

The
PALIMPSEST



Governor Hughes Signs Temporary Reapportionment Plan.

Reapportionment in Iowa

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The Meaning of Palimpsest

In early times a palimpsest was a parchment or other material from which one or more writings had been erased to give room for later records. But the erasures were not always complete; and so it became the fascinating task of scholars not only to translate the later records but also to reconstruct the original writings by deciphering the dim fragments of letters partly erased and partly covered by subsequent texts.

The history of Iowa may be likened to a palimpsest which holds the record of successive generations. To decipher these records of the past, reconstruct them, and tell the stories which they contain is the task of those who write history.

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FRANK T. NYE

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Illustrations

All illustrations, unless otherwise noted, are in the possession of the State Historical Society of Iowa.

Front Cover: Witnesses as Governor Hughes signs temporary reapportionment plan, from left: Senator O'Malley, Representative Carnahan, Senator Elthon, Representatives Steffen, Van Nostrand, Hagie, Mowry, Worthington, and Reppert.

Authors

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THE PALIMPSEST

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A Date to Remember

December 3, 1963 was a day marked for history in Iowa — a special election day when Iowans voted on the Shaff Plan, a proposed constitutional amendment to change the formula for periodic apportionment of seats in the legislature. Having been passed by the 59th General Assembly in 1961, and by the 60th in 1963, this plan was now ready for submission to the people. It was identified in the 59th General Assembly as Senate Joint Resolution 16, and in the 60th as Senate Joint Resolution 1, but was commonly known for its chief sponsor, Senator David O. Shaff, Clinton Republican.

No sooner had the 60th General Assembly ended than a Great Debate started over the Shaff Plan, spreading through Iowa like a giant grass fire. Democratic and Republican state committees said "hands off," so two new non-partisan groups — Citizens for Reapportionment, December 3 and Iowans Against the Shaff Plan — were formed to provide a comfortable home for "pros" and

"cons," regardless of party affiliations. They met in resounding face-to-face debates seldom heard in Iowa since the turn of the century.

Others entered the fray. The Iowa Farm Bureau Federation and the Iowa Manufacturers Association favored the plan, while the Iowa Federation of Labor AFL-CIO and the League of Women Voters of Iowa opposed it. Iowa State Medical Society members argued among themselves after newly-elected officers, as individuals, came out for the plan and promptly were called to task by those advocating a non-involvement policy.

Through the long summer and into the fall the Great Debate raged. It was stilled momentarily over the sad weekend of November 22 with the tragic assassination of President Kennedy. Then, on December 3, nearly half a million Iowans went to the polls and rejected the Shaff Plan, 272,382 to 190,424. Citizens of the 17 largest counties, containing 50.03% of the people, voted against it on grounds it failed to provide them their fair share of the legislature's seats. The defeat triggered a series of events climaxed by an Extraordinary Session of the 60th General Assembly. It took seven weeks to pass "temporary" and "permanent" apportionment plans as directed by the Federal District Court.

If one wondered why so much time was required, all he needed to do was to look back into Iowa history for the reasons. There were many.

The Historical Background

Reapportionment? You only whispered it in the hallowed halls of the General Assembly until members themselves started to discuss it openly less than 20 years ago. Even then few Iowans seemed interested in what it was about. Some, perhaps unintentionally, got it mixed up with appropriations and referred to it as "reappropriation." Others did not try to pronounce it. Still others, aware of long-range implications, quietly hoped it would go away. But there also were those who would not let it go away; who hoped to acquaint all Iowans with the legislature's half-century neglect of the problem.

As of April 8, 1964, their hope was being realized. By then, Iowans had been exposed often enough to the word "reapportionment" to know it meant something basic to our form of representative government and, therefore, was important to them. April 8 was the day the 60th General Assembly ended its Extraordinary Session, after seven weeks of bitter debate over this problem of reapportionment which Governor Harold E. Hughes had called on legislators to resolve: How to apportion the legislature's seats in a manner fair and equitable to all. Should they be appor-

tioned on population? On area? Or on a combination of the two? Or should other factors be considered? That was and remains the problem. Its ultimate solution may depend on guidelines from the United States Supreme Court.

The 22nd General Assembly

Ironically, there might have been no problem if Iowa's 22nd General Assembly had not sloughed its reapportionment responsibility, thereby setting precedent for the next seven legislatures. The 22nd, meeting in 1888 [legislatures met in even-numbered years until 1907] was the first ever to fail to carry out this responsibility.

Since becoming a Territory in 1838 and a State in 1846, Iowa's three Constitutions, following requirements in the Northwest Ordinance, had called for a two-house legislature, all seats on population. The seats had to be reapportioned every two years. There was one limitation: No House of Representative district could contain more than four counties. The legislature reapportioned its seats faithfully every two years until the 22nd General Assembly met January 9, 1888. It merely adopted the 1886 Reapportionment Act of the 21st General Assembly, with minor changes. So did the next seven Assemblies.

The 1904 Amendments

Consequently, population shifts were not reflected in apportionment of legislative seats for 16 years. Aware of this, members of the 29th Gen-

eral Assembly in 1902 took the first step to "legalize" failure to carry out the apportionment formula by adopting proposed amendments for it. The proposals gave the Senate 50 seats based on population, as in the past. There would be 108 House seats, one for each of the 99 counties and an extra one for each of the nine counties largest in population.

The proposals also called for reapportionment after every census, instead of every two years as required previously. This meant reapportionment every five years, for the Federal census was taken in years ending in "0" and the state census in years ending in "5," until repealed in 1936.

The proposals were adopted in identical form by the 30th General Assembly in 1904, as required for proposed amendments, and by the people November 8, 1904, at a statewide referendum. They took effect November 29, 1904, rewriting Sections 34, 35 and 36 of Article III, and Section 16 of Article XII of the Iowa Constitution of 1857.

Significantly, however, never from the time of their adoption did the legislature ever apportion Senate seats as required by the 1904 amendments. Thus, the reapportionment problem was compounded.

The 1928 Amendment

Noting this oversight, the 41st General Assembly, in 1925, took the first step to legalize it. Members adopted a proposed 11-word amendment, the

weight of which was to be felt for more than three decades. The 11 words, ". . . but no county shall be entitled to more than one (1) senator," were to be added to Section 34 of Article III as adopted in 1904. This proposal actually pulled the rug from under the population basis for apportioning Senate seats. But it had no practical effect for, as noted previously, Senate seats never had been apportioned on population as required by the 1904 amendments. Counties entitled to extra Senate seats, which they never got, now were to be denied the extra seats regardless of their populations.

The 42nd General Assembly completed the amending process required of the legislature in 1927, and the people approved the proposed amendment on November 6, 1928. It became a part of the Constitution 24 days later. And so the problem grew.

The 1941 Apportionment

The problem concerned itself only with Senate seats. Beginning with the 1904 amendments, the nine population-based House seats were apportioned periodically as required. But Senate seats were never apportioned as required and not until 37 years later were they even partially apportioned.

Members of the 49th General Assembly, aware of rumblings of discontent over failures of its predecessors to act, moved cautiously. Hoping to quiet the rumblings, they finally reapportioned four of the 50 Senate seats, affecting only 12 of 99

counties. The remaining 46 seats and 87 counties were unchanged despite wide disparities in population and even though many could have been reapportioned under the 1928 limiting amendment. So the problem was further compounded.

The 1953 Apportionment

The rumblings did not subside after the 1941 apportionment. Rather, they grew in volume and when the 54th General Assembly in 1951 ignored its duty to reapportion Senate seats, they reached a mild crescendo.

By this time even legislators reluctant to face the problem began to have some misgivings and several proposals began to appear. Some were in bill form, to carry out provisions of the 1904-28 formula, and some in resolution form proposing substitutes for that formula.

Some actually were debated openly in the House, inspiring historic remarks indicating the mood of members. One, in all seriousness, arose to declare: "We'd better do something about this problem now or the people will vote for a Constitutional Convention in 1960 and Heaven only knows what would happen if the people got ahold of this." Another member from a smaller county disagreed: "We've got 'em (big counties) where we want 'em so let's hold on to what we've got."

Nevertheless, the rumblings had become so audible in 1953 that the 55th General Assembly meeting that year moved to relieve the tension by

reapportioning four of the 50 Senate seats not changed in 1941. This action affected nine counties. None of the remaining seats were reallocated, despite ever increasing population disparities. So the problem continued to grow.

Gubernatorial Proposals

Now the problem was drawing greater public attention as people realized they could vote in 1960 to hold a Constitutional Convention [which lost 470,257 to 534,628] where fair apportionment might be achieved. Governor Leo A. Hoegh, Republican, took official note of the pending reapportionment problem, however, in his inaugural address to the 56th General Assembly in 1955 and again in his swan song speech to the 57th General Assembly in 1957. So did the Republican and Democratic party platforms.

Governor Herschel C. Loveless, Democrat, made reapportionment the No. 1 recommendation in his inaugural address to the 57th General Assembly. When that legislature paid no more than lip service to the growing problem, Governor Loveless appointed the following 16-member bipartisan Governor's Reapportionment Action Committee to rally support:

Frank T. Nye, Cedar Rapids, chairman; Senator C. Joseph Coleman, Clare; James Croghan, Woodbine; Senator Duane E. Dewel, Algona; Charles Duchon, Sioux City; Mrs. Elliott Dudley Full, Iowa City; Dr. C. Edwin Gilmour, Grinnell; Mrs. Roland Grefe, Des Moines; Carl Hamilton, Iowa Falls (who succeeded Donald A. Norberg,

Albia, resigned); Rep. Arthur C. Hanson, Inwood; Rep. Scott Swisher, Iowa City; Emmet Tinley, Council Bluffs; Mrs. Harvey Uhlenhopp, Hampton; Kenneth Wagner, West Liberty; Maynard Waxenberg, Davenport, and Robert G. Wyth, Cedar Falls.

This committee met periodically for two years, stirring up public interest and writing a proposed substitute for the 1904-28 amendments to submit to the 58th General Assembly in 1959. The proposal had the unanimous support of the committee, even though it was somewhat revolutionary in that it called for crossing county lines, where necessary, to create equal-population districts for the House. Senate seats were to be based on area with a slight population factor.

The 1959 Legislature

The proposal met early death in the overwhelmingly Republican Senate when the 1959 legislature convened. But it sparked action that resulted in moving the Assembly off dead center. Hardly a day passed without some reapportionment action. But, in the end, the two chambers could not agree on a plan, nor could any of three conference committees come up with a compromise both would accept. But the groundwork for future action had been laid.

The 1961 Legislature

Action finally came during the 59th General Assembly's session in 1961. Governor Norman A. Erbe, Republican, joined his two immediate prede-

cessors by calling for reapportionment in his inaugural address. This time the legislature responded with three separate actions:

1. The nine population-based House seats were reapportioned as required.

2. The Senate seats, on advice of Attorney General Evan L. Hultman, were reapportioned as required for the first time since 1904. The constitutionality of this bill was challenged in Iowa County District Court and ultimately upheld by the Iowa Supreme Court in an 8 to 0 decision.

3. The Shaff Plan was adopted as the first step toward replacing the 1904-28 formula.

So the legislature faced the problem squarely at last, and dealt with it.

The 1963 Legislature

There was no doubt that the 60th General Assembly would pass the Shaff Plan in 1963 and submit it to the people. Even so, Governor Hughes, Democrat, in his inaugural address pleaded with the legislature to junk it in favor of a more equitable plan. His plea fell on deaf ears, for the legislature adopted the Shaff Plan and set December 3, 1963, for a special election to submit it to the people. And so the Great Debate began.

The Court and the Election

Meanwhile, there was action on another front. On March 26, 1962, the United States Supreme Court had ruled in a Tennessee case, *Baker vs. Carr*, that Federal courts could accept jurisdiction in some kinds of reapportionment suits.

Encouraged by this landmark decision, Charles L. Davis and Arthur J. Lewis of Des Moines challenged the constitutionality of Iowa's 1904-28 apportionment formula. Respectively the president and the secretary-treasurer of the Iowa Federation of Labor, AFL-CIO, they said it violated the 14th "equal protection" Amendment of the United States Constitution and, further, that the Shaff Plan, if adopted, would not alleviate the present situation which, they held, denied them and thousands of other Iowans their fair share of the legislature's seats.

The suit was filed August 9, 1962, in Federal District Court for Southern Iowa at Des Moines in their behalf by Attorneys Harry H. Smith of Sioux City, former State Representative Robert F. Wilson of Cedar Rapids, and C. A. Frerichs of Waterloo. Secretary of State Melvin D. Synhorst, the State's chief elections official, was named chief defendant, along with the Governor, members of

the State Executive Council and several county auditors, as election officials. Chief Judge Harvey M. Johnson of the Eighth Circuit Court of Appeals appointed Circuit Judge Martin D. Van Oosterhout of Orange City, Northern Iowa District Judge Edward J. McManus of Cedar Rapids, and Southern Iowa District Judge Roy L. Stephenson of Des Moines as a three-judge panel to try the suit.

On October 20, 1962, the panel refused Attorney General Hultman's motion to dismiss the suit for the defendants and, ultimately, set it for trial on March 28 and 29, 1963. At the trial, plaintiff's suggested the Shaff Plan election be set aside if the court agreed that its adoption would not remedy the present situation.

On May 7, 1963, the court in a 2 to 1 decision, held that the 1904 and 1928 amendments, in combination, were "invidiously discriminatory" and that the Shaff Plan formula for apportionment of House seats appeared to be even more unfair. The court noted that 27.4% of the people elected a majority (55) of 108 House members under the 1904-28 formula while approximately 24% would elect a majority under the Shaff Plan formula.

The trio of judges was in unanimous agreement in this portion of the decision. However, there was a split in another area. Judges Van Oosterhout and Stephenson, noting the Shaff Plan was not yet a part of the Constitution, decreed it not ripe

for decision. They decided to withhold judgment on the Shaff Plan until after the December 3 election which, they said, might have a bearing on the court's ultimate decision. Judge McManus dissented, holding that the Shaff Plan was unconstitutional on its face and, therefore, that the December 3 election should be enjoined to save the taxpayers its estimated cost of \$250,000. He held that the legislature as then constituted should remain in effect as a "de facto" body to reapportion its seats under the 1857 formula, which the 1904-28 formula had repealed.

The Shaff Plan

With the court standing aloof and the 60th General Assembly in adjournment, the Shaff Plan's fate now rested with the people. The Plan was easy enough to understand; it simply proposed this new apportionment formula as a substitute for the 1904-28 formula:

SENATE: The number of seats would be increased from 50 to 58, all based on population. County lines could be crossed where necessary to create 58 districts, each with population deviating no more than 10% from 1/58th of the state's population at the last census.

HOUSE: The number of seats would be reduced from 108 to 99, one for each of the 99 counties, regardless of its population.

ENFORCEMENT: House seats would not be reapportioned. Senate seats would be reapportioned every year ending in "3" by a commission of 10 members, five each from the two leading political parties as chosen by

their respective state central committees. The commission would have until February 15 to reapportion Senate seats. The legislature would have until May 1 to accept the commission's plan, to change it, or to enact its own plan if the commission failed to act by February 15. If both the commission and the legislature failed to act, the Iowa Supreme Court would have until October 1 to adopt a plan. Any 10 legislators, by June 1, could ask the Supreme Court to review any plan adopted by the commission and/or the legislature to make certain it conformed to the Shaff Plan formula.

The December 3 Election

Final decision on the Shaff Plan was now up to the people in whom "all political power is inherent." First, however, they were to be exposed to the running Great Debate of several months' duration.

Proponents argued that the Shaff Plan, although not perfect, was a step toward something more fair and equitable; that you had to make progress a step at a time. Opponents said it was even more unfair than the 1904-28 formula, which, they were careful to note, already had been viewed as "invidiously discriminatory" by the Federal Court. They also held it sought to freeze minority control into the Constitution, which would make it impossible to take future steps toward more equitable apportionment.

Robert K. Beck, Centerville editor-publisher and former State Representative, was named State Chairman of the Citizens for Reapportionment, De-

ember 3 group, which carried the fight for the plan. A fellow editor-publisher and former state Senator, Duane E. Dewel of Algona, headed the Iowans Against the Shaff Plan organization. Both leaders were Republicans but members of both parties, along with citizens deeply interested in the Shaff Plan's fate but without strong party ties, flocked into both camps.

Governor Hughes, acting against the counsel of his own political advisers, also got into the thick of the fight. He argued forcefully, up and down the state, against the plan and was credited in large measure, along with State Senator Jack Schroeder, Bettendorf Republican, for its defeat.

So the battle was joined and the Great Debate took place in every corner of Iowa. By 10 p.m. on December 3, the question was settled. The people had rejected the Shaff Plan, 272,382 to 190,424. A county-by-county breakdown of the vote may be found on the inside back cover.

Back to Court

Even as election smoke cleared, the Federal Court panel on December 4 reopened the reapportionment suit, calling a pre-trial conference for December 7. Three days later, still moving with deliberate speed, the court set December 20 for a hearing.

At the hearing, counsel for plaintiffs asked the court to revive the 1857 apportionment formula repealed by the 1904 amendments, which, in com-

bination with the 1928 amendment, already had been held "invidiously discriminatory" by the court. Attorney General Hultman, for the state, requested the court to give the legislature another chance to reapportion its seats — along lines the court might suggest. He said the nearness of the 1964 elections posed a hurdle that could not be cleared if the 1857 formula were to be revived. He also argued there was no precedent in Iowa for revivability of sections of the State's Constitution that had been repealed.

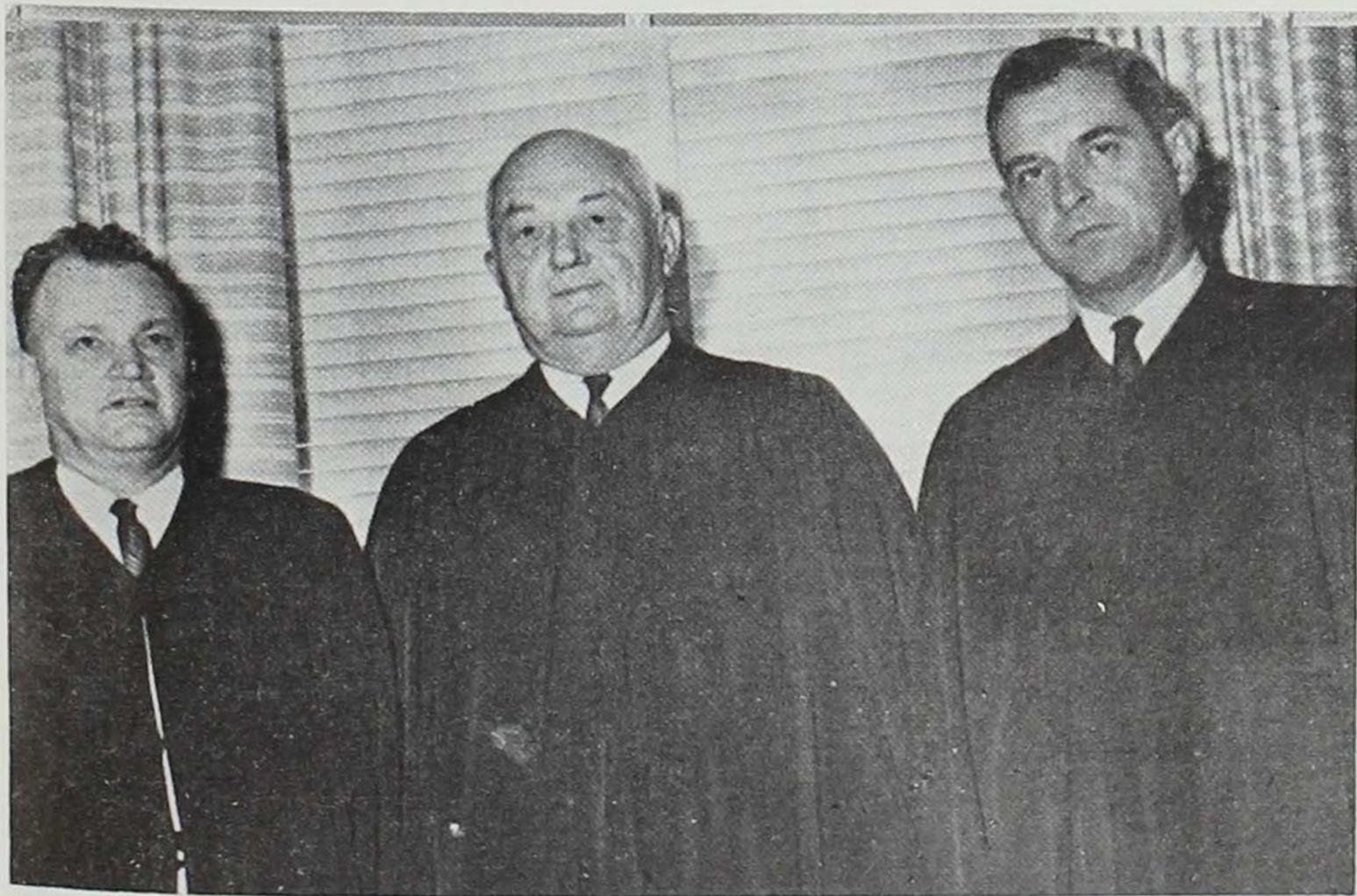
Mindful the situation called for prompt action, the court reached a unanimous 3 to 0 decision on January 14, 1964. Its conclusion: The legislature should reapportion its seats in time for the 1964 elections or face the prospect the court might do it. The court directed the legislature to:

1. Apportion its seats temporarily in time for the election in 1964 of members to the 61st General Assembly meeting in 1965.
2. Adopt an apportionment formula, in the form of a proposed constitutional amendment, to submit to the people if approved by the 1965 legislature.

For guidelines, the court said seats of one chamber should be based on population and that any departure from population in apportioning seats of the other should be on "rational" lines. The word "rational" was to become highly controversial as legislators sought to define it during the special session to follow.



These Des Moines residents brought the suit challenging constitutionality of Iowa's legislative apportionment: Charles L. Davis, president, and Arthur J. Lewis, secretary-treasurer of the Iowa Federation of Labor, AFL-CIO.



Iowa Press Association Photo

This panel of Federal Court Jurists tried the suit: Southern Iowa District Judge Roy L. Stephenson, Des Moines; Eighth Circuit Court Judge Martin D. Van Oosterhout, Orange City; and Northern Iowa District Judge Edward J. McManus, Cedar Rapids.



THE GOVERNOR OF THE STATE OF IOWA

WHEREAS, a panel of judges convened in the United States District Court for the Southern District of Iowa has declared that the existing Iowa constitutional and statutory provisions for the apportionment of members of the Iowa General Assembly are "invidiously discriminatory . . . null and void, and inoperative for all future elections to the General Assembly of the State of Iowa, except elections to fill vacancies in the present General Assembly," and

WHEREAS, the Federal Court panel has further declared that "the present General Assembly has the power to and is the appropriate body to provide for interim reapportionment which meets Federal constitutional standards, and action should be taken in time to make new apportionment provisions operative with respect to the 1964 election for members of the General Assembly which meets in regular session in 1965," and

WHEREAS, the Federal Court panel has ordered that "if a special session of the Legislature is not called within a reasonable time, or if the Legislature is convened and it becomes apparent that no substantial progress has been made to provide for constitutional apportionment, this court reserves jurisdiction to consider prescribing an interim plan of reapportionment, and

WHEREAS, because of conditions and the Federal Court order above referred to, an extraordinary occasion exists within the contemplation of Section Eleven (11), Article Four (IV), of the Constitution of the State of Iowa,

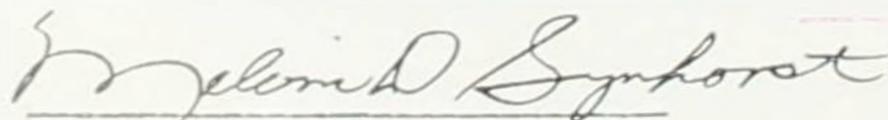
NOW THEREFORE, I, Harold E. Hughes, Governor of the State of Iowa, do hereby proclaim that the Sixtieth General Assembly shall convene in Extraordinary Session at the State House in the City of Des Moines, Iowa, at 10:00 a.m., on the 24th day of February, A.D., 1964, and to that end I do call upon and direct the members of the House of Representatives and of the Senate of the Sixtieth General Assembly to convene in their respective chambers in the State House at Des Moines, Iowa, at 10 o'clock a.m. on February 24, 1964, for the purpose of receiving from the Chief Executive of the State of Iowa his message pertaining to the purpose for which such assembly is convened, and to transact such legislative business in keeping therewith as may come before the Houses of the General Assembly and such other emergency matters as are necessary to provide for continued operation of government in the State of Iowa in the interim prior to the convening of the next regular session of the General Assembly.

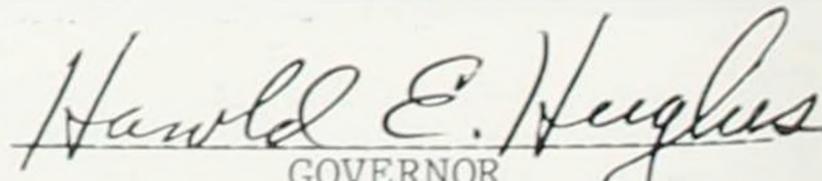
IN TESTIMONY WHEREOF, I have hereunto subscribed my name and caused the Great Seal of the State of Iowa to be affixed. Done at Des Moines this 17th day of January in the year of Our Lord one thousand nine hundred sixty-four.

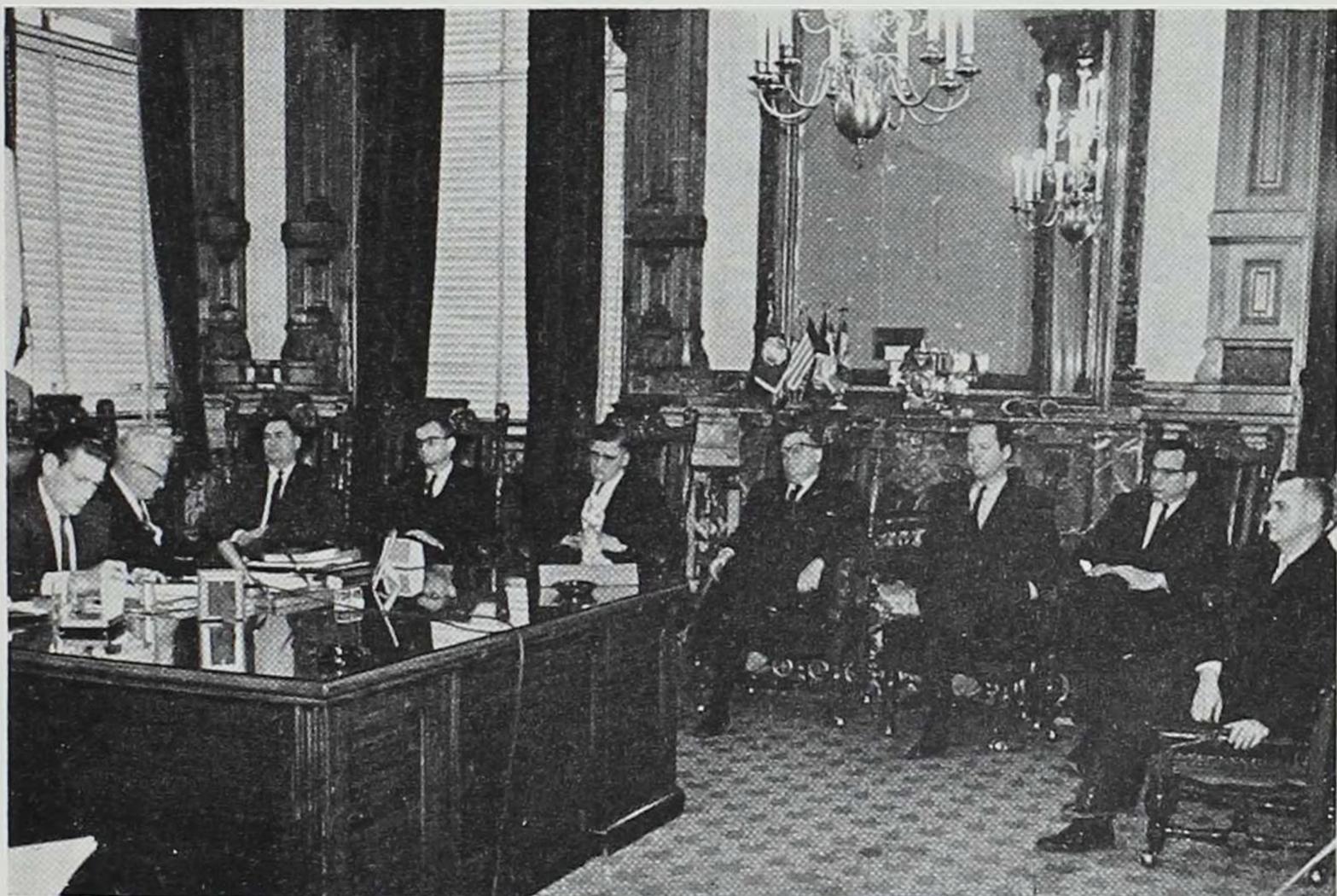
Attest:

Melvin D. Synhorst (signed)

Harold E. Hughes (signed)


Secretary of State


GOVERNOR



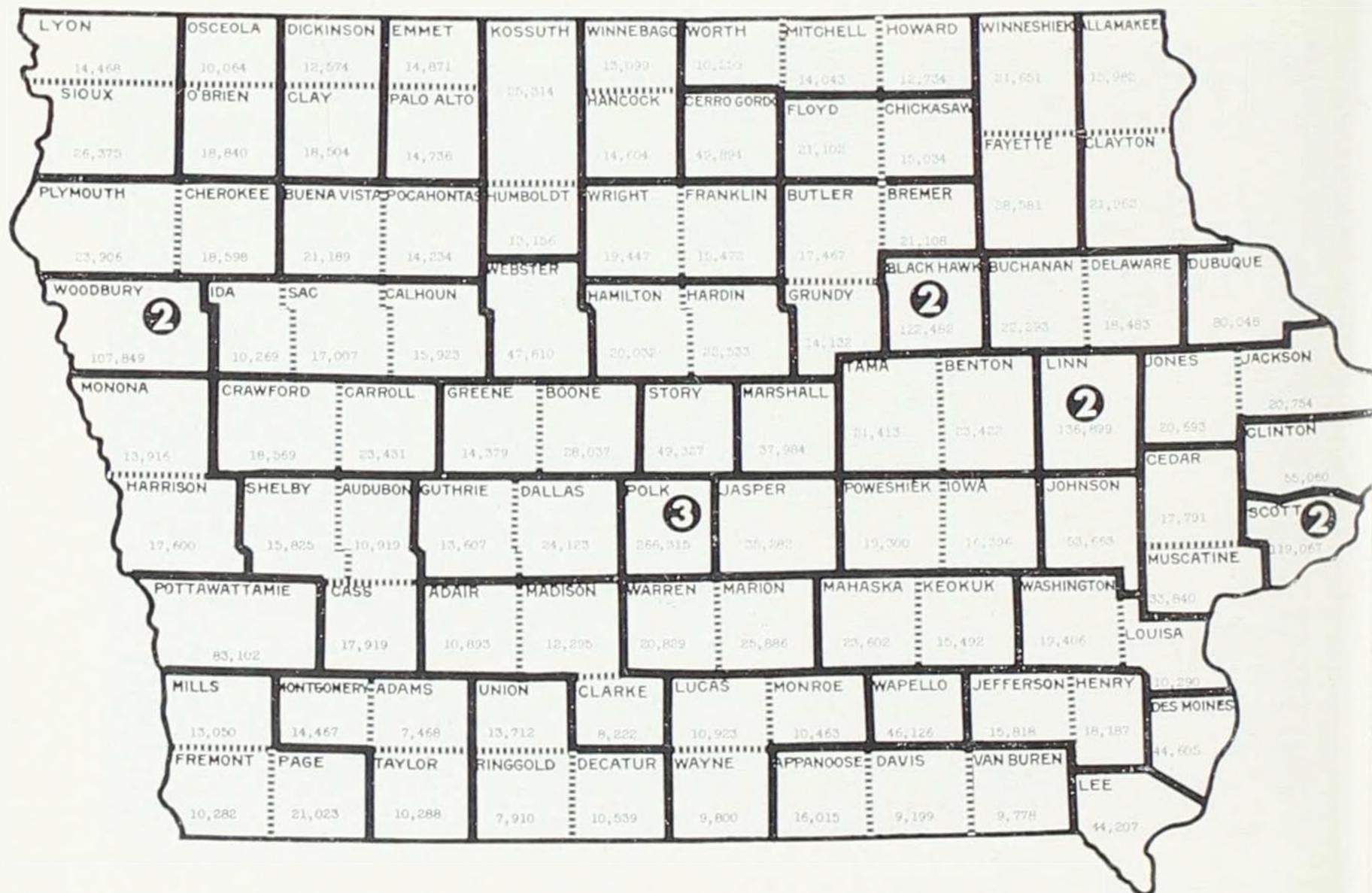
Des Moines Register Photo

Governor Hughes confers with legislative leaders about date for Extraordinary Session. From left: Governor Hughes, Lieutenant Governor Mooty, Representative Dunton, Senator Rigler, Representatives Marvin W. Smith, Mowry, and Riley; Speaker Naden, Senator Schroeder, Representatives Camp and Hagedorn.

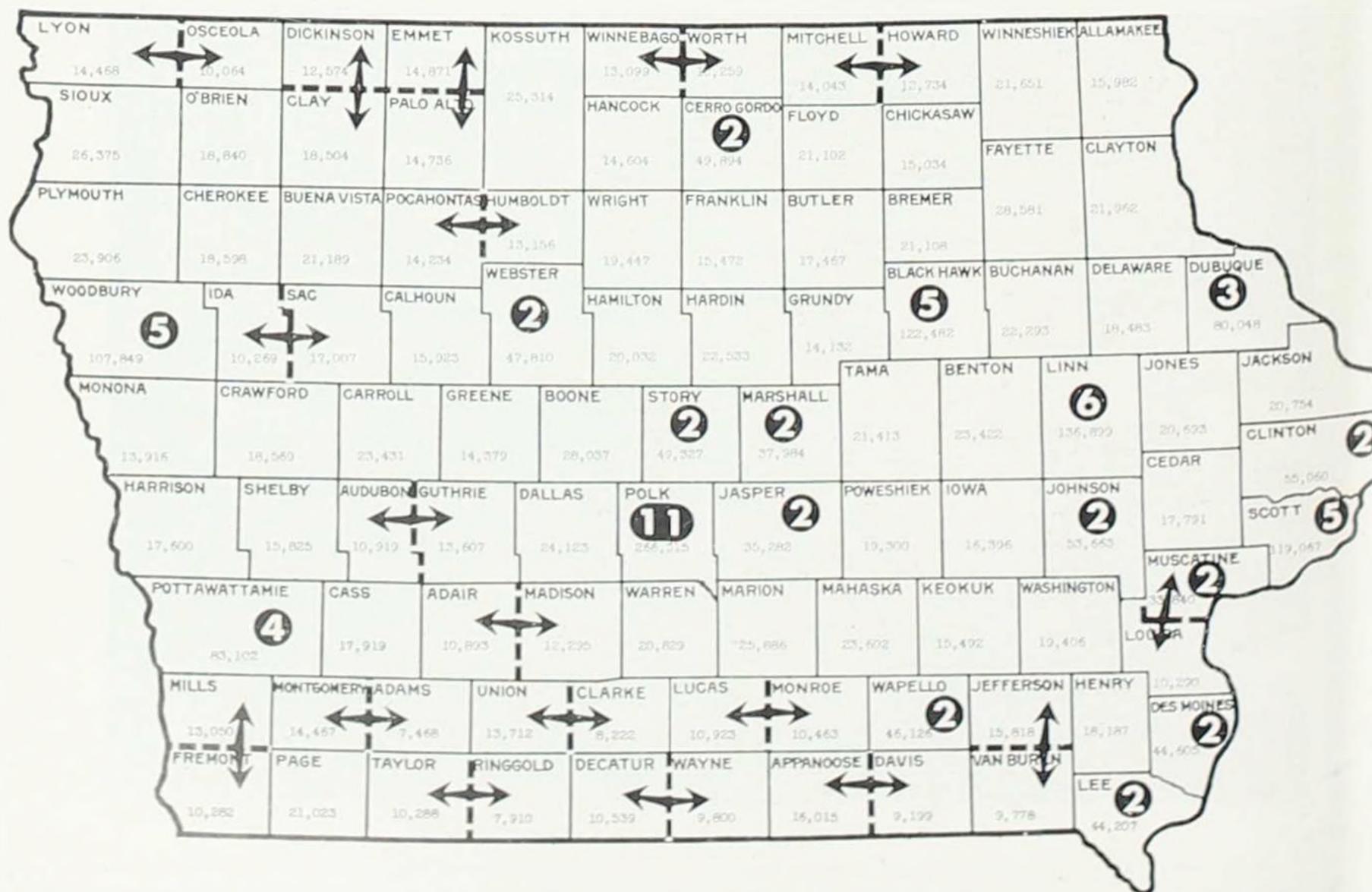


Des Moines Register Photo

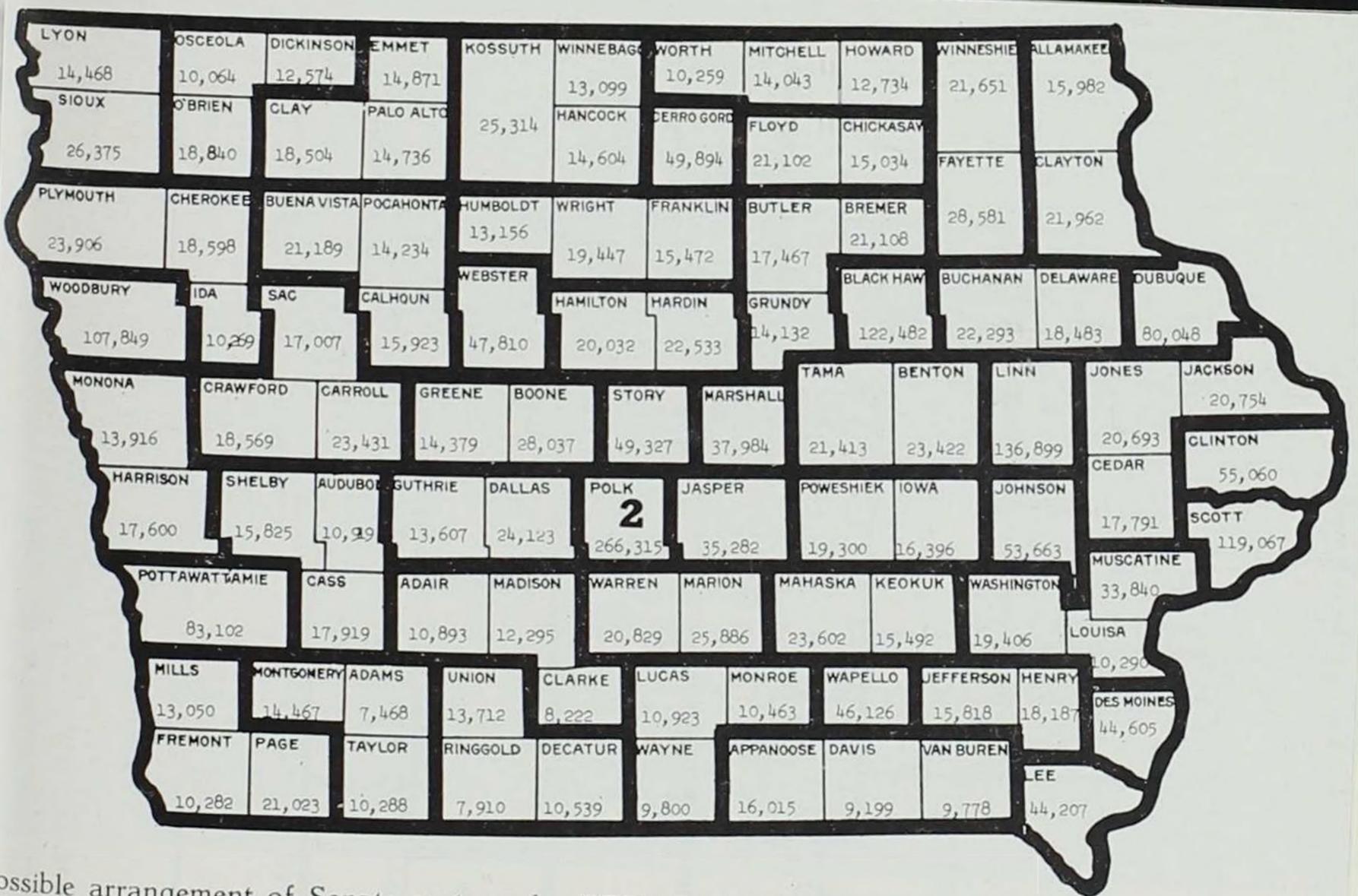
Senate special reapportionment committee at work, clockwise from left: Flatt, Elthon, Stephens, Van Eaton, Chairman Rigler, Schroeder, Shoeman, Elvers (face not visible), Shaff, Lucken, Brown, and Frommelt (back to camera). Missing from picture: Senators Cowden, Lisle, Vance, Wiley, O'Malley.



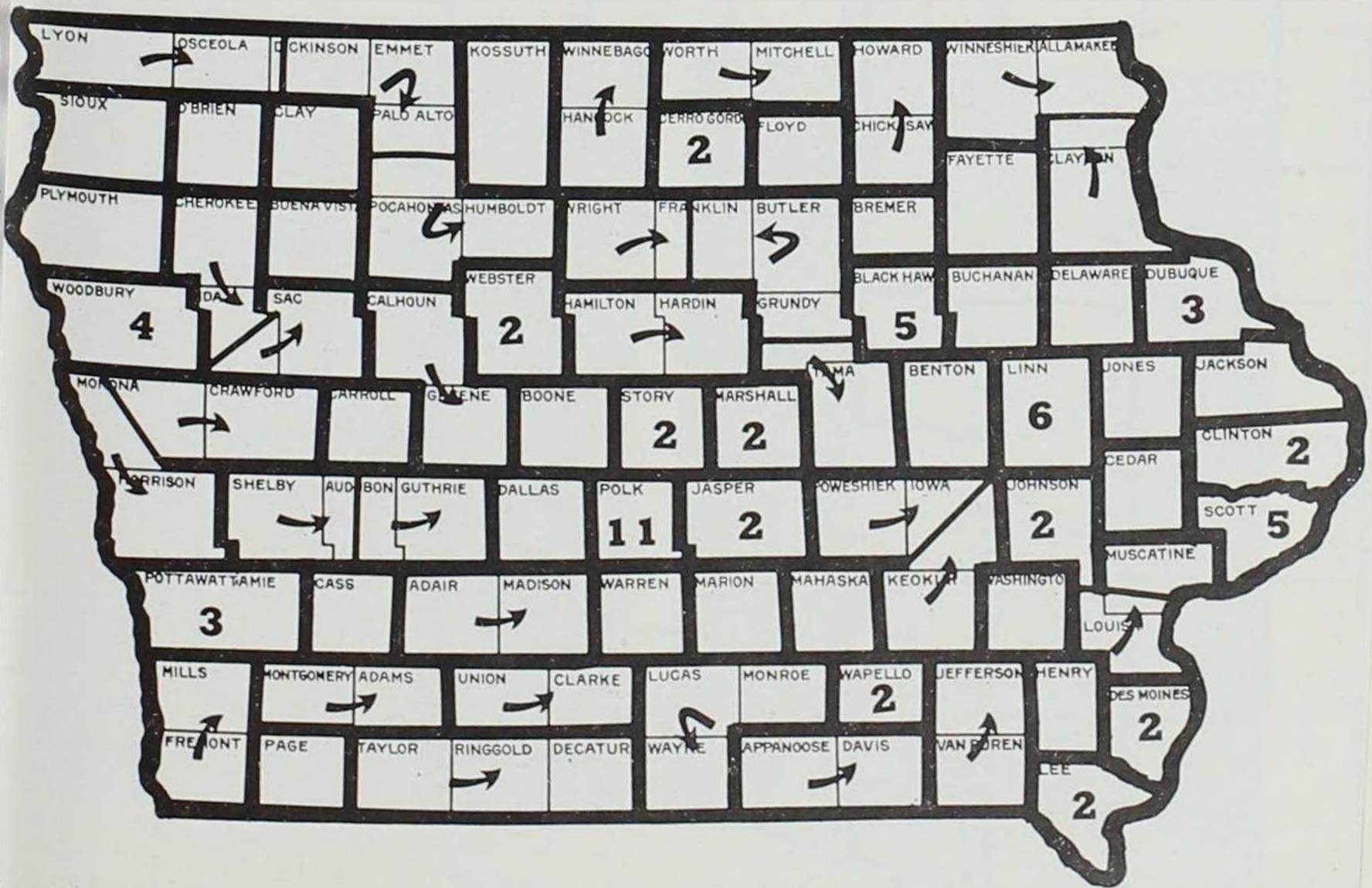
SENATE TEMPORARY PLAN. Numbers indicate seats allocated to larger counties with other big counties forming single-county districts each with one seat. Remaining counties form two-county and three-county districts as indicated by heavy lines. Total seats: 59 with majority (30) elected by 38.9% of the people.



HOUSE TEMPORARY PLAN. Numbers indicate seats allocated to larger counties; arrows indicate counties combined into single districts with one seat each, except Muscatine-Louisa with two seats. Remaining counties allocated one seat apiece. Total seats: 124 with majority (63) elected by 44.02% of the people.

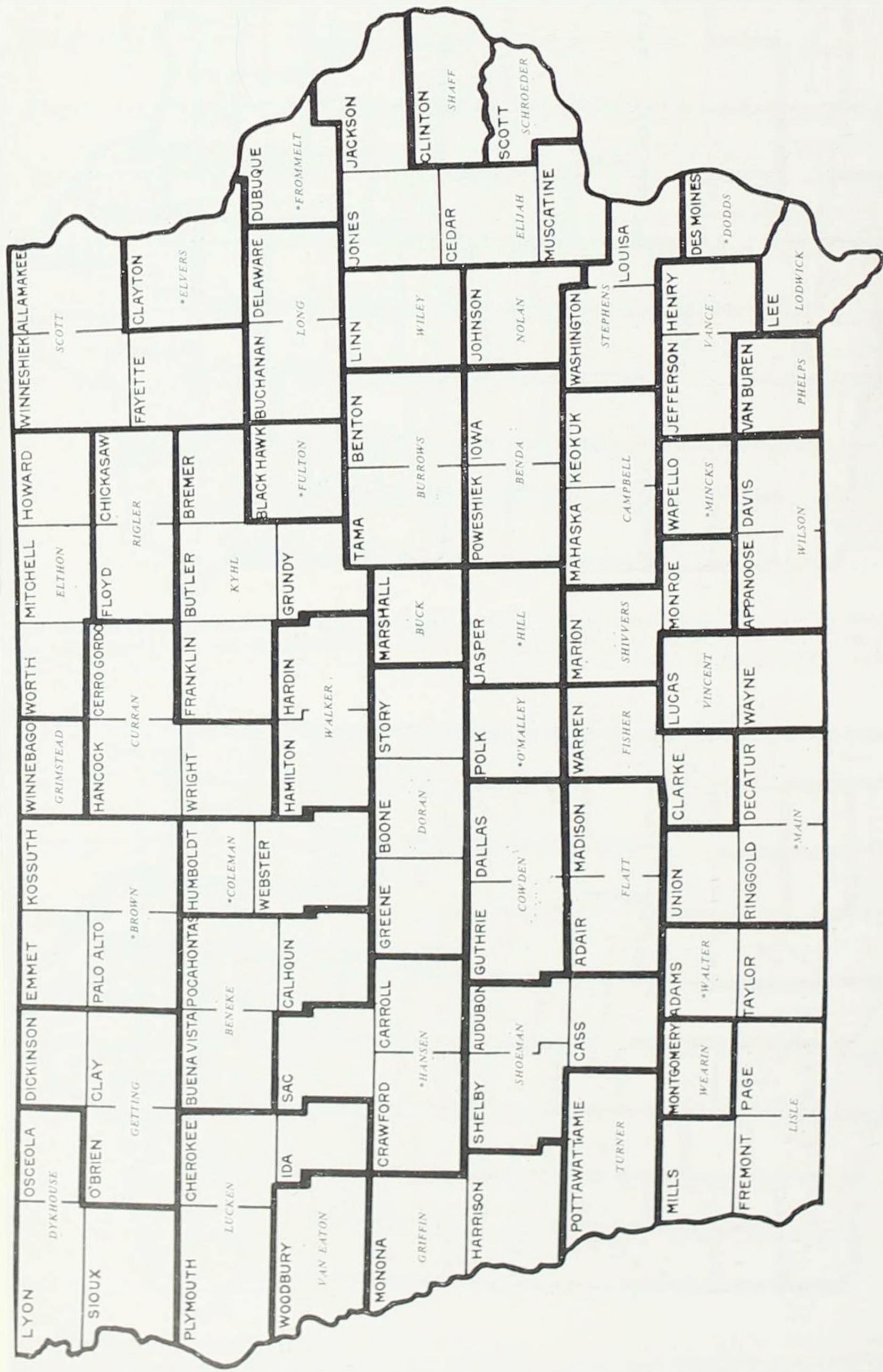


Possible arrangement of Senate seats under PERMANENT PLAN with Polk County district allocated two and all other districts, as indicated by black lines, allocated one apiece. Total seats: 50 with majority (26) elected by 37.4% of the people.



Possible arrangement of House seats under PERMANENT PLAN with counties entitled to more than one indicated by numbers. County lines could be crossed to create equal population districts. Total seats: 114 with majority (58) elected by 44.9% of the people.

Maps Prepared by Iowa Legislative Research Bureau



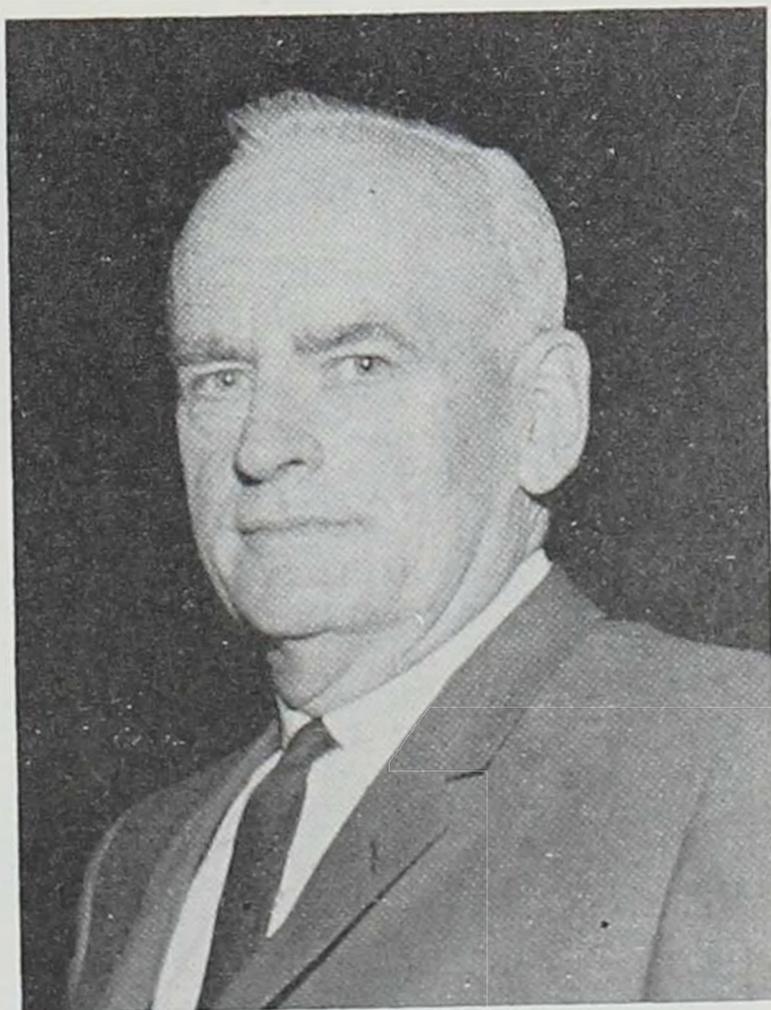


Des Moines Register Photo

First of three conference committees on PERMANENT PLAN, clockwise from left: Senators John A. Walker and George E. O'Malley; Representative Marvin W. Smith, Senators Jack Schroeder and Clifford M. Vance; Representatives Floyd H. Millen, David Stanley, and Raymond Eveland.

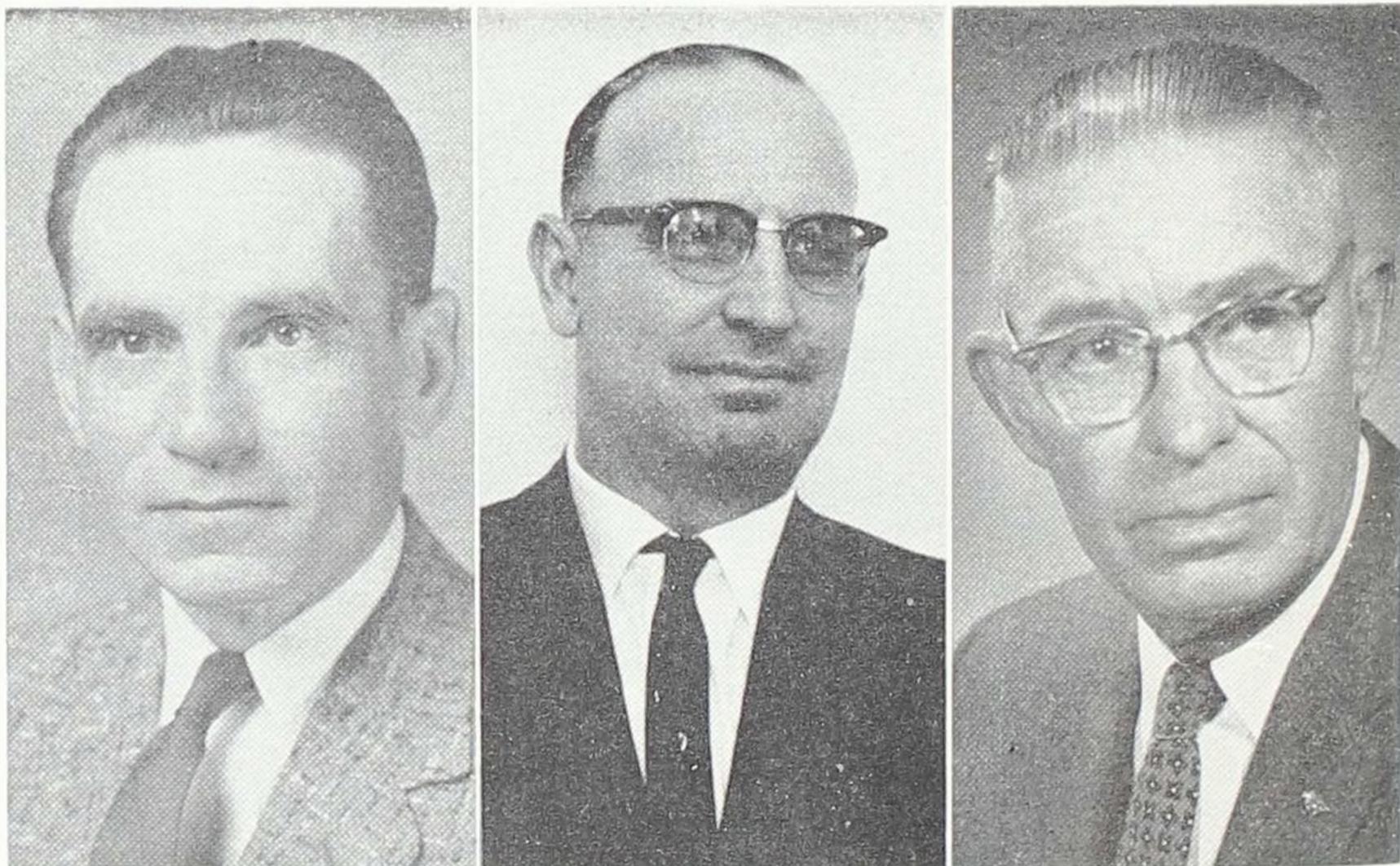


Senator David O. Shaff, author of the Shaff Plan and chairman of Second Conference Committee on PERMANENT PLAN, which was dissolved when members failed to agree.



Senator D. C. Nolan, member of Third Conference Committee and one of the authors of PERMANENT PLAN which was approved by committee and passed by the General Assembly.

Dulmage Cannon Johnson saw 27 A-Z of the people elected a majority (55) of the Representatives.



They appealed Federal Court decision in reapportionment suit to United States Supreme Court where it is pending. From left: Clarke County Auditor Dean D. Hill, Osceola; Ringgold County Auditor Albert Drake, Mount Ayr; and Wayne County Auditor George T. Nickles, Corydon.



John N. Hetherington Photos

They filled House vacancies left by resignations: Representatives Tom Dougherty, Albia; Al Meacham, Grinnell; and Minette Doderer, Iowa City.

Governor's Proclamation

The legislature, of course, could not act unless called into Extraordinary Session by the Governor. Consequently, Governor Hughes took a cue from the court and moved promptly. No sooner had the court's directive become a matter of record than he called a conference with Democratic and Republican leaders of the legislature to determine the most convenient date to set for a special session. The conference was held on January 17, 1964, and even before the leaders arrived back home that evening, Governor Hughes had issued a proclamation summoning the 60th General Assembly into Extraordinary Session at 10 a.m., February 24, 1964.

The Temporary Plan

Governor Hughes might have chosen an earlier date but he had to allow sufficient time to fill three House vacancies left by resignations in Johnson, Monroe, and Poweshiek counties. He set February 18, 1964, for special elections in all three counties and when the votes were counted Democrats had captured all three seats, previously held by two Democrats and one Republican. This changed the House alignment from 79-29 to 78-30 favoring the Republicans. The Senate alignment remained Republican, 38-12.

Newly-elected House members were Minette Doderer of Iowa City, to succeed Scott Swisher, Iowa City Democrat in Johnson County; Tom Dougherty of Albia, to succeed Katherine M. Falvey, Albia Democrat in Monroe County, and Al Meacham of Grinnell, to succeed George Paul, Brooklyn Republican in Poweshiek County.

They were sworn into office shortly after the Extraordinary Session opened and then took their places beside their House colleagues, and the Senators who had joined them, to hear Governor Hughes officially outline his reasons for calling them together.

The Chief Executive made a strong plea for

unity between rural and urban forces, and between Democrats and Republicans, urging all hands to work diligently and cooperatively to reach an agreement on an equitable apportionment plan along guidelines laid down by the court. Tactfully, he pointed out the marked distinction between "minority protection," as guaranteed under our form of government, and "minority control," as exercised wrongfully in Iowa for more than half a century.

After listening to the charge, the legislature moved into high gear, hoping to carry out the Governor's recommendations and the court's directive in three weeks or less. But the session was to last more than twice that long.

A prompt decision was reached to concentrate on the reapportionment issue, taking up only such other legislation deemed of emergency nature. Also, that special reapportionment committees would be named rather than to reorganize the reapportionment standing committees that served during the 1963 regular session.

Named to the House committee by Speaker Robert W. Naden, Webster City Republican, who was challenging Lieutenant Governor William L. Mooty's bid for a third term, were: Representatives Henry Nelson of Forest City, chairman; Lawrence D. Carstensen of Clinton, vice-chairman; Maurice Baringer of Oelwein, Floyd Edgington of Sheffield, Harry R. Gittens of Council Bluffs, Frances G. Hakes of Laurens, Arthur C. Hanson of Inwood, Joseph G. Knock of Creston, Francis L. Messerly of Cedar Falls,

Floyd H. Millen of Farmington, John Mowry of Marshalltown, Louis A. Peterson of Lawton, Dan Prine of Oska-loosa, Tom Riley of Cedar Rapids, Samuel E. Robinson of Guthrie Center, William J. Scherle of Henderson, Marvin W. Smith of Paullina, and David M. Stanley of Muscatine, Republicans; William F. Denman of Des Moines, John L. Duffy of Dubuque, Keith H. Dunton of Thornburg, Raymond Eveland of Kelley, Niels J. Nielsen of Ringsted, M. Ross Stevenson of Lime Springs, and Ivan Wells of Bedford, Democrats.

Lieutenant Governor Mooty named this committee: Senators Robert R. Rigler of New Hampton, chairman; Charles S. Van Eaton of Sioux City, vice-chairman; Harry L. Cowden of Guthrie Center, Leo Elthon of Fertile, Joseph B. Flatt of Winterset, Vern Lisle of Clarinda, J. Henry Lucken of LeMars, Jack Schroeder of Bettendorf, David O. Shaff of Clinton, John D. Shoeman of Atlantic, Richard L. Stephens of Ainsworth, Clifford M. Vance of Mount Pleasant, and Martin Wiley of Cedar Rapids, Republicans; John Brown of Emmetsburg, Adolph W. Elvers of Elkader, Andrew G. Frommelt of Dubuque, and George E. O'Malley of Des Moines, Democrats.

Ready for immediate consideration of both committees was a temporary plan drawn by a Des Moines lawyer, David Belin, which had the personal support of Republican State Chairman Robert Ray, also a Des Moines lawyer, and of Attorney General Hultman, the lone Republican candidate for Governor. Chairman Ray had circulated copies of the plan, prior to the opening of the session, to Democrats as well as Republicans in the legislature so all members had the opportunity to become familiar with it.

Democrats submitted a plan, too, and the Legislative Research Bureau, at the request of several legislators, drew 16 separate plans, which were ready for consideration. But all of these turned out to be only the first of nearly 100 plans to be drafted, if not actually considered, as the session wore on.

Republicans repeatedly heaped coals on Governor Hughes for his refusal to submit a plan of his own. They declared that inasmuch as his approval was needed for any temporary plan passed, he should tell them what kind of a plan would please him. But the Governor, mindful of the big Republican majorities in both chambers, stuck to his guns. He felt Republicans would exhibit more joy in ripping apart any plan he might submit than in getting down to the business of passing a plan. The Governor repeatedly said he would sign any plan conforming to the court's guidelines, and that he preferred that House seats be based on population with Senate seats based on population-area factors.

The Senate

Before the first week was over the Senate committee recommended a plan basing House seats on population and Senate seats on a predominantly area basis with a population factor. House committee members, meanwhile, decided to summon Attorney General Hultman to straighten them out on the meaning of the word "invidious."

First roll call action came on March 3 in the second week when the Senate voted, 34 to 16, to send the House a plan to increase House seats from 108 to 120, based largely on population, and Senate seats from 50 to 51, based largely on area. Only Polk County would get a second Senate seat.

The key amendment, which provided a test of the many votes ahead, was whether to reduce to 51 the 56 Senate seats called for in the original bill. After a bitter battle, the 51-seat amendment was adopted, 29 to 21, and the bill was on its way to passage and to the House.

The House

First major House battle was over an amendment to change the Senate bill to permit each of the 99 counties to continue to have one House seat, regardless of population. Debate waxed long and hot before the House (with several rural members rising to unprecedented heights of statesmanship by literally voting themselves out of seats) rejected the amendment — 60 to 46. This meant that House seats would be based predominantly on population in any plan subsequently agreed upon.

Next House battle was over how much of a population factor to permit in apportionment of Senate seats. Should the House join the Senate in limiting Senate seats to 51 or insist on restoring the 56-seat limit rejected by the Senate? The larger figure would provide for additional seats

for such populous counties as Linn, Black Hawk, Scott, and Woodbury, as well as Polk.

Some House members believed that the 56-seat limit would increase the population factor in the Senate sufficiently so the House could hold down its own population factor. Under the 1904-28 formula, 27.4% of the people elected a majority (55) of the 108 House members and 35.6% a majority (26) of the 50 Senators. If Senate seats were increased to 56, these House members reasoned, the population factor there would make it unnecessary to assure 50% of the people the right to elect 50% of the House membership. But other House members wanted to go along with the Senate to limit its seats to 51 and to make the House seats truly reflect population.

In the showdown, the 56-seat amendment was passed, 80 to 27, in a vote taken March 9. The House also voted to increase the number of House seats from 120, as called for in the Senate bill, to 130. The bill was then sent back to the Senate calling for five more Senators and 10 more Representatives than the Senate had agreed to, and for six more Senators and 22 more Representatives than at present.

To Conference

Two days later the Senate took up the House version of the proposed temporary plan and voted, 31 to 18, to restore the 51-seat Senate, leaving unchanged the House's desire for 130 seats of its

own. This action was taken in the face of a statement by Governor Hughes that he would veto any temporary plan limiting the Senate to 51 seats on grounds it would not meet the court's guidelines.

The bill now was sent back to the House where, on March 12, members voted 97 to 11 against concurring with the Senate on the 51-seat limit. This left the matter up to the Senate whose members promptly insisted, by voice vote, on the 51-seat figure. So the bill was sent to a conference committee.

Even as the Senate acted, 325 delegates of the Iowa Farm Bureau Federation, meeting in a downtown hotel, were voting to back the 51-seat Senate limit. Within hours, President Kenneth Schuman of the Iowa Farmers Union announced that his organization favored a 56-seat Senate.

As House conferees, Speaker Naden selected Representatives Mowry, the Republican leader; Maurice Van Nostrand of Avoca and Raymond W. Hagie of Clarion, Republicans, and Lorne R. Worthington of Lamoni, Democrat. Lieutenant Governor Mooty appointed Senators Rigler, the Republican leader; Elthon and Flatt, Republicans, and Frommelt, the Democratic leader.

The committee convened late in the afternoon of March 12 and the following Monday had agreed on a tentative compromise bill calling for a 55-seat Senate and a 113-seat House. It then recessed to permit party caucuses to try it on for size, with the

knowledge that Governor Hughes had given it his tentative approval. Democrats in both House and Senate and Republicans in the House apparently liked the compromise. But Senate Republicans would have none of it. So, the conference committee went back to work.

On Tuesday, March 17, the committee reported a new compromise calling for a 59-seat Senate on area with a population factor and a 124-seat House largely on population. Six of the new Senate seats would be based on population, three on area. Under this compromise, 38.9% of the people would elect a majority (30) of 59 Senators and 44.02% would elect a majority (63) of the 124 Representatives.

The House took up the compromise plan on March 18 and worked through the noon hour until 1:10 p.m. before adopting it, 72 to 35. The Senate added its approval four hours later, 28 to 21. Governor Hughes used 48 different ball point pens to affix his signature at 11:30 a.m., March 23, and now the plan had only to pass federal court inspection.

Back to Court Again

On March 20, only eight days before the March 28 deadline [which the Assembly extended to April 14] for filing nomination papers for legislative offices, the court set March 27 to consider the temporary plan and several new actions pertaining to the reapportionment suit, which had been filed

even after the special session convened. Here, briefly, is a summary of these actions:

March 9, 1964: As the temporary plan was being debated, Clarke County Auditor Dean D. Hill of Osceola, Wayne County Auditor George T. Nickles of Corydon, and Ringgold County Auditor Albert Drake of Mount Ayr, as defendants in the reapportionment suit, filed notice they would appeal the court's January 14 decision to the United States Supreme Court.

March 10, 1964: Five Republicans, Senators John J. Campbell of Oskaloosa and Edward A. Wearin of Red Oak, former Senator Dewel, chairman of Iowans Against the Shaff Plan, and Representatives Elmer H. Vermeer of Pella and William J. Coffman of North English, asked the court for permission to intervene in the reapportionment suit. Their application was filed by three Republican lawyers, Senators D. C. Nolan of Iowa City, Richard C. Turner of Council Bluffs and A. V. Doran of Boone. Among other things, they said the court's guidelines were being "seriously misconstrued" by legislators, that the word "rational" meant different things to different people and they asked the court to elaborate on the meaning of its January 14 decision. On March 13, the three county auditors filed a statement supporting the intervention petition and three days later the plaintiffs entered a resistance.

March 18, 1964: The three county auditors filed an application for an order to stay the January 14 decision from taking effect, along with supporting statements signed by 17 Senators and 42 Representatives. Plaintiffs filed a resistance to the stay petition March 26.

This set the scene, then, for the March 27 hearing on all of these questions before the Federal Court panel.

There had been action, too, in Polk County district court. On January 27, 1964, Ernest J. Seemann of Waterloo, "for himself and as a candidate for lieutenant governor and on behalf of all other persons and taxpayers" of Iowa, asked the court to declare martial law in the absence of a legally-constituted legislature; also to require Governor Hughes to fill "existing vacancies" in the legislature by appointment. Seemann followed on February 17 with a separate application asking the court to order the State Executive Council to prohibit legislators elected in 1962 from convening in special session on February 24 and to order State Comptroller Marvin Selden not to pay them. District Judge Wade Clarke dismissed the first action on Attorney General Hultman's motion on March 3. The second suffered the same fate in District Judge Tom K. Murrow's court just 17 days later.

On March 27, the Federal District Court panel faced a battery of 10 lawyers, representing the plaintiffs, the state and various parties to the suit. Presentations lasted well into the noon hour, after which the panel announced it had:

1. Approved the temporary reapportionment plan, holding it "materially reduced" malapportionment of both House and Senate and that in the absence of further guidelines from the United States Supreme Court, it "is not so objectionable on federal constitutional grounds as to warrant disapproval as an interim plan of apportionment."
2. Denied the application for a stay order.
3. Denied the petition for intervention.

The three county auditors appealed the denial of the stay order to the United States Supreme Court, where, on April 8, Associate Justice Byron

R. White refused to intervene with the District Court's decision. On May 5, the three county auditors also appealed the District Court panel's January 14 decision to the United States Supreme Court where it was pending as this was written.

The Permanent Plan

With the temporary plan approved, legislators went to work on a constitutional amendment proposing a "permanent" formula to submit to the people, if passed by the 1965 Assembly, as a substitute for the 1904-1928 formula. This time they were at ease. There was no Governor's veto to worry about, for his signature was not required on proposed amendments. Some thought there was no further threat of court action either, but others disagreed.

Still in the majority, the rural bloc served early notice it would not be as lenient on the population factor as in the temporary plan. But the urban bloc noted that 1965 legislators would be more representative of the people and, therefore, in a position to kill any formula considered inequitable — and so, too, would the people.

Every argument heard in the temporary plan debate was rehashed many times as the permanent plan was being forged, until it became obvious the two chambers would never agree without again going to conference. When the debate opened, however, and even as it raged, Governor Hughes advised the Assembly to recess, delaying any action until the United States Supreme Court handed

down guidelines, expected by mid-summer. Some wanted to heed his advice, but Republican leaders decided against it, prompting the Governor to observe that the people would not accept less of a population factor in the permanent plan than in the temporary plan. Regardless of sentiments on this question, members generally seemed to be agreed that the number of seats in the permanent plan should be less than the 183 in the temporary plan and, if possible, less than the present 158. From there, they went separate ways.

First action came March 30 when the Senate voted 43 to 7 to send the House a proposal for a 47-seat Senate, based largely on area, and a 100-seat House, based largely on population. Two days later the House returned it, after voting 80 to 26 to increase the 100-seat House to 112-115. But the Senate voted 36 to 14, on April 2, to restore the 100-seat House. This set the stage for what may have been the only time in history the House ever was unanimous against anything, with members refusing, 101 to 0, to accept the 100-seat House provision. But the Senate, as expected, insisted on it, 26 to 24, and the proposal was sent to the first of these three conference committees:

First: Senators John Walker of Williams, Vance and Schroeder, Republicans, and O'Malley, Democrat. Representatives Marvin Smith of Paullina, Stanley and Millen, Republicans, and Eveland, the Democratic floor leader.

Second: Senators Jacob Grimstead of Lake Mills, J.

Louis Fisher of Osceola and Shaff, Republicans, and Jake Mincks of Ottumwa, Democrat; Representatives Max W. Kreager of Newton, Paul Knowles of Davenport and Nelson, Republicans, and Nielsen, Democrat.

Third: Senators A. V. Doran of Boone, Nolan and Van Eaton, Republicans, and Brown, Democrat; Representatives John Camp of Bryant, Keith Vetter of Washington and Scherle, Republicans, and Harley J. Palas of Farmersburg, Democrat.

Appointed April 2, the first committee worked over the weekend and on April 6 compromised on a proposal for a Senate of 47-53 seats, with no more than 40% and no less than 38% of the people electing 50% of the members, and for a House of 112-115 seats with 50% of the people electing 50% of the Representatives. County lines could not be crossed to create districts, something the Senate had insisted on, but the House had rejected, earlier. The compromise was short-lived. The House got it first and killed it, 70 to 36.

When the second committee failed to agree, the third started to work on April 7, with the outlook dark, indeed. But the next day the committee reported a compromise proposing this formula:

SENATE: 50 seats with 18 assigned to counties with 50% of the population and 32 to the remaining counties, which would be formed into 32 districts, none with more than three counties, so arranged that a majority of Senators (26) would be elected by no less than 36% of the population.

HOUSE: 114 seats with 57 assigned to big counties containing 50% of the population and with those entitled

to two or more seats divided into the number of districts equal to its number of seats, each district with a population varying no more than 10% from the average; the remaining 57 seats assigned on a population basis to the remaining counties with crossing of county lines permitted whenever a county's population varied 30% or more from the average.

ENFORCEMENT: Legislature would reapportion its own seats every 10 years or the Iowa Supreme Court would do it.

Final debate on this compromise started at 6:05 p.m., April 8, in the House, which passed it at 8:40 p.m., 69 to 37. The Senate immediately took up the bitter debate and passed the proposal at 10:45 p.m., 36 to 14. By 11 p.m., legislators were on the way home.

The next day both Governor Hughes and his Republican opponent, Attorney General Hultman, opened fire. The Governor called it "a nightmare of galloping malapportionment," while the Attorney General said he had "grave reservations" about it. Both said it would not pass inspection by the 1965 legislature, by the court, or by the people.

Newspapers generally criticized it, one calling it the "Swiss Cheese" plan because "it is so full of holes." State organizations were unhappy; some said it went too far, others not far enough.

And so another episode closed in the continuing effort to define fair apportionment and how to implement it, with the final chapter yet to be written.

VOTE ON SHAFF PLAN — DECEMBER 3, 1963

<i>Counties</i>	<i>For the Amendment</i>	<i>Against the Amendment</i>	<i>Counties</i>	<i>For the Amendment</i>	<i>Against the Amendment</i>
Adair	1862	702	Jefferson	1373	1187
Adams	1116	356	Johnson	1841	7279
Allamakee	1725	1480	Jones	2756	1549
Appanoose	1369	1454	Keokuk	2046	1566
Audubon	1331	456	Kossuth	1645	2694
Benton	2695	2205	Lee	2087	3430
Black Hawk	2992	15690	Linn	4601	21980
Boone	1569	2837	Louisa	1025	721
Bremer	2033	1881	Lucas	1199	984
Buchanan	1515	2008	Lyon	993	619
Buena Vista	2531	1297	Madison	1722	870
Butler	1950	1322	Mahaska	1954	2056
Calhoun	1693	1239	Marion	2239	2256
Carroll	1375	3142	Marshall	2517	2911
Cass	1621	792	Mills	1228	396
Cedar	2030	1560	Mitchell	2156	986
Cerro Gordo	2004	5319	Monona	1226	944
Cherokee	1927	1296	Monroe	1038	1014
Chickasaw	1762	1665	Montgomery	1267	796
Clarke	971	759	Muscatine	1987	2166
Clay	1578	1480	O'Brien	2309	1190
Clayton	3416	1843	Osceola	1041	480
Clinton	3077	4404	Page	2581	614
Crawford	1270	1332	Palo Atlo	997	1716
Dallas	1985	2014	Plymouth	3138	1702
Davis	770	878	Pocahontas	1678	1243
Decatur	1112	848	Polk	7214	38600
Delaware	2024	1754	Pottawattamie	2731	3839
Des Moines	1542	5722	Poweshiek	1861	1882
Dickinson	1142	811	Ringgold	1529	402
Dubuque	2262	10415	Sac	1907	1252
Emmet	1186	636	Scott	2012	11398
Fayette	3143	2689	Shelby	1889	882
Floyd	1794	2239	Sioux	3389	1637
Franklin	1687	1233	Story	2814	4865
Fremont	1394	356	Tama	2389	1970
Greene	1577	1191	Taylor	1799	288
Grundy	2512	1050	Union	1794	960
Guthrie	1399	1325	Van Buren	1285	535
Hamilton	1793	1414	Wapello	1141	5711
Hancock	2011	1041	Warren	1918	1991
Hardin	2270	1809	Washington	1734	1900
Harrison	1290	961	Wayne	1505	834
Henry	1350	1387	Webster	2358	5150
Howard	1519	983	Winnebago	1853	701
Humboldt	1435	977	Winneshiek	1967	1649
Ida	1385	974	Woodbury	2911	14456
Iowa	2193	1624	Worth	1129	757
Jackson	1595	1449	Wright	1892	1539
Jasper	2977	3536	Total	190,424	272,382



Des Moines Tribune Photo

Conference committee which worked out temporary plan (clockwise, from left): Senators Elthon, Flatt, and Rigler; Representatives Van Nostrand, Hagie, Mowry, and Worthington; Senator Frommelt.



Senator Clifford M. Vance, President Pro Tempore, reads result of Senate roll call on temporary plan.