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The MAINE VOTER

Published by The League of Women Voters of Maine

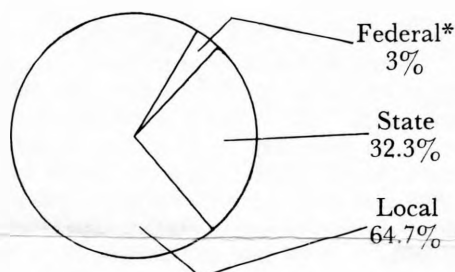
VOL. XX

OCTOBER-NOVEMBER, 1972

NUMBER 2

Those Sentorian Tax Voices

Local School Expenditures and Source of Revenue
(1969* - 70)



*(does not include Elementary and Secondary Act of 1965 — Title I, II, III programs.)

source: Department of Education

The discontented murmurs, muted grumbings and whimpering complaints about excessive property taxes which have been prevalent for years, finally have erupted into stentorian voices insisting on immediate property-tax reforms. The voice of the overburdened and tax-abused homeowner is heard in the land, and no longer can it be ignored by those whose responsibility lies in administering tax justice for ALL citizens of this nation. Education, of course, is the basic cause of the strong vocality. It is the monster-consumer of land and home.

In a nation where education is deemed a right of all citizens; where population has increased uncontrollably for decades; where mandatory attendance laws keep children in school for many years; where quality education is an ideal; where inflation has sky-rocketed expenditures and salaries; where special needs and individual problems must be met; and perhaps most importantly, where education is mandatory to the possibility of a decent wage and acceptable life-style, education inevitably has become the most costly service that a state provides its citizens. Starting from a very limited, exclusive program, adequately maintained by property taxes, education has now grown into an all-inclusive, sophisticated, super-institution which is one of the nation's largest busi-

nesses. Legislators throughout the nation have failed to develop sound fiscal policies to keep pace with the mushrooming educational demands of their electorate. Therefore, the property tax continues to be the primary source of funding for education, while the voices grow angrier as the tax load becomes more and more intolerable.

The property tax is a reliable and constant source of revenue, but in order to be fair, it should be used for property-related services. Local government, fire and police protection, roads, lighting, water, sewerage, and recreation are but a few examples. In recent years, cities have deteriorated miserably due to lack of funds to properly maintain them. As education demands increased, other services decreased and great debts accrued to make up for depleted funds. The general discontent of citizens increased as educational needs sopped up more than a fair share of local funds, and education has become the scapegoat of the irate taxpayer.

People also are victims of the regressive property tax. Oppressive taxation forces many elderly citizens out of their lifetime homes. Many people are deprived of inheritance rights, because heavy tax liens are placed on property for unpaid taxes. Excessive taxes and resulting high rents deprive the poor and low-income people of decent dwellings, and many landlords refuse to maintain buildings in order to avoid high taxation. For younger people who want decent homes in which to raise their families, excessive property taxes discourage buying. For the working man, tax bills often deprive him of other necessities, if he values his ownership of home and land. Many small businesses also suffer as a result of excessive property taxes. Generally, businessmen prefer taxes based on growth and productivity, as they are less regressive.

All taxpayers resent increasing tax loads unfairly imposed upon them. As our citizens become increasingly sensitive to their constitutional rights and the methods for obtaining those rights through the courts, avenues now are being opened to deal with oppressive taxation.

SERRANO vs. PRIEST

On August 30, 1971, the Supreme Court of California announced that the state's financing system for public education denies children equal protection guaranteed under the 14th Amendment, because substantial disparities are produced among school districts in the amount of revenues available for education. Previously, the U.S. Supreme Court under Justice Warren demonstrated a willingness to guarantee individual rights, if sluggish legislatures failed to act. For years

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state legislatures had struggled with miserly state finance equalization formulas, getting nowhere with the process.

The California court thought its case different from other similar attempts at more equitable financing. It involved the simple principle of "discrimination on the basis of wealth." The California complaint simply attempted to have its existing system of finance declared unconstitutional, discriminating on the basis of the wealth of a district and its residents. (The property tax was not named in the case, but it was the **implied** vehicle of discrimination). The court agreed, stating that "education is the lifeline of both the individual and society," which makes education a "fundamental interest which cannot be conditioned on wealth." It concluded, "We have determined that this funding scheme discriminates against the poor." The court supported the proposition that the quality of public education may not be a function of wealth other than the **wealth of the state as a WHOLE**. Educational quality could "vary from school district to school district so long as each district had **EQUAL CAPACITY** to raise funds for education." And "... the quality of a child's education may not be a function of local wealth or on how highly his neighbors value education." (Some districts encourage educational spending, hence greater taxation, hence more educational opportunity.) The court did not prescribe solutions to school financing, but left that decision to the legislators.

The impact of the California decision was felt throughout the nation. Other states, including Texas, Minnesota, Wyoming, and New Jersey received similar rulings from their courts. Maine is among dozens of other states with similar suits pending. The concept of "full funding" for education is now a part of the educational vernacular. President Nixon has expressed concern with the inadequacies and inequities of the property tax as the primary support of education. The Advisory Commission on Intergovernmental Relations recommends that states assume "substantially all" of the responsibility for financing local schools. Responsible economists, educators and politicians, as well as numerous organizations support the ruling. They feel that legislators, freed of the restrictions formerly imposed upon them, should now be able to experiment with new models of finance. Many experts in educational financing are making models available for consideration.

The ruling is not without its opposition, however. In an amicus curiae brief filed in April of this year, Texas asked the Supreme Court to reverse the ruling of a three judge panel which decided that school financing by the property tax discriminated against the poor. Thirty other states joined with Texas in the plea for reversal saying that it would cost too much money to raise all levels of education to that of the wealthiest districts. They deem that it is not unconstitutional to allow revenues to be spent where they are raised, and stated that certain powers were taken away from the legislature in the Texas decision.

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School of International Relations
University of New Hampshire—Durham Student
Union Building

New Hampshire and Maine L.W.V.

Wednesday, March 28, 1973. 10 a.m. - 3:30 p.m.

U.S. and World Economy! Pressures, Patterns and Policy

Charles Kindleberger Ph.D., and others

Plan NOW To Attend

House Reapportionment

Can Maine Pass The Test?

State Legislatures went through a flurry of reapportionment to comply with the one-man one-vote principle as set forth in the U.S. Supreme Court decisions of *Baker v. Carr* (1962) and *Reynolds v. Sims* (1964). Maine was no exception. Senators had been elected by counties through a sliding scale allotment system which favored rural counties. A constitutional amendment was adopted in 1966, changing the method of representation from county to single-member districts and setting the number of Senators between 30 and 40. Another amendment, adopted in 1969, fixed the number of Senators at an odd number, 31, 33, or 35. When the 105th Legislature failed to perform the task of creating new districts by January 1, 1972, the job fell to the Maine Supreme Judicial Court. The Senate, as now apportioned in 33 single-member districts, is a model of equal population, with no deviation of more than 2%. However, to achieve equal population, identity with political subdivisions was sacrificed. Parts of Bangor, Lewiston, Portland and South Portland were combined with other towns to form districts. Eighteen districts cross country lines and five of these include parts of **three** counties.

The House was last reapportioned in January, 1964 without benefit of major constitutional changes. It must be done again by January 1974 to meet the requirement of "at most ten years." Four plans were submitted to the 105th Legislature on June 14, 1971 by The Legislative Committee on Constitutional State Reapportionment and Redistricting. L.D.s. 1843 and 1846 were two plans based on the traditional method of apportionment. L.D.'s 1842 and 1844 experimented with a more liberal interpretation of multi-member districts. An advisory opinion was requested of the Maine Supreme Judicial Court regarding the constitutionality of these plans. The Justices declined to give an opinion on the grounds that the matter was no longer before the Legislature, the 105th having adjourned on June 24th after referring the bills to the 106th. Therefore, we do not yet have the benefit of judicial review on the question of whether it is possible to reapportion the Maine House under the present provisions of the Maine Constitution and come up with a plan which complies with the U.S. Supreme Court decisions.

In order to have a better understanding of some of the problems, let's take a look at the method.

HOUSE APPORTIONMENT according to THE MAINE CONSTITUTION

Article IV, Part first, Section 2 & 3

1. How many people should a Legislator represent?

993,663*—pop. of state = 6,581 State Unit Base Number
151 —House seats
* 1970 U.S. Census figure. The House may conduct its own census.

2. How many seats to a county?

$$\frac{x}{151} = \frac{\text{Population of county}}{993,663}$$

Any extra seats go to counties with larger fractional excesses. Now that we know the number of seats per county, we reverse the process and come up with a new figure for the number of people each Legislator represents.

$$\frac{\text{Population of County}}{\text{Number of seats}} = \frac{\text{County Unit Base Number}}{}$$

County	County Unit Base No.
Androscoggin	6,520
Aroostook	6,719
Cumberland	6,639
Franklin	7,481
Hancock	6,918
Kennebec	6,803
Knox	7,253
Lincoln	6,846
Oxford	6,208
Penobscot	6,600
Piscataquis	5,422
Sagadahoc	5,863
Somerset	6,766
Waldo	5,832
Washington	5,972
York	6,563

Already you can see we are in trouble. There is a difference of 38% between the Unit Base Numbers in Franklin and Piscataquis Counties.

3. Apportionment to Cities and Towns.

The largest cities and towns come first, with one Legislator for each time the population fully contains the **County Unit Base Number**. Smaller towns are grouped together in representative class districts, as equitably as possible with consideration for population and for geographical contiguity. Any extra seats go to the cities and towns with the largest fractional remainders. The lucky ones, using the 1970 census, are Auburn, Caribou, Presque Isle, Portland, South Portland, Waterville and Orono.

Following the rules of the game, there's not much choice in the apportionment of Androscoggin, Franklin, Knox, Lincoln, Sagadahoc and York Counties. For the other counties there are a variety of ways of combining the small towns into representative class districts to come out with relatively equal population figures. The major problems come with maintaining the integrity of the cities. According to L.D. 1843 Milo would have one representative for 5,123 people whereas Kittery, with a population of 11,028, more than twice the size of Milo, would also have only one representative. Yet Bath, with a population of 9,679 (1,349 less than Kittery) has 2 seats! Nearly half of the representatives are from single town districts which have these built-in pattern of inequities.

At best, using the present constitutional formula for House apportionment, we come up with differences considerably greater than the 2% maximum achieved in the Maine Senate apportionment. About two-thirds of the House varies by 5% or more, over or under representation from the State Unit Base Number. Almost half of this number varies by more than 10%. The glaring discrepancies are the exception rather than the rule, but are these results good enough? **Reynolds v. Sims** indicates that variations from a pure population standard may be justified by state concern for the integrity of political subdivisions, the maintenance of compactness and continuity in legislative districts, or the recognition of natural or historic boundary lines. However, recent lower court decisions have been emphasizing mathematical exactitude. A resident of Kittery would certainly be justified in complaining that his vote did not have the weight of that of a resident of Milo!

Time-table for Change

In some cases, courts have ordered reapportionment in conflict with state constitutions. However, the Maine Legislature still has time to act. A constitutional amendment changing the method of apportionment could be passed by a 2/3 vote of both houses during the regular session of the 106th Legislature, signed by the Governor, and approved by

the voters at a referendum in November 1973. Reapportionment under the new provisions could be enacted by a special session in time to be effective by the deadline of **January 1974**.

The Legislature has not completely ducked the issue. The Special Session of the 105th Legislature created a House Apportionment Commission to report a plan to the 106th Legislature and to continue in existence until the Legislature has enacted into law an apportionment. This commission is composed of 6 Legislators, 2 professors of political science, the state chairmen of each political party and a member of the League of Women Voters! Whit McEvoy has been serving as the League member.

Elements of Change

In the course of studying the Maine Constitution, in 1968 the League agreed on the following reforms for the House:

1. Federal census figures should be used in determining population of the House just as they are for the Senate. Reapportionment should be automatic following the decennial census.
2. The House should be reduced in size to three times the size of the Senate. House districts should be sub-divisions of Senate districts.
3. Apportionment should be based on equal population, as indicated by U.S. Supreme Court decisions, with districts compact and contiguous.
4. If the Legislature fails to reapportion, it should be done by an alternate agency.

We Refine our Consensus

With perspective on the events and court decisions of the past four years, is the League still in agreement on these positions? Can we be more specific in recommendations for a constitutional amendment to change the method of apportioning the House?

Single-member Districts: In the Senate, districts equal in population were achieved by crossing city and county lines and forming single member districts. Is it necessary or even desirable to follow the same route for the House? At present only the larger towns and cities have multi-member districts. Under the 1970 census they would be Auburn 4, Lewiston 6, Caribou 2, Presque Isle 2, Portland 10, South Portland 4, Westbrook 2, Brunswick 2, Augusta 3, Waterville 3, Bangor 5, Orono 2, Bath 2, Biddeford 3, Saco 2, and Sanford 2. The rest, or nearly 2/3 of the Legislature, would already be in single-member districts.

Although multi-member districts discourage gerrymandering of district lines, they also discourage minority representation. In Portland, for example, all members of the delegation tend to be of the same party. It is argued that single-member districts in Portland would result in some representation for the other party. Single member districts could well fracture delegations which, some feel, should present a united front in working for the good of the city as a whole in the Legislature.

In **Reynolds v. Sims** the U.S. Supreme Court mentioned multi-member districts as a means of apportionment. Approval was recently reaffirmed in **Whitcomb v. Chavis** (91 S.Ct. 1858 (1971)). The court was not ready to agree that multi-member districts overrepresent their voters as compared with voters in single-member districts. Multi-member districts within political sub-divisions are not *per se* illegal under the Equal Protection Clause. However, they may be subject to challenge when it can be shown that they operate to minimize or cancel out the voting strength of racial or political elements of the voting population.

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Reapportionment, *con'd from page 3*

We have observed some of the problems which result from following city and county lines. Some states have tried census enumeration districts as the basic unit. A recent apportionment of Georgia based on census districts was done by computer!

Who Should Reapportion? — The Maine Legislature failed to reapportion the Senate before the deadline. Can it do better with the House? Experience of the past decade since *Baker v. Carr* has shown that it is very difficult for Legislatures to apportion themselves. Should we be considering some other agency? It has been suggested that a bipartisan commission composed of individuals who are neither elected nor party officials might be the answer. How should the Commission be chosen? Perhaps a commission of Legislators balanced with others would be a possibility. The role of the courts has been primarily judicial review. Should they be expected to do the actual apportionment?

As a non-partisan organization concerned with representative government, the League has a real responsibility in regard to reapportionment of the House. This will be one of the issues which the 106th Legislature will be reluctant to face. We can do much to see that it gets the thoughtful consideration it deserves.

Tax Voices, *con'd from page 2*

The states backing Texas, including Maine, are convinced that a ruling to spend more money on schools would cause a fiscal crisis, or necessitate cuts in other important areas such as welfare. They fear that local control of education would eventually be lost to state and federal governments if they were to assume fiscal responsibility for schools. The Supreme Court decision on the Texas ruling will probably not be known before the summer of 1973. However, many people believe that individual states should start tax reform immediately rather than to wait for the forced ruling. If the court does not uphold the Texas decision, public opinion alone will probably force legislative action on this issue, as education costs are predicted to double in the next few years.

Many alternatives have been proposed to assist legislatures in their move toward educational justice.

The COLEMAN REPORT emphasizes the necessity for more Federal input, raising educational aid to 30-40% from its present 6%. Coleman recommends an overhaul of taxation at the state level to include a STRONG income tax, STRONG sales tax, and STRONG state supervised property tax.

The New Brunswick Experiment met the problem in 1967 when the Province assumed full cost of education. It enacted a uniform real estate tax of 1.5% of market value, levied a 10% surtax on income, and eliminated property and nuisance taxes.

GOV. SCHAPP of Pa. proposed that educated people pay for education since they directly benefit from it. He developed a repayment trust fund concept which would be supported by an income surtax during a person's working years.

ROBERT T. CAPLESS emphasizes the need for a state wide property tax to cover 80% of ALL local government expenditures.

As far back as 1944, **JAMES B. CONANT** wrote of the possibility of a finance system to equalize education. His proposals should be studied by all who are interested in this problem. He advocates a state system of schools with a broad-based tax to meet its costs; many school districts formed on educational criteria; local budget-making school boards; and budget input by school personnel and staff. He would have legislative action on school budgets, and collec-

tive bargaining at the state level based on a uniform salary scale.

Many other proposals are available for study. They universally agree that the property tax should be eliminated for educational costs; that states should assume fiscal responsibility for education; and that the educational system must be made as equitable as possible. Studies undertaken for the National Finance Project suggest that significant equalization is unlikely unless the state commitment is as high as 60% support of public school costs.

Inequities existing as a result of the property tax are most prevalent in Maine, where some of the wealthiest towns have resources over 40 times as great as the poorest towns. This means that the poorer towns must tax themselves heavily in order to maintain ever mediocre schools. Even with high tax rates, poor towns cannot raise nearly as much tax revenue as can the wealthy towns with a low rate. Attempts at equalization have been made by the state to about 1/3 of the school operating costs. However, since even the wealthiest cities receive a percentage of the subsidies, equalization is not truly achieved. Subsidies are primarily based on property valuations, which in no way reflect the ability of a town to pay. Job opportunities or incomes may be very low. Even property relief measures for special groups such as the elderly do not actually equalize the tax burden. Such forms of limited relief only tend to aggravate the total problem and postpone real tax reform.

The 106th legislature will be asked to remedy this inequitable situation. Some legislators will ask for total state responsibility for school funding. Others will ask for partial take-over, and still others will compromise and ask for tax relief rather than actual assumption of costs. Some will insist upon waiting for the courts to decide their direction in the matter before taking action in the legislature. Others will prefer to ignore the difficult problem entirely, by cutting educational costs and permitting the property tax to soar.

The LWV must study the issue now and decide where it stands in relation to the Serrano decision.

LEAGUES AND LEAGUERS MAKING NEWS

Sukey Allen has been appointed to a special committee to review and study Maine's election laws which includes representatives of the Legislature, both political parties, election officials, Maine Municipal Association and the office of the Attorney General. **Shirley Knowles** is serving as specially invited League observer to the Special Interim Committee on Legislative Structure and Procedure. **Emily Farley** and **Dorothy Schepps** recently attended a nationally sponsored Finance Workshop in Hartford, Connecticut. **Anne Perkins** is resigning from the State Board in order to work for Senator McGovern. **Brunswick, Portland Area** and **Lewiston-Auburn Area Leagues** are co-sponsoring a Candidates Night for all congressional candidates, Oct. 20, 8 p.m. at Central Maine Vocational Institute, Lewiston. Y'allcome!

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