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REAPPORTIONMENT—LEGISLATIVE BODIES—Significant Deviation from Standard of Substantial Population Equality of State Legislative Districts Is Permissible To Provide Representatives for Two Island Counties—*Vigneault v. Secretary of the Commonwealth**

In 1967 the Massachusetts legislature adopted a legislative reapportionment plan for the state's lower house.[1] The 240 seats of the lower house—the Massachusetts House of Representatives—were allocated along county lines as set forth in table 1.[2] A resident of one of the Massachusetts mainland counties challenged the state reapportionment plan as inconsistent with the one man-one vote principle enunciated by the United States Supreme Court in *Reynolds v. Sims*.[3] The mainland resident argued that the allocation of one representative to each of the two island counties off the Massachusetts coast—Nantucket, with a population of 3,714, and

* 237 N.E.2d 286 (Mass. 1968) [hereinafter principal case].

1. Ch. 877, § 3, [1967] Mass. Acts, *amending* MASS. GEN. LAWS ANN. ch. 57 (1932).

2. Principal case, app. A at 290. *See* page 588 *infra*.

3. 377 U.S. 533 (1964).

TABLE 1

County	*Number of Representatives*	*Population in 1965*	*Population per Representative*
Barnstable	3	73,557	24,519
Berkshire	6	145,597	24,266
Bristol	19	415,242	21,855
Dukes	1	5,948	5,948
Essex	27	608,996	22,556
Franklin	3	57,687	19,229
Hampden	20	435,281	21,764
Hampshire	4	100,065	25,018
Middlesex	58	1,280,235	22,073
Nantucket	1	3,714	3,714
Norfolk	25	560,137	22,405
Plymouth	13	292,697	22,515
Suffolk	32	706,216	22,069
Worcester	28	609,909	21,782
Total	240	5,295,281	
Average			22,064

County of Dukes, with a population of 5,948—was a violation of the equal protection clause[4] because it denied him an equal vote compared with island residents and equal representation in the state's lower house. The plan gave each island one representative even though the average population per representative statewide was 22,064, almost six times the population of Nantucket and over three and one-half times that of the County of Dukes. The Supreme Judicial Court of Massachusetts found that the island counties had a long history of individual representation in the state legislature, that the reapportionment plan was supported by a rational state policy, that it followed the boundaries of existing political subdivisions (counties), and that under the plan a majority of voters in counties comprising 49.76 per cent of the population of the state could elect enough representatives to control the lower house—only .66 per cent less, according to the court, than the percentage of the population required to control it if the apportionment had been mathematically perfect. Thus, the court approved the plan; *held*, divergence from a strict population standard in the apportionment of the state legislature is permissible in order to provide "genuine representation" for island counties.[5]

Since *Baker v. Carr*,[6] when the Supreme Court overruled a long line of earlier decisions[7] and concluded that the relationship of the

4. U.S. CONST. amend. XIV, § 1.
5. Principal case at 289.
6. 369 U.S. 186 (1962).
7. The earlier cases held that the Court would not adjudicate political questions involving legislative reapportionment and dilution of individual voting power by state law; *see, e.g.*, Colegrove v. Green, 328 U.S. 549 (1946); Colegrove v. Barrett, 330 U.S. 804 (1947); Remmy v. Smith, 342 U.S. 916 (1952).

equal protection clause to a state's power to create geographical districts for legislative representation was a justiciable issue,[8] state apportionment plans have come under increasing judicial scrutiny. In *Gray v. Sanders*,[9] the Court held invalid a Georgia primary election plan which favored voters from rural areas. Although *Gray* dealt with the dilution of individual voting rights rather than legislative reapportionment, it is important as the first enunciation of the now-famous "one man-one vote" test. Specifically, the Court stated that "[t]he conception of political equality from the Declaration of Independence, to Lincoln's Gettysburg Address, to the Fifteenth, Seventeenth, and Nineteenth Amendments can mean only one thing —one person, one vote."[10]

In a companion case, *Wesberry v. Sanders*,[11] the Court ruled that the phrase "by the People" in article 1 of the Constitution[12] required the federal congressional districts within a state to be as nearly equal in population "as is practicable." Finally, in 1964 in *Reynolds v. Sims*,[13] the Supreme Court held that the equal protection clause required substantially equal legislative representation for all citizens in a state regardless of where they reside. Therefore, the Court held that the seats in both houses of a bicameral state legislature should be apportioned according to the "one man-one vote" rule. In *Reynolds*, the Alabama apportionment plan then in effect allowed a majority of twenty-five per cent of the state's voters to elect a majority of the representatives in both houses of the legislature.[14] Proceeding from "the fundamental principle of representative government"—"equal representation for equal numbers of people"[15]—the Court established a presumption of unconstitutionality for any legislative apportionment that deviates from the standard of equal population.

The majority in *Reynolds* also stated that mathematical exactness

8. For a general discussion of the effect of the Court's reapportionment decisions, *see* McKay, *Reapportionment: Success Story of the Warren Court*, 67 MICH. L. REV. 223 (1968). *See also* Scholle v. Hare, 369 U.S. 429 (1962) and WMCA, Inc. v. Simon, 370 U.S. 190 (1962), both of which remanded cases challenging legislative apportionment to lower courts for adjudication consistent with *Baker v. Carr*.

9. 372 U.S. 368 (1963).

10. 372 U.S. at 381.

11. 376 U.S. 1 (1964).

12. Article I, section 2 of the Constitution states: "The House of Representatives shall be composed of Members chosen every second year by the People of the several States . . . ."

13. 377 U.S. 533 (1964). This is one of six apportionment cases decided the same day. The others, which explain further the holdings in *Reynolds v. Sims*, are Lucas v. Forty-Fourth General Assembly of Colorado, 377 U.S. 713 (1964); Roman v. Sincock, 377 U.S. 695 (1964); Davis v. Mann, 377 U.S. 678 (1964); Maryland Comm. for Fair Representation v. Tawes, 377 U.S. 656 (1964); and WMCA, Inc. v. Lomenzo, 377 U.S. 633 (1964).

14. 377 U.S. at 545.

15. 377 U.S. at 560-61.

was of course not always possible;[16] it left open a possible escape from the rigors of the "one man-one vote" rule when it noted that some deviation from the equal-population principle was constitutionally permissible "so long as the divergencies . . . are based on legitimate considerations incident to the effectuation of a rational state policy."[17] Such deviations were to be permitted, however, only "as long as the basic standard of equality of population among districts is maintained."[18] As an example of permissible deviation from strict mathematical apportionment by population, the Court mentioned that a state might wish to establish voting districts to coincide with existing political subdivisions, such as counties, in order to restrict partisan gerrymandering or to insure some voice to political subdivisions as such. Although the Court stressed the essential role of local governmental units—both as frequent objects of state legislation[19] and as instruments in the effective operation of state government—as reason for this exception, it cautioned that a scheme giving at least one seat to each county, if carried too far, could subvert the "one man-one vote" principle.[20] After *Reynolds*, it was clear that any permissible deviation from the standard of equal population would have to be both "minor" and "based on legitimate considerations incident to the effectuation of a rational state policy."[21]

With regard to the first requirement, the Supreme Court has never given a definitive statement of what it considers a "minor" deviation from the equal-population principle. There are, however, at least three different methods of measuring deviation.[22] The most familiar method is to determine what is often referred to as the population variance ratio. This ratio is designed to show the maximum variation throughout the state in population represented per legislative seat.[23] In Massachusetts, for example, Hampshire County's 100,065 residents were allotted four seats in the lower house, or one representative for every 25,018 people; it was the most under-

16. 377 U.S. at 559-61.

17. 377 U.S. at 579.

18. 377 U.S. at 580.

19. The Court might also have noted that local governmental units play a particularly significant role in many important federal legislative programs such as urban renewal.

20. 377 U.S. at 580-81. *See also* McKay, *Political Thickets and Crazy Quilts: Reapportionment and Equal Protection*, 61 MICH. L. REV. 645, 698-99 (1963).

21. Swann v. Adams, 385 U.S. 440, 444 (1967). A more thorough discussion of *Swann* follows in the text accompanying note 32 *infra*.

22. For a more extended analysis of these methods, *see* King, *The Reynolds Standard and Local Reapportionment*, 15 BUFFALO L. REV. 120, 131-35 (1965).

23. This was the method used in Kapral v. Jepson, 271 F. Supp. 74 (D. Conn. 1967), in which a 2-to-1 variance was held to dilute voting rights in contravention of the fourteenth amendment.

In Sincock v. Gately, 262 F. Supp. 739 (D. Del. 1967), a ratio of 1.289 to 1 in the Delaware general assembly and 1.33 to 1 in the Delaware state senate did not comply with the equal protection clause.

represented county in the lower house. But Nantucket County, population 3,714, was allotted one seat; it was the most over-represented county in the Massachusetts house. The resulting ratio—25,018 to 3,714, or 6.7 to 1—is the population variance ratio between the state's two extreme districts.

The second means of assessing apportionment is the so-called deviations-from-the-norm method. Here, the greatest deviation from the average population per representative—or norm—is reflected and expressed as a percentage of deviation. The norm is determined by dividing the total number of seats in the particular legislative body into the total population of the state. Thus, in Massachusetts, the norm would be 22,064 residents per representative.[24] A particular district's variation in population per representative from the norm is then determined and divided by the norm to yield the percentage of deviation. In Massachusetts, the greatest deviation from the norm is, of course, Nantucket County. Its population of 3,714 varies from the norm by 18,350 persons, and the percentage of deviation for this county is thus 83 per cent under the 1967 reapportionment plan.[25]

The third identifiable method seeks to ascertain the lowest possible percentage of the state population needed to elect a majority of the members of a state legislative body. This figure is determined by adding the population of the most overrepresented districts until the number of representatives from these districts is sufficient to control the legislative branch under consideration. The population of these districts is then expressed as a percentage of the total population of the state.[26] The Massachusetts court used a variant of this approach in the principal case;[27] as noted above, it found that this figure was 49.76 per cent. It then asserted that this was only .66 per cent less than the percentage dictated by a purely mathematical apportionment and deemed the variation minor.[28]

The principal case is the only recent decision to rely exclusively

24. Principal case at 289 n.5.

25. This was the method applied by a federal court in holding that legislative districts could vary ten per cent from the statewide ratio of population and still meet the requirements of *Reynolds* in Butterworth v. Dempsey, 229 F. Supp. 754 (D. Conn. 1964), *aff'd sub nom.* Pinney v. Butterworth, 378 U.S. 564 (1964).

26. *See* Note, *Reapportionment*, 79 HARV. L. REV. 1228, 1250 (1966).

27. *See* principal case at 289 n.5, where the court calculated this figure by starting from the proposition that 121 representatives could control the lower house. It then multiplied by 121 the ideal number of citizens per representative (the norm), 22,064. Thus, the court concluded that with mathematically perfect districts a majority of 2,669,744 people—50.42 per cent of the state's total population—could elect 121 representatives. The court further assumed that there were 119 mathematically perfect districts plus the two island counties; by multiplying 119 by the norm of 22,064 and then adding 3,714 (Nantucket's population) and 5,948 (Dukes' population), the court concluded that a majority of 2,635,278 people—49.76 per cent of the state's population—could elect 121 representatives. Of course, subtracting the two percentages yields .66 per cent, the figure which the court relied on to show that deviations were "minor."

28. Principal case at 289.

upon this third method.[29] The obvious difficulty of relying on only one measure of deviation—particularly this one—is illustrated by the court's opinion. It suggests that the Massachusetts plan actually affords substantially equal representation without discussing the sizable deviations which the first two methods of measurement reveal.[30] Thus, with respect to the requirement that any deviations from substantially equal representation must be "minor," it seems clear that the Massachusetts court's test—at least as presented in the opinion—must be rejected as misleading. Moreover, according to precedent, a variance ratio of 6.7 to 1 and a deviation from the norm of eighty-three per cent cannot be considered minor. Without specifically defining what is "minor" and adhering to the statement in *Reynolds* that "[w]hat is marginally permissible in one State may be unsatisfactory in another . . ."[31] the Supreme Court has recently considered three different reapportionment plans which supposedly presented only minor deviations from the equal-population principle.

In *Swann v. Adams*,[32] the Court struck down a reapportionment plan for the Florida state legislature at least in part because the respective variance ratios for the state senate and house were 1.30 to 1 and 1.41 to 1, and the respective percentages of deviation from the norms were 15.09 and 18.28 per cent.[33] In *Duddleston v. Grills*,[34] the Court relied on *Swann* and vacated district court approval of the Indiana congressional apportionment plan which yielded a 1.2-to-1 variance ratio and a 12.8 per cent deviation from the norm.[35] Similarly, in *Kilgarin v. Hill*,[36] the Court relied on *Swann* to state, in dicta, that the variance ratio of 1.31 to 1 and a 14.84 per cent deviation in the Texas House of Representatives probably were not minor variations that would permit retention of established political sub-

29. In *Reynolds* the Court suggested that this third method should be used in stating that under the contested apportionment "only 25.1% of the State's total population resided in districts represented by a majority of the members of the [state] Senate, and only 25.7% lived in counties which could elect a majority of the members of the [state] House of Representatives." 377 U.S. at 545.

30. *See* Note, *supra* note 26, at 1250: "While all [three of] these measuring rods may be helpful, none is alone sufficient to determine the extent, and consequently the legitimacy, of a deviation from absolute equality."

In Drew v. Scranton, 229 F. Supp. 310 (M.D. Pa. 1964), the court used a fourth method that is somewhat unusual; it ruled that counties could be used as the basis for representation so long as the population deviations did not differ from the statewide ratio by a major fraction (½ or larger). This meant that if the statewide ratio was 10,000 people per representative, any deviation of 5,000 or more would be invalid. Such an approach, however, merely restricts the deviation from the norm to less than 50 per cent.

31. 377 U.S. at 578.

32. 385 U.S. 440 (1967).

33. 385 U.S. at 442.

34. 385 U.S. 455 (1967).

35. Grills v. Branigan, 255 F. Supp. 155, 158 (S.D. Ind. 1966).

36. 386 U.S. 120 (1967).

divisions as voting districts. The Massachusetts figures, being several times larger than those in the cases noted, do not seem to permit a finding that the reapportionment plan involved only a minor deviation from the equal-population principle. Even disregarding the effect of the allocation of two seats to the counties in the principal case, the Massachusetts plan presents, in Hampshire County, a variance ratio of 1.31 to 1 and a deviation from the norm of 13.3 per cent—figures perilously close to those disapproved in the above cases.

Assuming for the purposes of the ensuing discussion that the deviations in the principal case could be termed minor under any acceptable method of measurement, it is questionable whether the plan satisfies the second requirement of the *Reynolds* exception from the principle of population equality—that is, that the deviations must be "based on legitimate considerations incident to the effectuation of a rational state policy."[37] The tenor of the court's opinion was essentially the same as the reasoning rejected in *Reynolds*—the fear that people in one area of the state would not be adequately represented if their district was combined with another area of larger population. The Massachusetts court stated: "The executive and legislative departments of the Commonwealth manifestly believe that genuine representation of the islands would not survive should they be merged into a mainland district or districts. We share that belief . . . ."[38]

The findings of the legislature which the court relied on in reaching this conclusion presented only the most general reasons for preserving individual representation for the island counties. The legislature stated that "[t]hese are islands, isolated, not readily accessible and most difficult to merge with any portion of the mainland . . . ."[39] The court's assertion that the districting was proper was tied to the statements in *Reynolds* concerning permissible deviations.[40] The Massachusetts court's opinion stated that the islands

> constitute two compact, contiguous districts whose borders conform to natural boundaries and whose right to representation as entities in the General Court [the state legislature] antedates by nearly eighty years the meeting of the First Continental Congress. The districting of the islands follows existing political subdivision lines and aims to restrict the possibility of partisan gerrymandering and to give effect to the county role in the governmental system of the Commonwealth.[41]

Aside from the fact that the Supreme Court's opinion in *Reynolds* imposed the requirement, discussed above, that deviations based

37. Reynolds v. Sims, 377 U.S. 533, 579 (1964).
38. Principal case at 289.
39. Ch. 877, § 1, [1967] Mass. Acts, *amending* MASS. GEN. LAWS ANN. ch. 57 (1932).
40. 377 U.S. at 577-81.
41. Principal case at 289 (footnotes omitted).

upon such factors must be minor, the Massachusetts opinion is insufficient because it speaks only in conclusory terms.[42] It may be that the island counties in the principal case present a situation in which the deviations are legitimate; however, any such finding must be based on a more persuasive presentation of concrete reasons for abandoning the equal-population principle than that presented by the Massachusetts court.

The arguments offered in support of separate representation for the two islands are strikingly similar to those offered in support of similar treatment for sparsely populated rural areas vis-à-vis large urban centers—the situation obtaining in most reapportionment cases. The Supreme Court has made it clear that arguments based upon the unique character, interests, and needs of rural areas are unconvincing when they are advanced to show the inadequacy of representation that would result if such areas were merged with urban areas in the same district. For example, in *Lucas v. Forty-Fourth General Assembly of Colorado* the Court held that substantially equal representation by population must obtain in both the rural and urban areas of Colorado, despite the strong dissent of Justice Clark, who argued:

> The state has mountainous areas which divide it into four regions, some parts of which are almost inpenetrable. There are also some depressed areas, diversified industry and varied climate, as well as enormous recreational regions and difficulties in transportation. These factors give rise to problems indigenous to Colorado . . . .[43]

It is difficult to find any compelling reasons why islands present a better case for separate representation than do such diversified areas, and the Massachusetts court offers none. Looking, then, to what appears to be the court's rationale in the principal case—that equal representation would deny effective representation—it seems that the case for "legitimate considerations incident to the effectuation of a rational state policy" has not been made.

It remains to consider whether such a general exemption from strict apportionment by population does or should exist. There is

42. In the section of the *Reynolds* opinion relied upon by the Massachusetts court in the principal case, the Supreme Court emphasized that:

> Citizens, not history or economic interests, cast votes. Considerations of area alone provide an insufficient justification for deviations from the equal-population principle. Again, people, not land or trees or pastures, vote. Modern developments and improvements in transportation and communications make rather hollow, in the mid-1960's, most claims that deviations from population-based representation can validly be based solely on geographical considerations. Arguments for allowing such deviations in order to insure effective representation for sparsely settled areas and to prevent legislative districts from becoming so large that the availability of access of citizens to their representatives is impaired are today, for the most part, unconvincing.

377 U.S. at 580.

43. 377 U.S. 713, 742 (1964).

nothing in the Constitution that either requires or permits the specific exceptions mentioned in *Reynolds*, and it is clear that the state must justify any population deviations among districts.[44] Moreover, the later decisions indicate that such justification is quite difficult; in fact, the exceptions to the equal-population principle may be of decreasing significance. In *Avery v. Midland County*[45] the Court extended the "one man-one vote" standard to units of local government. Although the Court's formulation of the standard[46] was basically similar to that of the earlier cases, the majority opinion phrased the issue broadly as "whether the Fourteenth Amendment likewise forbids the election of local government officials from districts of disparate population."[47] Commenting upon the resolution of this question in the affirmative, Justice Fortas' dissent stated that "[t]his holding, literally applied as the Court commands, completely ignores the complexities of local government in the United States—complexities which, *Reynolds* itself states, demand latitude of prescription."[48] This interpretation of the *Avery* opinion is bolstered by the fact that the majority—unlike that in *Reynolds*—makes no mention of *any* permissible grounds for deviation from a standard of strict population equality in districting for units of local government having general governmental powers. Moreover, the circumstances in which the Court granted certiorari in *Avery* were somewhat unusual. The Texas Supreme Court had already ruled that, under "the requirements of the Texas and the United States Constitutions,"[49] the plan was invalid; however, the state supreme court disagreed with the state trial court's conclusion that local governmental units were required to have substantially equal populations and stated that such factors as the "number of qualified voters, land areas, geography, miles of country roads and taxable values"[50] could be considered in drawing district lines. Arguably, there was an adequate state ground for the state court's decision and it was clear that a new plan of apportionment would be drawn up.[51] Assuming that this was the case, it appears that the Supreme Court granted certiorari to prevent the Texas court's assertion that factors other than population could be considered in a new districting scheme from having any effect. Justice Fortas stated that the majority,

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44. Swann v. Adams, 385 U.S. 440, 444 (1967). *See also* McKay, *supra* note 8, at 232-33.

45. 390 U.S. 474 (1968).

46. 390 U.S. at 484-85.

47. 390 U.S. at 479.

48. 390 U.S. at 499 (Justice Fortas, dissenting).

49. 406 S.W.2d 422, 425 (1966).

50. 406 S.W.2d 428.

51. There was disagreement between the majority and the dissenters in *Avery* as to whether the grant of certiorari was proper. *Compare* the majority position, 390 U.S. at 478 n.2 *with* Justice Harlan's dissent, 390 U.S. at 486-87.

> now plunges to adjudication of the case . . . in midstream, apparently because it rejects *any* result that might emerge which deviates from the literal thrust of one man, one vote. Since it now adopts this simplistic approach, apparently the majority believe that they might as well say so and save Texas the labor of devising an answer.[52]

Although *Avery* may not have been intended to eliminate the exception to the equal-population principle set forth in *Reynolds*, it is susceptible of that interpretation. Such a demand for absolutely strict population equality would be consistent with the concern expressed by the Court in another area involving voting rights. In cases involving access to the polls, the Court has consistently held that intentional deviations from equal protection are invalid, regardless of state policy in setting up the qualification upon the right to vote. In *Harper v. Virginia Board of Elections*[53] the Court struck down a state poll tax, holding:

> To introduce wealth or payment of a fee as a measure of a voter's qualifications is to introduce a capricious or irrelevant factor. *The degree of discrimination is irrelevant* . . . . [T]he requirement of fee paying causes an "invidious" discrimination . . . that runs afoul of the Equal Protection Clause.[54]

It would be consistent to argue in a situation such as the principal case that a mainland resident's vote is no less diluted by the apportionment scheme because the state claims it has good reason to dilute it. Of course, such a contention depends upon the underlying premise that the franchise is so fundamental in a democratic society[55] that dilution of the right to vote is as improper as denying it altogether. Since it is the right to vote that is at stake, perhaps the degree of dilution of some citizens' votes should be irrelevant and even minor deviations from strict population equality should be held impermissible.

Thus, if review of the principal case is sought, it is highly unlikely that the Supreme Court would approve the Massachusetts plan. The Court could base this result upon any of three rationales: (1) that the divergence from the equal-population standard is "substantial"; (2) that the deviations, even if minor, were not included in pursuance of a rational state policy but rather for reasons that the Court rejected in *Reynolds*; or, (3) that as a result of *Avery* and cases like *Harper*, the only variations permitted are those which

52. 390 U.S. at 496 (dissent).
53. 383 U.S. 663 (1966).
54. 383 U.S. at 668.
55. "The right to vote freely for the candidate of one's choice is the essence of a democratic society, and any restrictions on that right strike at the heart of representative government." Reynolds v. Sims, 377 U.S. 533, 555 (1964). *See also* Wesberry v. Sanders, 376 U.S. 1, 7 (1964); Gray v. Sanders, 372 U.S. 368, 380; Baker v. Carr, 369 U.S. 186, 242 (1962) (Justice Douglas, concurring).

occur because of the impossibility of drawing legislative districts with exact mathematical precision.

Since the first two rationales seem adequate, the Court might choose not to discuss the effect of *Avery*; basing such a decision on that case would involve an explicit departure from *Reynolds*. However, resting a reversal on a strict application of the equal-population principle would assure that *Reynolds* could not be circumvented by entrenched state legislators who maneuver to avoid districts of equal population. Such a decision would also greatly reduce the volume of litigation which has arisen and can continue to arise if the justification for and the extent of deviations must be examined on a case-by-case basis.[56] The Court has had sufficient time to re-examine the effect of its initial decisions. It has not yet approved of a single deviation in any of the cases that have come before it, and this may indicate that its earlier formulation of the equal-population principle in *Baker* and *Reynolds* was a concession to strong political opposition and should now be abandoned in favor of one requiring strict equality of population in legislative districts.

In Massachusetts, the first step in applying such a standard would be to divide the average population per legislative seat, 22,064, into the population of each county. This would give the following allocation:

TABLE 2

County	*Number of Representatives*	*Population in 1965*	*Population per Representative*
Barnstable	3	73,557	24,519
Berkshire	7	145,597	20,800
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Suffolk	32	706,216	22,069
Worcester	28	609,909	21,782
Total	240	5,295,281	
Average			22,064

This initial distribution would be invalid; Dukes and Nantucket Counties are unrepresented, Barnstable County is underrepresented,

56. In his dissent in *Avery*, Justice Harlan stated that the present formulation of the "one man-one vote" standard has proved unsatisfactory because "[a] number of significant administrative questions remain unanswered [including the degree of permissible population variation], and the burden on the federal courts has been substantial." 390 U.S. at 489.

and Franklin County is overrepresented. Of course, there are many ways to resolve these problems; some would require redrawing district lines and others would involve merging existing units. One possibility is that the two island counties be merged with Barnstable County and the new unit given four representatives. This would result in a county with a population per representative of approximately 20,805—a figure sufficiently close to the norm to be acceptable. Such a combination would be more beneficial in terms of representation of the islands' special interests than merging each one with a separate mainland county. It would give them combined strength in the new unit that would perhaps be more significant quantitatively than if they were each merged into larger counties. Moreover, the qualitative aspect of the islands' representation could be improved since a merger with Barnstable County—which includes Cape Cod—would group them with another coastal area with similar interests in terms of public works, conservation, and the promotion of tourism. To maintain a lower house with 240 seats, Franklin County might have to yield one seat and be redrawn to include only 44,000 residents. The remaining areas from the former Franklin County would then have to be added to contiguous counties that are overrepresented to a slight degree. Such a process would bring the districting close to mathematical precision, minimizing both underrepresentation and overrepresentation.