by mid-October.

Sixteen memoranda are provided for. They would average ten pages. The first four deal with introductory and basic philosophical matters. The next nine deal with the special problems of apportionment raised or implied in the directive to the Committee. The form generally used in handling the nine is similar:

- A. What is the New York situation?
- B. What comparisons with other jurisdictions are useful?
- C. What have been the observed effects of the New York system?
- D. What are the possible changes and their predictable effects, so far as is known?
- E. Possible recommendations.

The last memorandum suggests the possible overall formulas that could be recommended.

I have fixed a schedule to have the first four memoranda ready for distribution to the Committee by September 4. The next six (numbers 5 to 10) would be ready on September 30. The last six would be made available on October 15.

Please let me know of any changes that you wish to see made in the general plan, the schedule, and the individual memoranda.

I am guessing that the legislation to delay state reapportionments presently evolving in Congress will not, even if passed, affect the calendar of the Committee.

Sincerely yours,

Alfred de Grazia
Professor of Government

AdG:ja

2 cc Mr. McGurne
1 cc Mr. Gilchrist
1 cc Mr. Appel

Aug 17, 1964

NY Apportionment Conference

MEMORANDUM XII : THE SIZE OF THE LEGISLATURE

(A). NEW YORK STATE - AND OTHER JURISDICTIONS

American state legislatures range from a total of forty-three members, soon to be forty-nine, in the Nebraska unicameral body, to 424 in New Hampshire.

Senates vary from seventeen in Nevada and Delaware (scheduled to rise to twenty-two) up to sixty-seven in Minnesota. The range in lower Houses is greater-- from thirty-five members in Delaware up to 240 in Massachusetts; 246 in Vermont; 294 in Connecticut; and 400 in New Hampshire.

The ratio of Senate to House members averages about one to three, but this also varies^{widely}; a ratio of one Senator for less than two lower house members in Colorado, Delaware, Idaho, Iowa, and Montana...

In contrast to the above, New Hampshire has twenty-four Senators to 400 Representatives; Connecticut has thirty-six to 294, and Vermont has thirty-six to 246.

There would be ample precedent for almost any proportion of Assembly-to-Senate seats that might be devised.

The average citizen population of New York's 58 Senate districts is 280,014. The citizen population of the most populous Senate district (1st in Suffolk) is 650,112 (a deviation from the average of 232.17 per cent).

The citizen population of the least populous Senate district (39th), is 166,715 (a deviation from the average of 59.54 per cent)...

The ratio of the most populous district to the least populous is 3.9 to 1.

The average citizen population of the State's 150 assembly district is 108,272. The citizen population of the most populous assembly district (Nassau, 4th) is 314,721 (a deviation from the average of 290.68 per cent).

The citizen population of the least populous assembly district (SCHUYLER) is 14,974 (a deviation from the average of 13.93 per cent).

The ratio of the most populous district to the least populous is 21 to 1.

A larger Senate would permit the most populous counties to have a larger share of Senators - without enlarging the territorial extent of the rural districts. Some authorities believe that a larger Senate would allow an increased number of social and economic interests and points of view to be represented.

Parity - in representation among Assembly districts (making the usual unproved assumptions about the equality of voters) can be achieved only by enlarging the assembly...

The problem is - to create an assembly which is small enough to be a well functioning body - and yet large enough to satisfy rather vague criteria of equitable apportionment...

A legislature of over 1,000 members would be needed to satisfy some of the equal populations criteria - if the current ratio method of apportionment is used. However, if the method of major fractions were used, a small body would be possible.

The only ways to avoid "over-represented" countries in an Assembly of 200-odd members, would be to weight the votes of individual members - or abolish the guarantee of one Assemblyman to every county.

The most widely accepted judgment is, that the greater the number of legislators - the more prone is the body as a whole, to be subjected to an oligarchy. Whether this is good or bad, is to be measured by one's philosophy and the consequences...

Unfortunately, little is known of the consequences, too. It is likely, where a legislature has been long established, that an increase in seats will enhance the power of the pre-existing leadership. Where the new seats discriminate in favor of a certain faction or party, and tip the scales of the legislatures one "old leadership", is replaced by a former minority "old leadership.". .

It does not seem unreasonable to assume that this would be particularly true if the present size of the Senate and Assembly were greatly increased.

There is no evidence to show that a very numerous legislature involves a loss of efficiency, effectiveness, honesty, or attention to important legislation. These are mere suppositions, using words of vague definition.

The size of the legislature will have some effect on the "administrative" and "errand-boy" functions of one member. As size increases, the availability of members for close day-by-day scrutiny of the executive establishment will increase. So too, will the ability of members to take care of fairly "minor" problems of their constituents.

It will have some effect too, on relations between constituents and representatives; - probably in a paradoxical way. That is, a lesser proportion of constituents will know their legislator; the smaller the constituency (contrary to the popular idea); more people know their Senators than their Representatives - nationally and otherwise...

Yet the number of persons who are personally acquainted with a Representative will increase, since more representatives are making the rounds of the

constituency.

Perhaps there is some larger meaning in these phenomena for apportionment. It is not at all sure. Perhaps, this can be said: If more seats and constituencies are created, closer contacts with more people will be maintained. If fewer districts are set up, more persons will know generally, what is going on in the legislature...

Put both of these together, and another argument can be made for a larger assembly - and a small Senate.

In the limited and cumulative voting and in proportional systems (which can operate only in multi-member districts), the more members apportioned to a constituency, the more precise is the proportionality that can be achieved.

The decision regarding the size of the legislature must thus be thought of in terms of the following: (1) the functional consequences of size upon the operation of the two Houses; (2) the question of multi-member versus single-member districts; (3) the voting

system; (4) the majority-minority principle; (5) the relative major and minor party strength ; and (6) the territorial base and boundaries of the constituencies. (See Memorandum VI).

B - Possible question for decision during discussion of policy recommendations

1 - Should the present size be maintained, but a limited future enlargement of both houses be provided for ?

2 - Is it desirable to increase the size of the senate to 60 members (or say 30) and the size of the assembly to 180 (or say 300) ?

3 - If the size of the legislature is appreciably increased, should the establishment of multi-member districts be seriously considered ?