No. 84-1244

IN THE
Supreme Court of the United States
OCTOBER TERM, 1984

SUSAN J. DAVIS, *et al.*,
Appellants,
v.
IRWIN C. BANDEMER, *et al.*,
Appellees.

On Appeal from the United States District Court for the Southern District of Indiana

MOTION TO AFFIRM

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QUESTION PRESENTED

Whether the 1981 Indiana state legislative apportionment laws invidiously discriminate against an identifiable group of citizens in violation of the equal protection clause of the Fourteenth Amendment because the laws were designed to and do preclude the voters of one political party from electing a majority of the state legislature, through the use of bizarrely shaped districts which (1) ignore all existing political boundaries and communities of interest, (2) utilize an inconsistent mix of single, double and triple-member districts, and (3) are arbitrary and without justification.

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Appellees Bandemer, *et al.*, respectfully move that the Court summarily affirm the district court's decision declaring unconstitutional the Indiana reapportionment statutes.

STATEMENT

Introduction

Appellants seek to reverse the decision of the United States District Court for the Southern District of Indiana declaring the 1981 Indiana state legislative apportionment laws to be in violation of the equal protection clause of the fourteenth amendment and enjoining the State from conducting elections pursuant to those laws.

Background

A. Indiana's Legislature And Politics.

The state legislature or "General Assembly" in Indiana consists of a 100-member House of Representatives and a 50-member Senate. Representatives are elected to two-year terms. Senators are elected to four-year terms. Senators' terms are staggered so that only one-half of the 50 senators are subject to reelection during any general election.

Article 4, Section 5 of the Constitution of the State of Indiana requires that at the first session of the General Assembly after each census the number of senators and representatives shall be fixed by law and apportioned among the several counties. Historically, Indiana's apportionment laws had allocated House and Senate seats among its 92 counties (or groups of counties) that elected their share of the General Assembly. If a county was entitled to more than one seat, all seats were elected at large from the county. The result of this system by 1972 was that Marion County (Indianapolis) elected 15 representatives and eight senators at large. The party that carried Marion County became the majority party. In reaction to *Reynolds v. Sims*, 377 U.S. 533 (1964), and *Whitcomb v. Chavis*, 403 U.S. 124 (1971), that pattern was changed in 1972. The first General Assembly after the 1980 census convened on November 18, 1980. As a result of the 1980 Republican landslide, the Republicans enjoyed a 63 to 37 advantage in the House and a 35 to 15 advantage in the Senate.

In Indiana the legislative process in each house is controlled by the political party holding a majority of seats in that house. The majority party in the House elects the Speaker, who in turn exercises absolute control over the committee to which bills are assigned and whether a bill will ever reach the floor for a vote. In Indiana, a Speaker wishing to prevent a piece of legislation from becoming

law may simply refuse to "hand it down" as a matter of unfettered discretion. Similarly, the majority party elects the floor leaders in both houses who control the flow of legislation, the assignment of members to committees and the appointment of committee chairmen.

Indiana is a "swing state" neither overwhelmingly Democratic or Republican. In "normal" years (1976 and 1982), the Republican candidates for Supreme Court Clerk and Reporter [1] received 51% and 50.8% of the statewide vote for the two major parties. (Exhibit 30.)[2] In the best Democratic years (1974 and 1958), the Republican totals decline to 44.3% and 44.6%, and in the best Republican years (1980 and 1972), the Republican totals were 56.1% and 57.4%. (Exhibit 30.) Although there is a small third-party vote for statewide offices, there is no significant third-party vote for legislative seats. Because the Senate is elected for staggered terms (one-half stands every two years), two elections are necessary to gain control of both houses. A party that can insulate itself from swings of up to 10% from the norm can effectively perpetuate its control of the state legislature (*i.e.*, can keep a majority despite a 55% vote for the opposition).

B. The 1981 Reapportionment.

The reapportionment process began during the 1981 legislative session on February 13 when House Bill 1475 was introduced by members of the Republican leadership.

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[1] Experts for both sides agreed that the vote for these "anonymous" state offices (*i.e.*, those where the officials have very low name recognition) is the best indication of party vote. See generally, Backstrom, Robins & Eller, Issues in Gerrymandering: An Exploratory Measure of Partisan Gerrymandering Applied to Minnesota, 62 Minn. L. Rev. 1121, 1131-39 (1978).

[2] For the convenience of the Court, the statistical exhibits (exhibits 30, 31, 32, 35 and 39) cited in this Motion are included in the Appendix to this Motion. Other exhibits cited in this Motion have not been included in the Appendix to this Motion because of their size.

That bill was a "vehicle bill". That is to say, the bill had no content; all it did was amend the definitional paragraph of the existing statute apportioning the State for House Districts to include the phrase "standard metropolitan statistical area" and change the date of the census from 1970 to 1980. (Exhibit 56.) A similar "vehicle bill", Senate Bill 80, was introduced by the Republican leadership in the Senate. (Exhibit 57.)

These bills were passed in their respective chambers and then sent to the other chamber where they were amended by making wholly insignificant changes, solely so the two bills, no longer identical, would be referred to a conference committee. By virtue of the procedural rules adopted by the Republican majority in the General Assembly, a bill once assigned to conference committee could be returned to the legislature for a vote only if approved by a unanimous vote of the conferees. All the members of the conference committee to which these vehicle bills were referred were Republicans.

After the vehicle bills had been assigned to the conference committee, the process of giving the bills substance began. This work was done by a few members of the Republican leadership and their staff in an office rented for them by the Republican State Committee. The major tool used in this process was a computer system provided by a Detroit, Michigan computer firm, Market Opinion Research ("MOR"). MOR's services were obtained, again not by the state legislature, but by the Republican State Committee. The Republican State Committee paid MOR $250,000 for those services.

The members of the legislative minority and the public were totally excluded from the map drawing process. They did not have access to the computer equipment, programs or data [3]; nor were they given the opportunity to view

[3] The raw data is theoretically a matter of public record, but only theoretically. The election returns by precinct are buried in various

any preliminary maps. Similarly, at no time during the two and one-half month period the majority was reapportioning the State did the Republican majority afford the citizens of the State of Indiana an opportunity to comment on any proposed maps.

The legislative session was, by law, required to end on April 30, 1981. On April 28, the conference committee unveiled for the first time the majority's plan for new legislative districts. This disclosure of the contents of the heretofore empty bills was the first time anyone other than Republican legislators or party officials had an opportunity to view these enormously complex plans. On the final day of the 1981 regular session, the Senate and House adopted the conference report, voting along party lines. During the 1982 legislative session, technical revisions were made in the bills in order to correct a number of mechanical errors such as inconsistencies in the districts as drawn during the 1981 session.

C. The 1982 Election Results.

In November 1982, a general election was held under the 1981 reapportionment plan. That election reflected a "normal" year. Of the three statewide races for the anonymous offices (auditor, treasurer and court clerk), two Republicans and one Democrat won. Each of the six candidates received between 48.9% and 51.1% of the statewide vote. (Exhibit 31.) The statewide Democratic vote for the average of the auditor and court clerk races was 50.15%. (Exhibit 35.)

Democratic candidates for the Indiana House received 51.9% of all votes cast statewide for House races. (Ex-

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forms in the offices of 92 county clerks. Simply collecting the data and then tabulating it to determine the political make up of a proposed district is not practical without access to Marketing Opinion Research's data base in any period of time less than several months.

hibit 31.) Nevertheless, only 43 Democrats were elected to the House of Representatives. The Democratic vote in the 51st most Democratic House district was only 44.4% (Exhibit 32), 5.6% shy of the amount needed to unseat the majority, and outside the 10% swing vote (5.6% is 13% of 44%) that either party has obtained in even a landslide year.

In the Senate, 13 Democrats and 12 Republicans were elected. This reflected the fact that 13 of the 18 senate districts favorable to Democrats were up for election in 1982. If the 1984 election produced the same 50.15% Democratic vote, only 7 more Democrats would be expected to win for a total of 20 Democratic senators. (Exhibit 39.) Thus, under the 1981 reapportionment laws consecutive elections with a 50.15% Democratic vote would result in a Senate which was only 40% Democratic.

The Proceedings Below

In January 1982, this lawsuit was filed by Irwin C. Bandemer, Obi Badili, Ra-Nelle Pearson, George Womack Jr., Edward O'Rea, John Higbee, and David Scott Richards (the "Bandemer plaintiffs"), all Democrats and registered voters of the State of Indiana. Plaintiffs alleged that all districts in the House and Senate were drawn for the specific purpose of, and had the effect of, minimizing or cancelling out the voting strength of the political minority to which they belonged in violation of the equal protection clause of the fourteenth amendment to the United States Constitution, 28 U.S.C. § 1983, article 2, section 1, of the Constitution of the State of Indiana, and article 1, section 23, of the Constitution of the State of Indiana. Plaintiffs also alleged that the Senate reapportionment law unnecessarily divided the State's counties in violation of article 4, section 6, of the Constitution of the State of Indiana, and that both reapportionment laws created population variances between voting districts in excess of those required in violation of article 2, section

1 and article 1, section 23 of the Constitution of the State of Indiana. Plaintiffs requested a judgment declaring the reapportionment laws unconstitutional and enjoining defendants from administering and enforcing the reapportionment laws.

On February 2, 1982, a second lawsuit was filed challenging the State's reapportionment laws. The second suit was filed by the N.A.A.C.P. State Conference of Branches, the individual branches from the cities of Indianapolis, Fort Wayne, Gary and East Chicago, and eight individual citizens (the "NAACP plaintiffs"). The court consolidated the two cases for all purposes.

After trial, the district court found that the Bandemer plaintiffs had proved both discriminatory intent in the enactment of the reapportionment laws and discriminatory impact on an identifiable group of voters. The court ruled that the Bandemer plaintiffs had been intentionally discriminated against in violation of the fourteenth amendment to the United States Constitution. The court's Order declared the Indiana reapportionment laws unconstitutional and enjoined state officers responsible for implementing the election laws from holding elections pursuant to those reapportionment laws. The court gave the 1985 session of the General Assembly the opportunity to enact legislation to redistrict the State and reapportion the legislative seats in the General Assembly. To date, the General Assembly has not acted.

ARGUMENT

The only novel aspect of this case is factual. It is the egregiousness of the blatant gerrymandering of the electoral districts for the Indiana legislature in the apportionment plan found unconstitutional by the court below. The law applied by the lower court is far from novel. Rather, the lower court's ruling is based upon well-established principles repeatedly stated by this Court.

A. A Political Group May Be The Target Of Unconstitutional Mapmaking.

This Court has long stated that an apportionment plan that invidiously discriminates against a *political* group violates the equal protection clause. In *Fortson v. Dorsey*, 379 U.S. 433, 439 (1965) (emphasis added), the Court noted that "It might well be that, designedly or otherwise, a multi-member constituency apportionment scheme, under the circumstances of a particular case, would operate to minimize or cancel out the voting strength of racial *or political* elements of the voting population." The same language (explicitly recognizing that a political group may be the target of unconstitutional gerrymandering if the facts are proven) has been repeated by the Court in *Burns v. Richardson*, 384 U.S. 73, 88 (1966); *Whitcomb v. Chavis*, 403 U.S. 124, 143 (1971); *White v. Regester*, 412 U.S. 755, 765 (1973); *Gaffney v. Cummings*, 412 U.S. 735, 751 (1973); *Chapman v. Meier*, 420 U.S. 1, 17 (1975); and *City of Mobile v. Bolden*, 446 U.S. 55, 66 (1980).

Here, plaintiffs proved that they were the target of reapportionment laws that were intended to have and had the effect of cancelling out their voting strength as a distinct and readily identifiable [4] political element of the elec-

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[4] In addition to the general election results, the location of a party's affiliates in Indiana is easily determined because primary voting requires a declaration of intent to vote for a majority of that party's candidates in the general election.

torate. The record relied on by the district court proves this invidious discrimination, not merely by relying on a presumption, but by showing both purpose and effect by a preponderance of the evidence, indeed beyond a reasonable doubt. For that reason, this case presents no substantial question of law.

B. The 1981 Indiana Reapportionment Laws Clearly And Severely Disadvantage Democrats.

This is purely and simply a case of unadorned and unconstitutional gerrymandering in the most extreme form. The Republican leadership in the State of Indiana announced its intention to exercise the power of its control of the state government to have "as many Republican districts as possible" (Dailey Dep. 20, 63) and "to hurt the Democrats as much as possible" (Bosma Dep. 110). In order to attain their stated purpose the majority resorted to a process that completely excluded members of the minority party (and all other citizens of the State) and developed a reapportionment plan that relied on bizarre shapes, ignored all traditional political boundaries, and mixed 61 single, 9 double and 7 triple-member districts in an effort to "stack" and "crack" Democratic voters so as to minimize the effectivenes of their vote and cancel their opportunity to elect a majority of the legislature.

That the majority party succeeded was clear from the results of the first election under the plan. Despite receiving 51.9% of the statewide vote, the Democrats captured only 43 of the 100 seats in the House. (Exhibit 31.) And, although the results in the Senate, if viewed superficially, may appear "fair", they actually reflect the same extreme bias against the minority. It is true, as the dissent below points out, that 13 of 25 Senate seats up for election in 1982 were won by Democrats and that such a result would appear to be in keeping with the 50.15% baseline Democratic vote. But this superficial analysis

suffers from a fatal fundamental flaw—it considers only half of the story. Thirteen of the 25 seats up for election in 1982 were Democratic in composition. (Exhibit 39.) In contrast, only seven of the 25 seats up for election in 1984 were Democratic in composition. (*Id.*) Even if Democrats received a slight majority of the statewide vote again in 1984, they would have gained only another seven Senate seats for a total of 20 of the 50 seats. (Exhibit 39.) Thus the contention by the dissent and by appellants that the 1982 Senate results show the fairness of the plan rests on a fundamental logical error.[5] The effect of the plan is severe, indeed prohibitive of an effective vote by the minority.

The districting in two of Indiana's most populous metropolitan areas—Indianapolis (Marion County) and Fort Wayne (Allen County)—presents particularly striking examples of the majority's use of "stacking" (*i.e.*, compressing the minority vote into one district) and "cracking" (*i.e.*, splitting a concentration of minority voters among several districts) to disadvantage the minority. Marion County (which is the City of Indianapolis) is slightly Republican in political composition.[6] The county's 1980

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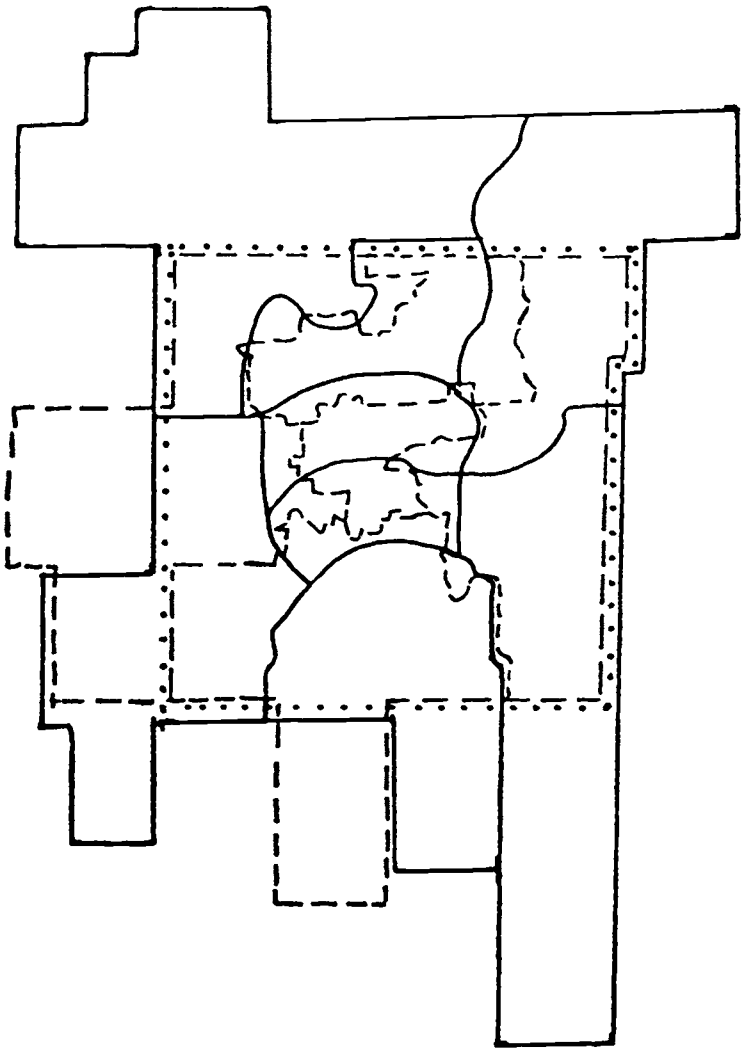
[5] The dissent's analysis of the election data suffers from other factual and logical errors. The dissent relies on an average of the results for the 1982 auditor's race (50.8% vote for the Democratic candidate), 1982 court clerk race (48.7% Democratic vote) and the 1980 court reporter's race (43.9% Democratic vote) to conclude that "the measure of the Democratic voting strength statewide in Indiana" was 46.8%. (A-45.) The average of the three races relied on by the dissent is 47.8%, not 46.8%. This methodology is also flawed. It averages a "normal" year (1980) with a Republican year (1982) and omits any Democratic year. Moreover, the percentages used by the dissent reflect the Democratic percentage of the total vote including third-party candidates for statewide office. The only useful statistic—Democratic vote as a percentage of the two party vote—results in a measure of Democratic voting strength of 48.06% for those two years. (Exhibit 31.)

[6] The dissent erroneously states the Democratic vote in Marion County to be 39% in 1982. The correct figure is 48.5%. (Exhibit X.)

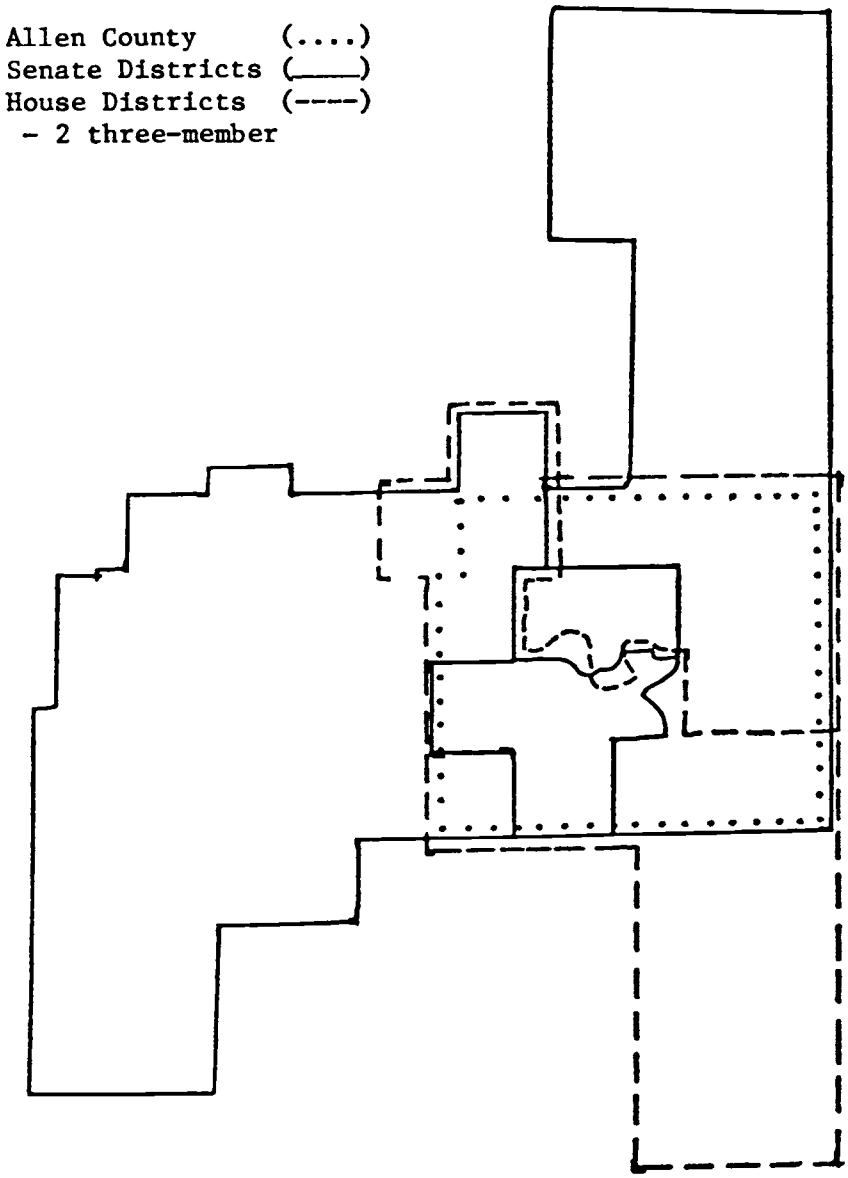
population of 765,233 (Exhibit 23) entitles it to precisely 14 Representatives and 7 Sènators. Undaunted by this statistic, the majority created 5 three-member House Districts for Marion County by patching on areas from two contiguous counties. This creative cartography enabled the majority to continue to stack Democratic voters in one three-member district in the hole of the donut while diluting significant concentrations of Democratic voters into the four three-member districts in the surrounding area. The result is 12 safe seats for the majority. Schematically, this can be seen on page 12. Marion County is essentially a square. The detailed lines of the districts are too irregular to be depicted in a documents of the size of this brief.

In Allen County, also essentially a square, the same goal gave rise to a different scheme. Rather than "stacking" the minority vote, the majority "cracked" it in half by splitting the otherwise Democratic City of Fort Wayne in two and combining each half with parts of the rest of Allen County and parts of three surrounding rural counties to create two solidly Republican three-member districts. This is shown on page 13.

The result of these techniques was the election of 18 (86%) Republican representatives and 3 (14%) Democratic representatives from these two areas that compose 21% of the State. This despite the fact that the vote in these areas was 46.3% Democratic. (Exhibit X.)



Marion County (••••)
Senate Districts (——)
House Districts (----)
- 5 three-member


Allen County (....)
Senate Districts (____)
House Districts (----)
- 2 three-member

C. The Plan Constitutes A Purposeful Effort To Wall Democrats Out Of The Legislative Process.

Two fundamental equal protection doctrines support the ruling below. Either is independently sufficient to affirm the judgment. First, a state may not intentionally disadvantage any class of citizens in the exercise of their fundamental right to vote. *Rogers v. Lodge*, 458 U.S. 613 (1982). That is precisely what appellees proved and the district court found occurred in Indiana. Thus, whether or not a finding of intent is a necessary element of such an equal protection claim, it is sufficient to establish such a claim when the intent and effect are shown. It is beyond doubt that an intentionally discriminatory apportionment plan is constitutionally impermissible. It is likewise beyond doubt that a finding of such an intent is fully supported, indeed mandated, by the evidence in this case as detailed in the district court's opinion. The dissent does not challenge that finding.

D. The Plan Bears Every Objective Indication Of Arbitrary Governmental Action.

Regardless of intent, any legislative classification of citizens must be rational and based on legitimate state interests. *Royster Guano Co. v. Virginia*, 253 U.S. 412, 415 (1920); *Reed v. Reed*, 401 U.S. 71, 76 (1971). On its face, the 1981 Indiana apportionment law treats different classes of citizens differently by placing them in different types of districts. No justification for any of these differences was offered in the district court. And there is none. The evidence reveals only a wholly irrational plan unsupported by any interests other than advantage to the majority, which is by definition impermissible, just as much as a tax on members of only one party.

1. *The Legislative Process Was Exclusionary.* The legislative process used to adopt the Indiana reapportionment laws featured a secret plan, vehicle bills, specious amendments, an all majority conference committee, so-

phisticated technology paid for by the majority party, and an eleventh hour vote. By employing these tactics, the majority managed effectively to exclude any opportunity for comment or review by the minority or the public. In so doing, the real purpose of the legislative process was revealed—the adoption of a reapportionment law of the majority, by the majority and for the majority. The findings of the district court are fully supported by the record.

2. *Existing Boundaries Are Wholly Disregarded.* Article 4, Section 6, of the Indiana Constitution requires that, "no county, for senatorial apportionment, shall ever be divided." In 1896, the Indiana Supreme Court held that when this requirement must yield to population equality, it should be bent only to the extent necessary. *Denney v. State*, 144 Ind. 503, 42 N.E. 929 (1896). In devising the Senate plan, the majority chose simply to ignore the standard constitutional doctrine. The 1981 plan divides the counties in Indiana 73 times—far more than was necessary to meet the requirements of equal population, and far more than the previous districting law, which divided counties only 53 times, or an alternative map, which divided counties only 38 times. There is not a single district in the 1981 law that is comprised solely of any county or group of counties. In this respect, the 1981 plan is completely different from the Indiana plan involved in *Whitcomb v. Chavis*, 403 U.S. 124 (1971), where counties in Indiana were assigned at large delegations in proportion to their population.[7]

The majority's blatant disregard for existing political boundaries is apparent in view of the fate of political subdivisions under the plan which are themselves a multiple (within the 2% population deviation utilized by the

[7] For the majority to give Marion County 14 at large representatives and seven senators (which its population perfectly fits) would run the risk that the whole delegation and therefore the legislature itself could be captured.

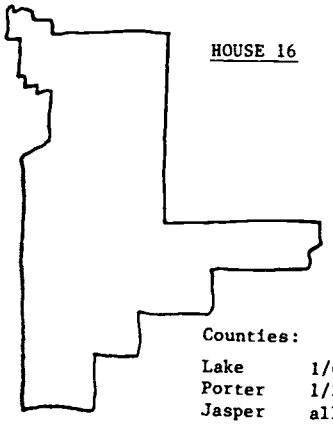
majority) of the ideal district size. Rather than use these natural building blocks, the majority split every one of them. The following are examples.

Political District	Population/ Deviation	Potential Districts	Representation Under Current Law
LaPorte Co. (County and City of LaPorte)	108,632 (1.0%)	2 house 1 senate	Parts of 1 double-member and parts of 1 single-member house district. Parts of 2 senate districts.
Marion Co. (Coterminous with City of Indianapolis)	765,233 (0.4%)	14 house 7 senate	All of 3 and parts of 2 triple-member house districts. All of 3 senate districts and parts of 5 others.
Vanderburgh Co. (Contains City of Evansville)	167,515 (1.7%)	3 house	All of 1 and parts of another single-member house district and parts of 1 double-member house district.
St. Joseph Twp. (Allen Co.)	55,381 (0.8%)	1 house	Part of 1 triple-member house district.
Jeffersonville Twp. (Clark Co.)	55,831 (1.6%)	1 house	Divided between 2 single-member house districts.
Portage Twp. (St. Joseph Co.)	109,694 (.09%)	2 house 1 senate	Part of 1 single-member and 1 double-member house district. Part of 3 senate districts.
City of South Bend	109,727 (.06%)	2 house 1 senate	Part of 2 single-member and 1 double-member house districts. Part of 3 senate districts.

3. *Bizarre Shapes Abound.* As is typical of gerrymandering for whatever purpose, the plans employed by the majority include many grotesque districts. As noted by the district court:

> District 66 . . . begins in the southwest townships of Bartholomew County, includes ten of the twelve townships in Jackson County, includes one township in Jennings County, goes through a narrow passage by taking in Johnson and Lexington townships in Scott County, then expands into Clark County until reaching the state border at the Ohio River. District 42 fills a narrow portion of the state beginning with northern Vigo County at the southern most point and extends approximately 50 to 55 miles north to include one township (Hickory Grove) of Benton County. Along the way, the district picks up one northwest township of Parke County, splits Fountain County, and includes all of narrow Vermillion County.

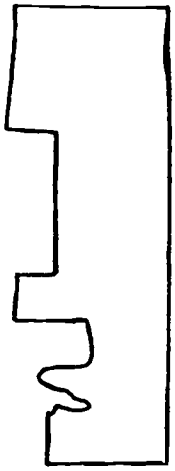
Those two districts are not alone. Examples of some others appear on the next two pages.



HOUSE 16

Counties:

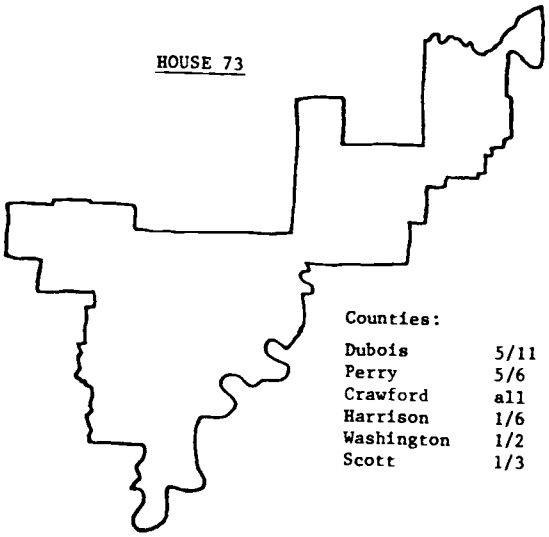
Lake	1/6
Porter	1/2
Jasper	all
Pulaski	1/3



SENATE 14

Counties:

Allen	1/2
DeKalb	2/3
Steuben	all



HOUSE 73

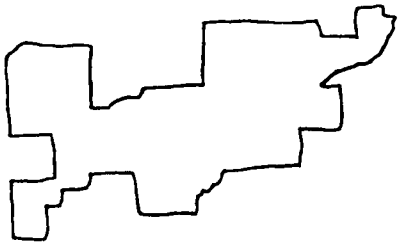
Counties:

Dubois	5/11
Perry	5/6
Crawford	all
Harrison	1/6
Washington	1/2
Scott	1/3

HOUSE 46

Counties:

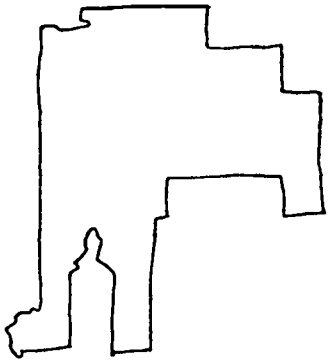
Vigo	1/3
Clay	1/3
Owen	all
Morgan	1/6
Monroe	1/10
Greene	1/6
Sullivan	1/4



SENATE 38

Counties:

Vermillion	1/2
Parke	all
Vigo	1/2
Putnam	2/3



SENATE 29

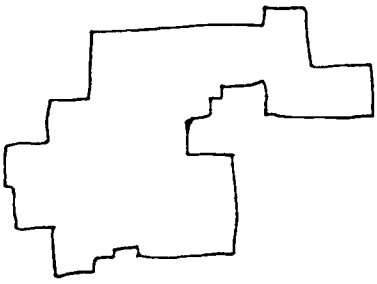
Counties:

Boone	1/6
Hamilton	1/6
Marion	1/8

SENATE 24

Counties:

Hamilton	1/3
Boone	3/4
Hendricks	3/5
Montgomery	1/5
Putnam	1/4



4. *There Is A Total Lack of Consistency.* The Indiana reapportionment laws reflect no consistent policy and none was even urged upon the district court. Juxtaposition of the House and Senate maps reveals not a single case of nesting, that is, two House districts contained within a single Senate district. Instead, the combination of the boundaries of the House and Senate districts creates a dizzying array of competing lines. The use of multimember districts is wholly inconsistent. They appear in urban and rural areas. The seven triple-member districts appear in the State's first and third largest urban areas, but not its second (Gary), fourth (South Bend), or fifth (Evansville), even though all but Indianapolis are similar in size. In some instances the multimember districts are used to concentrate common interests and in others to split them in half.

5. *There Is No Justification For The Laws.* The plan bears all indicia of irrationality. If the laws make any sense at all, they make sense only from the perspective of disadvantaging a minority political party—the perspective from which the maps were in fact drawn. Exhibits 51 and 52 show alternative ways to divide Indiana into only three districts, each electing at large delegations. Exhibit 52 creates a Democratic fortress by giving a majority of seats to the Northwest and Southern parts of the State. Exhibit 51 gives the Republican center a majority. Under each of these maps, one party or the other would control the legislature under any foreseeable election result. These hypothetical, ridiculous and obvious abuses of majority power are not distinguishable in principle from the 1981 Indiana reapportionment laws.

E. Defendants May Not Hide Behind The Principle Of "One Man, One Vote".

Appellants' claim that reliance on the principle of "one man, one vote" insulates otherwise discriminatory reapportionment laws from challenge ignores the repeated admonitions to the contrary by this Court. As the evi-

dence below overwhelmingly demonstrates, the creators of the Indiana apportionment plan believed that as long as the districts, although of different sizes, contained populations in proportion to their representatives, they were free to design a plan which would effectively insulate them from ever losing control of the legislature. "A districting plan may create multimember districts perfectly acceptable under equal population standards, but invidiously discriminatory because they are employed 'to minimize or cancel out the voting strength of racial or political elements of the voting population.'" *City of Mobile v. Bolden*, 466 U.S. 55, 69 n. 14 (1980), quoting *Gaffney v. Cummings*, 412 U.S. 735, 751 (1973). Use of sophisticated computer technology to ensure achieving that impermissible goal while satisfying numerical standards at the same time does not make that effort constitutional. To hold otherwise would fly in the face of the principles of representative government and equal protection of the laws that this Court's long line of apportionment cases has sought to protect. It simply reduces adherence to population guidelines to a game in which the mapmaker aided by technology can accomplish everything that was available to pre *Baker v. Carr* cartographers.

CONCLUSION

The judgment of the district court should be affirmed.

Respectfully submitted,

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