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Book Review

DEMOCRATIC REPRESENTATION: REAPPORTIONMENT IN LAW AND POLITICS. By Robert G. Dixon, Jr. New York: Oxford University Press, 1968. Pp. xviii, 654. Cloth: \$12.50.

Professor Dixon has to be regarded as the most encyclopedic writer on legislative reapportionment in all its aspects. This book establishes his claim to such an assessment. Within its 654 pages of text and appendices he has managed to treat with informative detail (albeit not always with complete clarity): the philosophy of legislative reapportionment; the history of representation in the states of the Union; the landmark case of *Baker v. Carr*¹ and the ensuing 1964 reapportionment decisions which established the "one man, one vote" rule; the reapportionment revolution in the lower state and federal courts following those decisions; the implementation of the "one man, one vote" principle in the various states; the lingering problems of gerrymandering, districting, and local government reapportionment; and the effort led by the late Senator Dirksen to reinstall nonpopulation factors as a basis for representation in at least one house of a state legislature, either by the amending process or by a never before used constitutional convention pursuant to the call of 36 states.

All this the author has done very thoroughly and, for the most part, in a manner designed to hold a reader's attention despite the fare of heavy detail served up in each chapter. In addition, Professor Dixon has focused his considerable powers of analysis on what he regards as the major remaining problem of representative government, *i.e.*, seeing to it that arithmetically equal representation also be fair or equitable representation in fact. He is deeply concerned about the "shifting concurrent majorities," which have always characterized representative government in the United States and have given that government both stability and flexibility. His concern is that the "shifting concurrent majorities" not be made more difficult to achieve by the block buster effect of the "one man, one vote" requirement on the composition of the legislature, conditions of political party competition, and arrangement and rearrangement of communities of interest—in short, the core of the policy making process.

This reviewer shares Professor Dixon's concern lest equal representation be considered coterminous with fair representation. Nevertheless, I disagree

1. 369 U.S. 186 (1962).

with the author's assumption that the recent judicial elevation of the equal population principle of legislative representation to a constitutional requirement has created greater difficulty in obtaining the goal of fair representation than existed before the Supreme Court hurled its lightning bolts in *Baker v. Carr*. It is indisputable that the possibilities for political, racial, and ethnic gerrymanders existed in the pre-*Baker v. Carr* era and, of course, survived that decision. With the "one man, one vote" standard imposed as a constitutional requirement upon them, however, state legislatures, despite Professor Dixon's views, have considerably less maneuvering room within which to gerrymander for political, racial, or ethnic purposes. Moreover, despite the Supreme Court's decision in *Wright v. Rockefeller*,² that Court's earlier decision in *Gomillion v. Lightfoot*³ suggests that at least racial gerrymanders can be overturned by the courts when convincing proof is available. On the other hand, so far as political gerrymanders are concerned, I fear that they will exist so long as the American political system endures. This does not distress the reviewer as much as it distresses the author. As Mr. Justice Holmes once put it: "Some play must be allowed for the joints of the machine [of government]"⁴ In the long run the gerrymanders even out. Asking the Supreme Court to proceed further into the thicket in order to deal with the political gerrymander is asking the Court to enter a field where judicially appropriate standards of decision are impossible either to establish or to apply.

There is a somewhat paradoxical theme that recurs in the Professor's book. On the one hand he anticipates, indeed looks forward to, courts moving further into the outer reaches of the "judicial thicket" of reapportionment. On the other hand, the reader gets the impression that the author really regrets that the courts ever entered the thicket in the first instance. For example, nowhere does Professor Dixon unequivocally indicate his approval of the long delayed, but much needed purgation of "rotten borough" representation provided by *Baker v. Carr* and the subsequent reapportionment decisions of the Supreme Court. However, despite my puzzlement (which may not be justified) about Professor Dixon's curtailed enthusiasm for the "one man, one vote" principle which he hopes is pressed forward to the *n*th power, no one can dispute that the author has written a very valuable and penetrating study of the entire subject of reapportionment and democratic representation. Along with Dean McKay's work in this field,⁵ Professor Dixon's book

2. 376 U.S. 52 (1964).

3. 364 U.S. 339 (1960).

4. *Missouri, Kan. & Tex. Ry. v. May*, 194 U.S. 267, 270 (1904).

5. R. MCKAY, REAPPORTIONMENT: THE LAW AND POLITICS OF EQUAL REPRESENTATION (1965).

should be required reading for all courts, lawyers, legislators, public officials, teachers, and students who will be called upon to deal with reapportionment problems. These problems will surely arise soon after the official population statistics of the 1970 census are compiled. His book should prove to be an indispensable reference text which will provide theory, tactics, and authority for use in wrestling with what undoubtedly will be one of the major problems of representative government in the next decade. We should be grateful to Professor Dixon for giving us this comprehensive and useful treatise of the law of reapportionment. I am certain that in the near future many will put it to effective use in attempting to achieve what the author rightly regards as the paramount goal—fair, as well as equal, representation in the legislative bodies of the state and local political subdivisions of the nation.

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