

Howard E. McCurdy, a former aide to then-Representative Slade Gorton, has graciously given us permission to reprint his account of the redistricting battles of the 1960s, *A Majority of the People: Factional Politics and Redistricting in Washington State* (1970).

### About the Author

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A young Howard McCurdy observes the legislative proceedings during the 1965 session.

# A Majority of the People

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## A Case Study in the Redistricting of Washington State

by Howard E. McCurdy



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## I. Introduction

Governor Daniel Evans finished signing the new redistricting of the Washington State Legislature. The ceremony in his office late Friday afternoon, February 26, 1965, was over. So was the battle that had lasted over two years, through two sessions of the legislature. Now the order of the federal court was satisfied, the mandate of the state constitution fulfilled.

On one side of the Governor was State Senator Robert R. Greive, leader of the major faction of Senate Democrats and now the undisputed leader of his party on redistricting. That leadership had just been challenged by the major faction in the House—the “old line” Democrats. By a single vote the new redistricting bill had passed over their objections.

On the other side of Governor Evans stood State Representative Slade Gorton, who, with Evans, was a member of the Republican “new breed” team. Gorton had pulled together the Republican legislators and, through perseverance supported by an unusual unity within his party, had divided the faction-riddled Democrats and won for the Republicans a redistricting compromise far better than their minority position in the legislature seemed to warrant.

Nearly all state politicians had believed that the future of their party, or their faction within it, was inextricably tied to the drawing of new legislative districts. The highest stake in state politics for over two years had been how whole districts were to be moved and how surrounding districts were to be redrawn.

Now the legislators and state officials lingered on in the Governor’s office. The final decisive action had been taken, the legislative solution approved. It had not come easily.

### Political Climate in Washington

Washington State lies on the edge of the nation, both geographically and politically. While it likes to imitate the ambition of the East, in its wealth, culture, and education, its heart still extends to the North, Alaska, and the romance of the frontier. For although in Washington the era of the frontier has past, its aura remains.

This is strongly reflected in the politics of the state. Washington voters, while respecting national political trends, have little use for party labels. They are notorious ticket-splitters. Political institutions in the state reflect this ambivalence toward parties and elections. Washington is the only state in the Union with the “blanket primary,” whose parent, the “open primary,” allows the voter to mask his choice of party at the polls. But the Washington voter never really chooses. He can vote in both parties’ primaries, switching, for example, from the Republican primary for governor to the Democratic primary for lieutenant governor.

This is not to say that voting is aimless, but perhaps unfettered. The voter in the West encounters an extraordinary number of new programs and groups, and he is apt to let the more promising ones take a turn at governing. It is an amateur government, a concept that Easterners having increasing difficulty understanding. When Western voters continue to toss administration after administration out of office, they are not losing their minds but merely changing them. And if this amateur government sometimes becomes disastrous government, the Westerners retain a boundless sense of humor that makes folklore out of the few unfit candidates they elect to high office.

Western politics, being as loose and open as it is, naturally revolves around movements and personalities. This might not seem extreme in the age of the great political personality. Yet the number of diverse movements and personalities gives the West its peculiar characteristics, and each movement or man has its own independent base of power.

Consequently, party organization at the top is nearly always a loose amalgamation of independent groups and personalities. It is not, however, necessarily weak and unaggressive, for successful new groups are likely to give leadership that is centralized and very, very strong. But it is leadership by example, not by force and discipline, for when that is applied, or when the glamour of the new group wanes, the party disintegrates and the factions go back to their old bases of power.

As a result, party history in Washington State follows a series of cycles. Majority parties quickly grow stale and divide into factions. New groups, invariably stocked with political amateurs, infuse the out-party with “new blood.” The majority party, caught up with its squabbling, has

difficulty meeting the challenge of the cohesive and aggressive minority, either in the state chambers or at the polls. So the out-party gains power, but invariably it too begins its own internal wars and falls into the trap of disintegration.

### The Washington Democratic Party

In 1962, when the federal district court for western Washington precipitated the redistricting battle, the Democratic Party was dominant and disintegrating. It had dominated Washington politics during the Depression, only to split badly in the late 1930's over a fight for control between the radical "ideological" Democrats and the old-line "courthouse" Democrats—state mythology records it as the war between the Communist Democrats and the Catholic Democrats. The party never quite recovered.

After the war new progressive leaders, descendants of the old-line tradition, led a popular resurgence. By 1956 they had brought the party back to power. Their Senate Majority Leader, Albert D. Rosellini, won the governorship that year. The legislature was dominated by the most powerful Speaker in the history of the state's House of Representatives—John L. O'Brien. And Greive, the redistricting leader-to-be, became the new Senate Majority Leader. All three were young; all were from Seattle. O'Brien was in the construction business and the other two were attorneys.

In 1958 the Democrats reached their pinnacle of power, having captured every major state office but one and winning huge majorities in both the House and the Senate. As a result, by 1960 the party was disintegrating, in large measure due to the incapacity of the old leaders to weld their party together. Rosellini was able to win reelection that year only because the Republicans insisted on running one of their "old guard" conservatives against him.

By 1960 the Democratic Party in the legislature had again divided into various feudal principalities—old-line Democrats, "intellectual liberals," conservative "dissident" Democrats, rural conservatives, and assorted individuals with no broad affiliations, some with large followings, others with none at all.

The largest and strongest faction—the old-line Democrats—still provided the party with most of its leadership. They were based in the Puget Sound area, especially in Seattle, the home of nearly all strong political movements in the state. Their local organization was tied in with the spoils system of county government, hence their frequent identification as “courthouse” Democrats.

The old-line Democrats worked with, and were occasionally challenged by, a small number of intellectual liberals, a leaderless confederation of legislators with no specific base of power in the state.

A new group, the dissident Democrats, came together because of their personal distaste for the Rosellini-O’Brien organization, and because of similar interests—all were toughly pro-labor but very conservative on social issues. Although the dissidents were primarily an outgrowth of the curious conservatism in the city of Spokane, they drew some strength from every sector of western Washington.

The rural conservatives were the loosest and most leaderless of all the Democratic factions. With no strong party affiliation, they were nominally conservative on most matters, and came entirely from rural areas in eastern Washington. (A few of their districts also sent some of the most committed intellectual liberals to the state capital.)

The unaffiliated Democrats were a mixture of isolated intellectuals, independents, and reformers, as well as some very powerful politicians. Notable among the latter was Senator Greive. Although he had originally been affiliated with the old-line Democrats, Greive had broken from Rosellini during the Governor’s first term, and had confined himself almost entirely to those matters directly affecting his own district and his Senate following. Greive was a perfect political man, an expert in the application of political power. His following was a conglomerate group with few common characteristics save Greive’s own ability to weld them together on crucial issues.

### Changing the Republican Image

In 1962 leadership in the Republican Party was shifting from the business-oriented “old guard” to a progressive “new breed” team. As a result, it seemed in 1962 that the “new breed” might give the party dominance it had not enjoyed since the early 1950’s.

Just before World War II, a group of young businessmen known as the “Order of Cincinnatus” had rebuilt the Seattle Republican Party and in 1940 had put their leader, Seattle Mayor Arthur B. Langlie, into the Governor’s chair. His moralistic “good government” philosophy had been popularly received as far as he had extended it, but Langlie had relied more on national Republican trends than on his own organization to produce Republican majorities in the legislature. As a consequence, the Republican Governor had never established rapport with his legislative leadership. When postwar growth had begun to strain the state government’s capacities, Langlie had split with the legislators, and the Republican caucuses, lacking central leadership, had fallen apart. In a few years—by the mid-1950’s—the party’s strength had been reduced to a handful of “old guard” conservatives, representing the “silk stocking” city districts and the farms.

While the old party was dying the state was swelling under a new immigration. The Korean War had sent a host of men through the Pacific Northwest; many stopped and stayed. They were young and vigorous, generally very well educated, and many were politically active. For various reasons they found no room in the Democratic Party, although at that time its policies were closer to their own interests. So they made their own party, joining with their Seattle-born counterparts, young Republicans upset by the provincialism of their party. They revitalized local political clubs and began to run candidates for the state legislature. In 1962 they aimed to control the House of Representatives, wanting a base of power from which to capture the governorship in 1964.

Two particular features of Washington politics aided their effort. First, the “new breed” ran in Seattle. Of all areas in the state, Seattle and surrounding King County was always most disposed to follow new leadership. The rural areas of the state had the most fixed voting habits—those with logging and fishing as the dominant industries were invariably Democratic strongholds; the Republicans could always count on margins in the farming areas (except in the Grand Coulee region where the federal government owned and watered the land). The city of Tacoma, with its strong industrial flavor, usually favored the Democrats. Spokane—eastern Washington’s “Inland Empire”—was loose in its party preference, yet always elected conservatives. But in Seattle, an extremely white-collar, middle-class city, the people were continually receptive to new personalities and movements.

Second, the “new breed” was aided by the peculiar character of Washington electoral machinery. Washington’s legislators were elected from relatively small districts. Whereas many states elected their legislators at-large from big, often county-wide districts, Washington’s constitution prescribed a single district for each of the 49 senators. Representatives ran within the same districts—usually two (although occasionally either one or three) to a district.

Small districts insured that the Republicans, no matter how weak statewide, always retained a few districts in Seattle. The progressive Republicans gained a foothold in those districts by enticing liberal Democrats to cross over and support them in the blanket primary. Like other young politicians of their generation, they could win because they manipulated the voting machinery, but they did win because they were a new generation.

By 1958 the young Seattle Republicans had placed some of their leaders, including civil engineer Dan Evans and attorney Slade Gorton, in the legislature. After the 1960 election the “new breed” moved to make Evans House Minority Leader. In a tight caucus battle Evans took 21 votes to 18 votes for the “old guard” leader, and during the legislative session both groups happily united behind him.

In less than two years, however, the “new breed” was confronting a strong new rival—the previously dormant “right wing” of the party. Drawing strength from the communities surrounding Seattle and from conservative Spokane, a scattering of young “right wing” candidates began to make strong showings at the polls. By 1963 they had practically gained control of the state party organization.

### The Redistricting Issue

Within this setting the redistricting battle emerged. This is the story of the politics of redistricting as the legislators saw it.

Popular belief holds that the aim of the courts—to shift political power from the farms and city centers to the suburbs—is the central issue among the legislators who redistrict. To be sure, redistricting eventually causes such a shift. But in the short run, redistricting has a more significant



impact. It determines who shall govern—not whether it shall be farmers or suburbanites, but whether it shall be this party or that faction. It determines which of the groups presently in power shall gain the means to grow and which shall fade away, and which groups that are withering shall gain the means to rebuild.

This is what makes control of the redistricting power so critical. Regardless of what motivates the courts, these short-range power stakes are what guide the lawmakers in their decisions, make them fight so unconditionally over boundary lines, and make opposing sides (and often allies) so uncompromising in their dealings with each other.

Washington State's experience with redistricting from 1962 to 1965 is a single case in the vast response to the pressure of the courts, but it is a particularly interesting and colorful story. Everything that could have happened did happen. Few strategies were left untested; few exits were unexplored.

But more important, redistricting came to Washington at a time when its parties and factions were strong and evenly balanced. The final solution, as a result, was a compromise. It is here that the legislative processes in other states have broken down, as they very nearly did in Washington.

Finally, this story of the legislative process in state government is a complete one. The legislative process succeeded in its task—redistricting did not have to be concluded by the courts, by a special board, or by a rump legislature framed in an extraordinary at-large election.

This does not mean that the final solution in Washington came smoothly. Each group strongly resisted compromise and insisted on dictating its own solution; each failed. Every group but Greive's at one time tried to throw the issue back to the court; every one failed. For over two years the legislators bumped and stumbled toward a solution, always without exact guidance from the courts, never certain that they could finally agree on a compromise solution or that the legislature could reach any solution at all.

The compromise very nearly did not happen.

## II. Six Decades of Neglect

Washington's legislators rarely redistricted on their own initiative, though the framers of the State Constitution had required that this be done every ten years. But even the framers had not obeyed their own edict, to redistrict solely on the basis of "the number of inhabitants," and had apportioned the first legislative seats one to a county, with a few more seats going to the populous areas.<sup>1</sup> The first state legislators, meeting in 1891, had been required to change this system, but had done so only after the first Governor called them back into special session.

The 1901 legislators had redistricted the state, but none after that had done so on their own volition. The constitution had spelled out the requirement to redistrict, but it had not provided any penalty for neglect.

In 1930 a group of citizens, dissatisfied with two decades of legislative procrastination, had proposed their own redistricting bill at the polls as an initiative measure. The voters had approved it, but opponents of the initiative had gone to the state courts, claiming that the citizens had misused the initiative process. The State Supreme Court, however, had upheld the new districts, ruling that a popular initiative could be used to redistrict the state.

Twenty-five years went by before the districts were again redrawn. Then, early in 1956, two Seattle area women, officers in the League of Women Voters (LWV), revived the initiative process. They led the Seattle and Bellevue chapters of the LWV in drawing a redistricting bill and placing it on the general election ballot. But in writing the new redistricting the women had failed to consult the people who would have to run under it—the incumbent legislators. The plan threatened many legislators and irritated most. It was particularly harsh on State Senator Robert Greive. When the voters approved the LWV initiative in November, Greive immediately set out to "amend" it.

The State Legislature could alter any popularly approved initiative by a two-thirds vote in both houses. Greive needed all the votes of the Democrats and more from the Republicans. Few observers gave him any chance to succeed. Nevertheless, Greive proposed a complete "amendment" that left only the first few words of the LWV initiative untouched. The amendment heavily favored Greive's own party and flagrantly set back the progress toward population equality that the initiative

had achieved. Greive held up major bills until the last few days of the 60-day session. Then, in a rush of legislation, he sent his amendment through the Senate and, with just a few hours remaining, won House approval for the plan.

The LWV promptly began a suit in the state courts. Greive had really substituted a whole new bill, they argued, and this exceeded the amending power granted by the constitution. But the State Supreme Court, in a 5-4 decision, upheld the Greive amendment.

### The Courts Intervene

The redistricting issue was thrown open again, on March 26, 1962, when the U.S. Supreme Court handed down its revolutionary decision in Baker v. Carr, admitting a judicial remedy for malapportionment. Four months later and 2880 miles away, this story began. A justice of the peace from Midway, a community just south of Seattle, began the court case Thigpen v. Meyers. James Thigpen sued Secretary of State Victor A. Meyers in the federal district court for western Washington on the claim that he, Thigpen, was deprived of “equal protection of the laws” since his legislative district was nearly five times as large as the smallest district in the state.

The court case came before a district court of three judges, the normal procedure for questioning the constitutionality of a state statute, since this allowed appeal directly to the U.S. Supreme Court. The three-judge panel declined to act immediately. On July 13 they said they could wait on the outcome of a new effort to redistrict the state.

That new effort had begun in June when Mary Ellen McCaffree and Lois North, Seattle leaders of the LWV, began to spearhead another redistricting initiative. This time the LWV officers were determined to avoid the mistakes of the 1956 experience. First they secured the cooperation of all 18 LWV chapters at the state convention in Yakima. Then they asked the state party organizations to designate legislators or party leaders to work closely with the local chapters in redrawing the districts. Chief among these “consultants” was Representative Slade Gorton. Greive did not participate. Gorton argued that the LWV should correct the strong Democratic bias that Greive had drawn into the districts in 1957. When the plan was finally completed, Gorton’s influence was apparent—the bill nominally favored Republicans over the existing system.

The campaign for the LWV initiative went slowly. Seattle Republicans embraced the plan only infrequently, Democrats generally ignored it, and city-based labor groups gave it only lukewarm support. Eastern Washington groups and the rural forces, led by the State Grange, stoutly opposed the redistricting initiative. On election day the slight Seattle and western Washington support for the initiative was overwhelmed by large eastern Washington margins against the measure, and the plan was defeated.

The federal district court reopened Thigpen v. Meyers and heard the case in December. In its opinion, issued a few weeks before the legislators were to meet, the court noted that “absolute equality is not essential...under the equal protection clause, but a rational basis for the legislative distinctions is.” The most populous district had seven times as many people as the smallest district. Thirty-six per cent of the people in the state could elect majorities to the House and Senate. The court found no “rational basis” for the lines drawn in 1957, and concluded that the existing scheme must be “invidiously discriminatory.”

The judges suggested no legal remedy, however. They deferred action in order to give the legislators the opportunity to correct the inequities. “The sins of the fathers,” the court said, “should not be visited upon the sons.”

### III. Counterplots and Coups

The 1962 elections seemed to defeat Republican chances for influencing the new redistricting bill. Despite the highly organized effort of the Republican “new breed” to capture control of the House, the Democrats retained their majority, 51 to 48. And in the State Senate they retained an even wider margin, 32 to 17.

As the session approached, most legislators assumed that the Democratic Party would dictate the new redistricting bill and Senator Greive would write it. To be sure, all expected him to encounter resistance. Greive’s opponents in the Senate could effectively veto any of his redistricting measures, and the House Democrats were badly divided. But all remembered Greive’s success in amending the LWV initiative in 1957, and most believed that he faced fewer obstacles this time.

The nature of his opposition made it all the more important for Greive to succeed. His Senate following had been withering, largely through natural attrition at the polls. His opponents in the Senate—especially liberals and old-line Democrats—had grown strong enough to challenge his leadership, and only by a few votes had he been able to win renomination as majority leader at the pre-legislative caucus. A redistricting bill, cleverly drawn, could enlarge his following. So, in December, after the caucus battle, Greive began drawing the new redistricting bill in anticipation of the legislative session to convene in Olympia on January 4.

#### Saving the Republicans

The House Democrats caucused two weeks after the November election. John O’Brien was renominated as Speaker, but two dissident Democrats, William S. Day (Spokane) and Robert A. Perry (Seattle), insisted that they would never vote for O’Brien. Their announcement was an outgrowth of a series of conflicts between O’Brien and the dissidents, each generating irreconcilable hostilities, many purely personal. O’Brien’s opponents had tried to deny him renomination as Speaker in 1960 and, after a protracted battle, had failed by only a single vote. This time the Democratic margin in the House was so tenuous—two members—that the dissidents could deadlock the election of Speaker simply by withholding their votes.

The Republicans, relegated to the minority position, were keenly interested in the conflict. Ever since the 1961 session, when they had teamed with the dissidents, particularly on behalf of private power legislation, the “new breed” had closely followed the split and had met occasionally with Perry. In November Perry, Slade Gorton, and the “new breed’s” chief strategist, Representative Joel Pritchard (Seattle) agreed to secretly bring together the dissidents and the Republican House leaders.

The group met at Gorton’s home in early December. The dissidents claimed support from six Democrats and sympathy from a dozen others. All agreed that O’Brien should not be Speaker. The only viable alternative seemed to be election of one of their own. The Republicans were tempted to put Evans in the Speaker’s chair, but feared that the “old guard” representatives would not support such a potentially unstable arrangement. The consensus settled on Day. He was gregarious, well-respected, and might generate support from many who would vote for O’Brien.

For their part in the coalition, the Republicans requested full control of the House redistricting machinery, plus “some” committee chairmanships and half the membership of the powerful House Rules Committee. The dissidents, in turn, were promised control of the Legislative Council—Washington’s interim legislative committee—and assured continuing support from all 48 Republicans.

O’Brien suspected a deadlock, but was confident that the legislators would eventually abide by his caucus decision. Nevertheless, he approached the Republican leadership three times just before the session—first, simply to test their position, and finally to openly solicit their support. The Republican leaders, however, only listened and made no replies. They really wanted to go with Day for Speaker, and in the last 24 hours before the session they solidified their commitment. On the eve of the convening of the legislature they gathered secretly with the dissidents at Day’s Olympia home. The next morning they took their agreement to the caucus. The Republican representatives, fully half of whom had no suspicions of the impending coalition, gleefully approved the cabal that promised to save the Republican Party from being redistricted out of power.

It took less than two hours to elect the new Speaker. On the first two ballots no candidate won a majority. The Democrats divided, with O’Brien polling 45 votes and Day receiving six. The

Republicans all voted for Evans, as was customary. The dissidents gained a seventh supporter on the second ballot, so Perry signaled for the Republican switch. The third ballot began immediately, and the well-guarded secret was revealed. Nevertheless, O'Brien and his lieutenants were so unprepared that they did not realize what was happening until they heard Evans—the eleventh Republican—vote for Day. Day took the rostrum with the support of nine Democrats and all but one of the 48 Republicans.

O'Brien, shocked and extremely bitter, tried to bring down the coalition with heavy floor attacks. The “regular” Democrats filibustered, trying to prevent adoption of the House rules that would have them share in the operation of the House. O'Brien refused to take just “some” committee chairmanships and insisted that his regular Democrats were the minority party. By the end of the first week the coalition had grown weary of these attacks. On Saturday, January 20, in 47 high-decibel seconds, the Republicans and dissidents cut off the filibuster, shouted through the new rules, and recessed the House. The coalition had survived the first test and was to endure.

### The Bills are Drafted

Although Greive had not anticipated the coalition, he had expected divisions among the House Democrats and had built a strategy that required key votes from Republican representatives. The coalition did not change this strategy. On Wednesday, January 16, when Evans and Gorton ventured to his office, Greive outlined his bill and informed the two that he planned to pass it, or one like it, without reference to the Republican leadership.

The “new breed” had entered the coalition hoping to take an active role in redistricting, and had made Gorton chairman of the House redistricting committee so that he could lead them. The short meeting with Greive confirmed their plans to seize the initiative on redistricting. The “new breed” saw that Greive would never compromise and would use redistricting to strengthen his power in the Senate. They were adamantly opposed to protecting “Greive and his cronies,” for, along with O'Brien and Governor Rosellini, Greive epitomized all the “new Breed” wanted to overthrow in the Democratic party. It was virtually a matter of personality.

With their own bill, Republicans hoped to provide legislators with a major alternative to what Greive was proposing, win over Greive's opponents in the Senate, and form a new majority. It was easy for them, after the success of the coalition, to conjure up visions of overthrowing the Senate leadership, which would allow them to negotiate redistricting with the intellectual liberals in the Senate without reference to Greive.

The bill would also serve a second major purpose for the Republicans: it might become a guide for a court-drawn redistricting. In January nearly all legislators believed that the judges would redistrict if the legislators did not. This frightened Greive. But it almost pleased Gorton, for he thought that the court would surely draw a plan quite acceptable to the Republicans, perhaps along the lines of the LWV initiative. Gorton was little interested in negotiating with Greive until he became less adamant in his demands for a Democratic bill.

By the end of the first week of the session, each side was committed to a strategy for enacting its own redistricting bill—Greive by wooing away a few House Republicans, the “new breed” by dividing the Senate Democrats.

### Two Opposing Bills

The two redistricting bills were even more opposing than the two strategies, simply because of the disparate manners in which the two men approached the redistricting task.

Greive's overriding interest in drawing his redistricting bill was the legislators who would vote for it. He was an expert in the interests in the districts of most legislators. To him redistricting was a job of piecing those interests together while insuring his supporters in and outside of the Senate the most favorable treatment. He was no umpire, but a powerful arbiter.

Gorton, on the other hand, insisted (at least initially) that the primary objective of his bill was achievement of the “one man, one vote” requirement. Greive agreed to this only to the extent necessary to satisfy the court. Furthermore, Greive had a somewhat unique interpretation of what the court might require. Whereas Gorton and most other legislators figured Senate representation separately from that of the House, Greive lumped both together. Everyone believed that the court



would allow population deviations no greater than two-to-one, and Greive, using his unique interpretation, could stretch the actual population extremes far beyond those of others.<sup>2</sup> He was convinced that the court would have to accept whichever interpretation the legislature adopted, and thus argued for his, since it allowed the most leeway in drawing the new districts.

Gorton's second objective, the crux of the battle between the two, was to change the overall political complexion of the districts. A majority of the people, Gorton argued, should be able to elect a majority of the legislators. This was impossible now, he said, pointing to the last election, in which Republican candidates for the House had polled 53 per cent of the total vote yet had won only 48 of the 99 seats. In effect, Gorton was insistent upon Republicans' receiving immediate gains under the new redistricting, thus correcting the obvious bias in the existing scheme, and the creation of more "swing" districts where either party could win. He feared that Greive's concern with individual legislators would produce a preponderance of "locked-up" districts, insuring that one party would always win a certain minimum number of seats.

This overall political perspective baffled Greive, who saw redistricting on a piecemeal, district-by-district basis. Furthermore, Greive considered the existing scheme, which he had drawn in 1957, most equitable. And if any party was to benefit under the new bill, Greive thought it should be the Democrats, since the voters had elected more of them.

Greive and Gorton were in agreement on one objective, however; both tried to draw "clean" districts that were compact and followed geographic and political boundaries. Most legislators insisted that their district lines run along mountain ranges, rivers, county lines, city limits, etc. This was largely a fetish, but it also tended to absolve individual legislators from the criticism that their district had been "gerrymandered." Gorton was fairly successful in achieving this objective, but it constantly plagued Greive, whose bills always contained a few weird-shaped districts (or, as in his first bill, two districts that spanned the massive Cascade mountain range that runs north and south and divides the state psychologically as well as physically).

### A Little Federal Plan

Rural legislators came to Olympia openly sympathetic toward establishing a “little federal plan” for the Washington legislature. However, this effort to put one or both houses on an “area” basis never overrode other redistricting considerations, mainly because cleavages between rural and urban legislators were not as divisive as those between party and faction. That the rural legislators never rebelled was due largely to the influence of their titular leader, Republican Representative Donald W. Moos, a rancher and farmer from rural Lincoln County in eastern Washington.

As soon as the session began, Gorton and Moos worked out a redistricting constitutional amendment. It promised to pacify the unhappy rural representatives, but would not violate either Gorton’s population standards or the consciences of the urban legislators. The plan provided that House seats be apportioned to those rural counties having just enough population under the two-to-one rule, insuring that rural areas would always be represented through the smallest districts in the state. To this Gorton and Moos added provisions for “automatic redistricting,” removing the task from the legislature and setting up a special commission to draw the district lines.

Lars Nelson, master of the State Grange, immediately objected to Moos’ moderate plan. Since the beginning of the redistricting battle, Nelson had fought to give the Grange a major role, first by asking to be made a party to the Thigpen v. Meyers suit, and later by opposing the LWV initiative. He had failed to join the suit, but had succeeded in influencing the election. The rural areas of eastern Washington, where the Grange had its base among the small, marginal farmers, had voted strongly against the initiative.

In January Nelson came to Olympia to press for a “little federal plan” that would guarantee each county, no matter how small, at least one representative. Moos thought the proposal hopelessly doomed and, when a rural legislator introduced it, buried the proposal in the House redistricting committee.

Then Greive entered the battle, asking why the senators should support Moos’ plan, which changed only the House districts and did nothing for the Senate. Under pressure from rural senators, Greive began to draft his own constitutional amendment. It divided the state into fixed areas and

guaranteed in the constitution at least one senator and one representative for each unit. Additional legislators would go to units with more population.

Moos, who had hoped to resolve the constitutional amendment before it became mired in the redistricting battle, was highly irritated by Greive's seeming attempt to make the constitutional amendment a partisan issue. He attacked the boundaries of the fixed units, insisting that Greive was writing a "partisan gerrymander" into the state constitution, and predicted that the boundaries of the units would cause Greive's scheme to violate the two-to-one population rule.

### The Leadership Stalls

The legislators waited. In the beginning, neither Greive nor Gorton was willing to lose his strategic advantage by moving his own bill first. If the Senate, for example, amended any House bill—and Greive would surely "scalp" Gorton's bill—the Senate version would go immediately back to the floor of the House for a final automatic vote, thus essentially forcing the representatives to vote on Greive's bill whenever he chose to send it over. Of course Gorton could reciprocate on any redistricting bill originating in the Senate, but Greive showed no inclination to make any move either way until he knew he had enough Republican votes in the House.

So everyone waited. Outwardly it appeared that nothing was happening, although in corners and behind closed doors the legislators kept very busy. Greive did most of his waiting in the House chambers, where he sought out Republican votes.

Gorton, upstairs in his committee room, worked to educate the House Republicans on the politics of redistricting. Gorton warned them of the danger of hoarding votes and explained how Greive was trying to concentrate Republican strength in a handful of seats, then spread Democratic strength into the remaining districts, and thus always insure legislative majorities for his party. Gorton admonished the representatives not to "sell the party down the river" in exchange for individual gain, but to bargain together and let the leadership spread Republican voter strength into many districts.

A few Republican representatives, frightened at any cut in their winning margins, were reluctant and continued to bargain with Greive. The others, however, were fanatic in their support of the party, and two even insisted that Gorton abolish their seats rather than spoil larger Republican gains in adjoining districts. No one broke from the caucus, all 48 supported Gorton's leadership on redistricting, and the key to the Republican's success—their unity—continued and became more firm.

The first month of the session passed, as Greive and Gorton refined their redistricting bills, sought out support, and fought over what guidelines to follow. Gorton knew that Greive's interpretation of the population requirement would ruin the two-to-one rule. He and Senator Wilbur G. Hallauer (Dem., Douglas County), who had helped the LWV draw its initiative, asked for guidelines from State Attorney General John J. O'Connell (Democrat). O'Connell, in an opinion issued in early February, indirectly refuted Greive's position, cautioning the legislators against deviating from the two-to-one population rule except where they could show some overriding national basis—a regional, social, or economic factor, he suggested. Greive was furious with the opinion but could not shake O'Connell from it.

Not until the second month of the session did Greive and Gorton meet. And negotiations, when they did begin, faltered badly.

The first redistricting talks were an accident. On Wednesday, February 20, Greive happened to meet Gorton on the House floor. At first they chatted amicably, searching out each other's ideas. Greive seemed confident that he could pass his bill through the House, but Gorton asserted that Greive would have to work with the coalition and could not "break" it. As they parted Greive suggested they meet again soon.

Representative Day, anxious to build his image as a Speaker who could "get things done," had been pressuring Gorton for nearly a month to begin negotiations with Greive. When he heard of the chance meeting on the House floor, he pressured the reluctant Gorton again. The result was two short and very inconclusive meetings between Day, Greive, Gorton, and Pritchard on February 21 and 22.

In the meetings the four argued first whether Greive could protect certain senators, Republicans as well as Democrats. Later Greive sketched out his redistricting plan and tried to convince Gorton that it contained many concessions to the Republicans. He suggested that they begin informal negotiations, using his plan as the basis for discussions. Gorton balked. He told Greive that the plan was gerrymandered in favor of the Democrats and insisted that Republicans would never start negotiating from a position that denied them so much.

Greive's anxiousness for informal negotiations prompted the Republicans to review and finally abandon their waiting strategy. Informal talks would surely strengthen Greive, the "new breed" thought. They still wanted to divide the Democrats and defeat Greive, and suspected that Greive feared both formal negotiations and prolonged floor fights. Either could be forced on him if the Republicans moved their redistricting measures first. In addition, Gorton could see no end to Greive's stalling and suspected that the court would eventually assume redistricting responsibility. It seemed likely that if the Republicans passed their bill through the House, it would then become the only redistricting scheme approved by either chamber. The court, Gorton hoped, might then adopt it as a partial basis for drawing its plan.

Yet Gorton was quite reluctant to send Greive the Republican bill, for he feared that the dissidents and the Republican caucus might not vote together if Greive "scalped" and shot the bill back to the House. But that weekend Speaker Day, who was anxious that the House take any action, assured Evans that the dissidents would not desert the Republicans during the crucial vote. On Tuesday, February 26, Gorton and Moos went before the House caucus with the redistricting bill and the constitutional amendment. After a detailed review of the plans and a pep talk on the need for caucus unity, two questions were put to the members: Would each vote for the Republican measures? Would each vote against any bill Greive sent back? Evans said that any member taking this pledge could change his mind, but only after meeting with the full caucus. Gorton promised to sign no formal agreement with Greive before caucus consideration. The two questions were asked separately, and each member answered yes.

It took a week to prepare the bills for House passage. During that time Day increased the pressure for informal negotiations. On Sunday evening, March 3, he staged a mass meeting of eleven legislators and three aides in Gorton's committee room. It was totally disastrous, mainly because of the uproar created when Greive and Gorton unveiled their separate plans. Although the session was one and one-half months underway, each side was seeing the other's proposal in detail for the first time. The two sides denounced each other's plan, predicted its defeat, and accused each other of "cheating" on statistics that described the political complexion of the districts. When the talk turned to individual seats, the gap between the two sides widened. Greive and his lieutenants insisted that Gorton reveal "how many seats" he wanted. But Gorton would only discuss general guidelines and tried to explain a statistical test for checking whether any bill would let a majority of the legislators. Gorton remained adamant, Greive threatened to pass his bill through the House, and the argument shifted to the solidarity of the Republican caucus. Finally Gorton shouted that he was ready to go to the court, to which Greive replied that the court would never redistrict the state.

Each side went away from the meeting more convinced of its own strategy—the Republicans hoping to force a floor fight and formal negotiations on Greive, and Greive hoping to crack the Republican caucus and enact his own bill.

### The Waiting Continues

Three days later, on Wednesday, March 6, the Republicans put both Gorton's and Moos' redistricting measures before the House. It gave most Democrats their first opportunity to study Gorton's bill. House Democrats reacted caustically. The outburst continued through Thursday night, despite Greive's pleadings that the bubbling representatives let the measures pass and thus gave the Senate some bills to "scalp." That evening the coalition put both measures to a final vote. All the Republicans voted with the caucus. Gorton's bill polled the votes of all the dissidents—eight of them—plus one independent Democrat, while Moos' constitutional amendment polled only 15 dissenting votes, all regular Democrats.

That night Speaker Day, who was not a part of the “new breed” strategy to weaken Greive, again pressed for informal talks. At first Gorton simply stalled. Later, rather than directly confront Day with a strategy probably unacceptable to him, Gorton agreed to new talks. The two redistricting leaders, plus Pritchard, Moos, and Perry, met Tuesday evening, March 12. The meeting instantly collapsed. First Greive announced that the court would never redistrict the state but would threaten to make all legislators run together on an at-large ballot, thus frightening them into staying in Olympia until they produced a satisfactory redistricting bill. Still adamant in his position that the court would redistrict, Gorton impugned Greive’s sources of information and insisted that the Republicans would eventually get a better bill from the court. At that Greive stormed out of the meeting.

Two days later the constitutionally prescribed 60-day session ended. Virtually no major legislation had been enacted. Governor Rosellini quickly called a special session, as had become common practice, and the lawmakers continued their work without any noticeable break in legislative activity. Both House and Senate immediately began reconsidering and passing pending legislation, since it all had died at the end of the regular session.

Their strategy unchanged, the Republicans repassed their redistricting measures. At first Moos tried to untie his constitutional amendment from the redistricting bill and pass it before Gorton reintroduced his measure, but House Democrats, on the advice of Greive, insisted that the two accompany one another. On Monday, March 25, the Republicans put both measures before the House. To prove Moos’ dependence upon the Democrats, O’Brien instructed his caucus to hold back extra votes, and the constitutional amendment passed with only a bare majority, 66-31. Gorton’s slightly revised redistricting bill (House Bill 56) passed 57-41, with support from all Republicans and dissidents.

Speaker Day, still hoping to start informal negotiations, called Greive, Gorton, and Perry into his office on Monday night. The deadlock continued, with Greive insisting that Gorton tell him “how many representatives” he wanted, and Gorton wanting to negotiate from his general criteria and “count up” the representatives after the bill was drawn. Hearing the news of the deadlock,

Democratic Lieutenant Governor John A. Cherberg suggested that Gorton and Moos withdraw from the negotiations and be replaced by more amicable Republicans. On Gorton's prompting, Evans agreed, but only with the condition that Greive also withdraw. This Cherberg rejected.

The waiting continued. Hoping to nullify the appearance that nothing was happening, Greive asked Senator Dewey C. Donohue (Dem., Columbia County), chairman of the Senate redistricting committee, to stage hearings on the various constitutional amendments before the legislature.<sup>3</sup> Public hearings, held on March 19 and 27, were confusing, inconclusive, and generally ignored, but provided the only forum for outside groups to be heard on redistricting in that session. The only non-legislators to appear were Grange Master Nelson and State Superintendent of Elections Kenneth Gilbert, both already deeply involved in the struggle over the redistricting constitutional amendment.

Greive continued to pressure House Republicans for commitments, but none would yield. Finally he shifted his strategy and began to woo the dissidents. By giving most of the dissidents safe districts, he hoped that they, plus one or two Republicans, would provide him with his margin of victory in the House.

### A Compromise is Found

Activity on the redistricting constitutional amendment had been gradually increasing during the second month of the session. At first Moos and Greive had simply attacked each other's plans, with Moos arguing that Greive's was too static, and Greive saying that Moos' was too vague. Election official Gilbert and Grange Master Nelson had sided with Greive, although Moos thought their reasons were more political than technical.

By early March, Moos and Greive had begun to meet regularly to try to resolve their differences. Gilbert, Nelson, and Representative Thomas L. Copeland (Rep., Walla Walla) had sometimes joined the talks. Greive, pleased to be negotiating with Moos, had thought that a compromise constitutional amendment could be used as a bargaining device for forcing redistricting negotiations. He had not been particularly concerned with the details of the constitutional amendment, so long as it did not radically upset the existing districts.



Moos had tried to free the constitutional amendment from the redistricting issue. On Wednesday, March 20, he had put his plan before House, asking the representatives to approve it before they re-approved Gorton's redistricting bill. Moos had gone onto the floor that day with 66 sponsors signed to his plan, exactly the required two-thirds majority, but O'Brien had intervened at the last moment and suddenly none in the Democratic caucus would vote with Moos until Gorton's bill was also on the floor. By Friday Moos still had not won enough votes to move his plan independently. He had gone directly to O'Brien. He and Gorton had argued with O'Brien and two other Democratic caucus leaders that they should drop their support for Greive's constitutional amendment, but O'Brien had not yielded. Finally, on Monday, March 25, the Republicans had put both redistricting and constitutional amendment before the House, and both had passed together.

By Wednesday, March 27, the negotiations between Moos and Greive had become almost continuous. That night Greive suggested that each put their plan before the voters—Greive's that year and Moos' in 1964. Drawing out the two plans, they discovered that they could reduce their disagreements to just two areas in the state. Moos immediately tried to resolve the disagreements, appealing to Greive to forget the two-plan solution. He called Gorton over, and both urged Greive to accept the Republican position in one of the areas, arguing that their differences were really minor.

On Thursday, Greive suddenly agreed to Moos' position on both areas. The compromise was set. The final product strongly resembled the bill that Moos and Gorton had devised in January, although Greive had insisted that they remove the provision for "automatic redistricting."

Greive had given Moos' supporters the constitutional amendment they said they wanted but had won his major aim: before the constitutional amendment became law, the legislators had to enact Greive's redistricting bill or a compromise he approved. This was written into the constitutional amendment. And although the constitutional amendment put only the House on an area basis, it increased the size of the Senate from 49 to 51 seats. The beneficiaries were two Republican senators from rural areas who would otherwise lose their seats. Their votes would be more crucial in the coming week than Greive could imagine.

### The Bills Move

During the week of March 25 the Senate Democratic caucus told Greive to pass his bill over to the House. Their sudden decision surprised most legislators, although Greive had known for some time that his caucus was growing impatient with the stalling strategy. Most Democratic senators felt that if Greive had the votes in the House, he had them now. If not, many wanted to leave time for passing a modified bill, and little time remained. The budget would pass in less than two weeks; the pressures and frustrations accompanying settlements on other bills would make the legislators edgy and burning with “go-home fever.” Not even redistricting could hold them from adjourning after they disposed of the budget.

The settlement to bring out Greive’s bill and “scalp” it onto Gorton’s was tied in closely with the growing impatience over the whole redistricting issue. Many Democratic senators, both Greive’s opponents and supporters, wished they could wait until after 1964, when, they thought, the Democrats would win landslide majorities and not have to deal with the coalition. They were unhappy with Greive’s bill—it stretched so far to placate so many that it actually pleased very few. And they were even more unhappy with the prospect of a Greive-led compromise with the coalition.

The chief proponent of delay was Governor Rosellini. He had not intervened openly in the redistricting battle, had not offered suggestions or guidelines, but had privately urged old-line Democrats to make no compromise with the Republicans. Rosellini told them the state could probably delay court action for two years, thus holding the issue for the 1965 legislature, which he expected to be overwhelmingly Democratic.

The tensions of delay encouraged Greive’s opponents to strike at his redistricting leadership. As early as mid-February Senators Hallauer and Mike McCormack (Dem., Richland) had begun to plan an amendment that would displace Greive’s bill for the eastern Washington districts. They had first met with Gorton on February 25, hoping to win Republican support for their amendment. During March, when some senators from southwest Washington had shown interest, the two had started to write a whole bill, one that would “scalp” Greive’s as he was “scalping” Gorton’s.

At first Gorton had enthusiastically received the senators' requests, hoping that they could collapse Greive's bill and with it his whole network of fragile agreements and expectations. But by the end of March, when he was meeting almost daily with Hallauer and McCormack, Gorton had begun to doubt the utility of his strategy. They might defeat Greive temporarily, but they could not exclude him from any negotiations. Nothing, he thought, would prevent Lieutenant Governor Cherberg from appointing Greive to any conference committee.

Gorton's compatriots in this strategy—Pritchard and freshman representative Mary Ellen McCaffree, the LWV leader—tried to encourage the two senators and assure Gorton that a victory would allow them to negotiate a bill with Greive's opponents. On Thursday, March 28, Gorton agreed to pursue the strategy, told his aide to draw up the bill for Hallauer and McCormack, and set out to secure the votes of all 17 Republican senators.

Greive's bill was generally available Friday evening, March 29, the night before it was scheduled to pass the Senate. Gorton was astonished, for the bill was certainly unconstitutional; it seemed to follow to an extreme Greive's odd interpretation of the population mandate.<sup>4</sup>

### Saturday

Late Saturday morning, when McCormack began distributing copies of his plan to the Senate, he believed that he had eight Democratic votes. He could, by a bare majority, upset Greive's redistricting leadership if he had the votes of all 17 Republicans.

Apparently only McCormack realized how close the vote would be. Gorton was too busy trying to unify the Senate Republicans to make a count. Greive was embroiled in preparing his bill for passage and rushing it through committee system. He was relying on the count he had made the night before, when he put at least 27 or 28 votes behind him, including some from the Republican side.

All morning the 17 Senate Republicans had been urged to unify and vote together on the redistricting issue. The effort was chaotic. Gorton could not hold the attention of the Republican senators, who were frantically scanning their just-received copies of Greive's bill, wandering off to

talk to Greive or his aide, or going to the redistricting committee meeting. When the Republicans were finally assembled in their caucus room, Gorton explained the McCormack amendment and asked them all to vote for it. A few hedged and would not commit their votes. All felt the pressure to get back on the Senate floor. The caucus broke up, with no one sure whether the 17 would vote together. Gorton, Pritchard, Evans, “new breed” senators, and the state party chairman argued with the recalcitrant Republicans in the wings of the chamber. (Gorton had done very little until then to educate the Senate Republicans. The “new breed” leadership had spent the entire session building a unified Republican caucus in the House. Unity was more important in the House, and there the “new breed” had spent their effort.)

In the jumbled Democratic caucus Greive brushed aside objections to his bill. He planned to override all opposition during the opening minutes of debate.

The Senate first considered the compromise constitutional amendment. Argument was deliberately kept short, as the senators wanted to get to the redistricting bill. The roll call began. Greive and Moos feared a loss, for their margin lagged. At the end of the voting they were three votes short of the necessary 33. But slowly, as the anxious supporters waited, three senators changed their votes from “nay” to “aye.” The constitutional amendment was safe.

The senators were now ready for the redistricting bill. Lieutenant Governor Cherberg presented the report of the redistricting committee, which asked the Senate to replace Gorton’s bill with Greive’s redistricting plan. McCormack moved that his bill be considered first, as an amendment to Greive’s amendment. Greive responded with a motion to lay McCormack’s request on the table.

All 49 senators were present for this test vote. Over 50 representatives were scattered around the Senate chambers and in the wings, and there was no room in the galleries. No one called for a roll call. The voice vote was inconclusive, and Cherberg called for a division. The Democrats stood up to support McCormack! Only 15 of the 17 Republicans stood with them, but that was enough. Greive’s move was defeated, 25-24.

Greive worked frantically to regroup his Democrats, and the “new breed” pleaded with the two recalcitrant Republicans, the two Greive had saved with the constitutional amendment, to desert Greive and vote with their party.

It was all over in a few minutes, and Greive prevailed. Two McCormack supporters changed their position; the two recalcitrant Republicans would not. McCormack was defeated.

The Senate reader droned through the various amendments to Greive’s bill, all small changes in individual districts. Greive defeated the unacceptable ones, 26-31. Late in the afternoon, the McCormack amendment was considered, and lost by a 27-22 vote. All but one of the Republicans voted for it, but by then McCormack had lost the support of all but six Democrats.

The battle was not yet over. Although they had failed to enact the McCormack amendment, the opposition could still kill Greive’s bill and win a new chance to test his leadership. The Republicans needed to break the position of their remaining recalcitrant, hold all 17 Republicans (many of whom were frantic to bolt), and find, among the Democratic senators disgruntled with Greive’s bill, eight unhappy enough to vote against it.

There were eight. They were joined by all 17 Republicans, voting as a bloc against the final passage of Greive’s bill.

For a moment it appeared that the Republicans had accomplished the impossible and defeated Greive’s bill on the floor of his own house, but Cherberg waited. Then Senator William A. Gissberg (Dem., Snohomish County), the man who would have been majority leader if Greive were not, stood and changed his vote from “nay” to “aye.” The bill now had the necessary 25 votes, and three other senators changed their votes, leaving the final tally at 26-23.

### The House Coup Fails

Greive’s plan went directly to the House floor for the automatic vote.

Greive and his associates began to collect on all the debts they felt were owed them by certain House members. They told Day and Perry that the bill was a fair one and deserved the support of the dissidents. Greive dealt in the “soft” political currency of unwritten expectations and

mutual obligations. There were no specific favors or deals that he sought to have honored. Like most of the other Washington legislators, Greive dealt in the “softer,” more long-term understandings. No “signed contracts” guided his relations with the dissidents and the Republicans.

Saturday night, six hours after the Senate passage, Greive thought he had enough House votes to enact his bill. He knew he had the support of from three to five House Republicans and all but perhaps one of the dissidents. His bill met the requests they had made.

The Republicans were unaware of any imminent coup. Later that night Evans reviewed the new bill with Speaker Day, telling him that the bill was unacceptable to the Republicans. He reminded Day that the redistricting issue had influenced the Republicans to elect him Speaker and pointed out that the bill would take the seats of two dissidents.

Some Republicans were suspected of wavering. “New breed” leaders sat up with them that evening, while Evans and state party officials contacted political leaders in the districts of four. Throughout the night and the next morning these four Republicans were barraged by telegrams and telephone calls from friends back home, pleading with them to stick by the caucus and not “sell the party down the river.” At the Republican caucus the next afternoon two of the four lashed out at the leadership, angry that anyone would question their loyalty. Evans asked the caucus if anyone was going to back out on his pledge. No one replied.

Sunday afternoon Greive concentrated on unifying the regular Democrats. Most of them were ready to vote for Greive’s bill; others said they would provide the fiftieth vote if it were close. Greive assured them that it would be, that on the floor the dissidents would leave the coalition and a few Republicans would desert their caucus.

The House convened early Sunday evening, and with it a great crowd of senators, spectators, press, and state officials. To most, the outcome was fairly certain. Each thought his own side would win.

Day presented the “scalped” H.B. 56, and Gorton asked the House to reject it.

O’Brien moved to approve Greive’s amendments, and, as the more positive motion, this was considered first. Calling the bill fair and equitable, O’Brien implied that any move to set up a conference committee would send the issue to the court.

Then dissident Perry rose. The bill was not reasonable, he said; the issue could be resolved by Greive and Gorton in a conference committee.

Democrats wondered if Perry spoke for all the dissidents. He did. The magnitude of Greive's defeat was astounding. The regular Democrats could muster only 38 votes. The coalition amassed 59 votes—all 48 Republicans, the six original dissidents plus the two who had joined their ranks, independent Democrat Jack Dootson (Everett), and two regular Democrats who would not vote for the districts Greive had drawn them.

Gorton moved that the House send the bill back to the Senate for reconsideration. Another regular Democrat broke, and the House approved Gorton's motion 60-37.

Greive left after the first vote. Later that night in the Speaker's office he assailed Day for supposedly breaking his word. As he left he shouted, "I don't mind telling you, I've been double-crossed. Some of the people I've been dealing with haven't kept their word." He claimed that he was through with redistricting.

#### IV. The Doomed Negotiations

The legislators had one week to reach a redistricting compromise. Already they had been in session for 77 days, and even the least weary was looking toward adjournment. Final-hour negotiations were geared for that week, and by the weekend the last compromise on the budget and other major legislation would be made. If redistricting remained unresolved, the fatigued legislators would probably adjourn and deliberately send the issue to the court.

The bill was back in the Senate on Monday morning, April 1. When Greive went before his caucus, what happened surprised nearly everyone. Only six supported him. The others, led by Senator Gissberg, bitterly attacked the redistricting progress over the past 11 weeks. Most of the caucus members did not like Gorton's bill or Greive's bill, did not want to spend another month in Olympia, waiting for Greive and Gorton to work out a compromise, and probably would not accept the compromise, could it be reached, because it would have to grant too much to the Republicans. Behind the caucus doors they told Greive that they were not afraid of the court; if it drew the districts, it would probably draw a better bill.

Greive blasted away, arguing that if they didn't do the job now, the court would make them all run at large. There would be no waiting until 1965 without some penalty. But the majority of the caucus, encouraged by Governor Rosellini, did not believe that the court would draw the districts; indeed, they thought the matter could probably be postponed until the 1965 session. They believed that by then the Democrats would have swept the 1964 election and would come to Olympia ready to write their own redistricting bill without any compromise.

On the Senate floor the Democrats moved to postpone H.B. 56 indefinitely. Greive and Minority Leader Perry Woodall (Rep., Toppenish) valiantly tried to keep the issue alive. (Earlier Gorton had urged Republicans to vote for conference negotiations. If redistricting were killed, he argued, they should make the Democrats take the blame).



Greive, who needed nine Democratic votes, could not find them. Twenty-four Democrats and one Republican voted to shut off debate and vote immediately. Then the same 25, plus another Democrat, approved the move to postpone H.B. 56 indefinitely. Greive, hoping that the senators would reconsider what they had done, changed his vote, along with Woodall, to “aye.”

The representatives, especially the Republicans, were stunned by the unexpected Senate action. Few understood what it meant. They could not believe that the senators had killed redistricting. At first Gorton thought this was a caucus revolt against Greive, so he asked McCormack to bring his amendment before the Senate again. But Hallauer and McCormack replied that the battle was an inner-caucus affair and refused Gorton’s request. Gorton, convinced that redistricting was finished for that session, began to think toward 1965 and perhaps convincing the LWV to sponsor a new redistricting initiative.

#### Negotiations Are Approved

The margin of the opposing senators was too thin. Before his caucus Tuesday morning Greive made a dramatic plea for support, asking for a “few days” to get Gorton to compromise. He needed only to change a few votes to win approval for conference negotiations.

On the floor that afternoon Greive and Woodall asked the senators to reconsider the fate of H.B. 56. Again Greive argued that the court would act if the legislature did not and would probably make all legislators run at large in the next election. Again the opposing senators argued that the conference effort would be futile. Senator Nat Washington (Dem., Grant County) expressed the private frustrations of the senators:

There have been too many concessions made already to allow us to reach a solution in a few days. Any plan would be just too political...my own district would be better served by sending it to the court. That is the final concession, that someone outside of the legislature should do the job.

After much debate 16 Democrats and 16 Republicans approved the conference effort. Greive had won back eight senators. Nevertheless, a hard core of 16 Democrats still opposed any

negotiations. This was half the caucus, and Greive could make no major move on redistricting without support from a clear majority of the Democrats. Conference negotiations were probably doomed from the start, for if those 16 continued to oppose any settlement, Greive was powerless to bring any settlement before the whole Senate. But few legislators were thinking that far ahead. The leadership was almost entirely preoccupied with merely getting the conference underway.

The next obstacle was the appointment of the conferees. Everyone knew that either Cherberg or Day, in appointing the three conferees from each house, could stack the conference committee by choosing legislators who would not reflect the views of their leaders. Cherberg might appoint one of the recalcitrant Republicans who had voted with Greive until the end. Day might ignore O'Brien and the regular Democrats and appoint only coalitionists. All Tuesday each side tried to gain commitments from the other as to who the conferees might be, but neither succeeded.

That night Day appointed Gorton, Perry, and regular Democrat K.O. Rosenberg (Stevens County), who was loyal to O'Brien, although not one of the caucus leaders.

Many worried that Cherberg would delay his appointments, leaving no time for negotiations, but after consulting with Democratic leaders on Wednesday, Cherberg announced the Senate conferees: Greive, Michael J. Gallagher (Dem., Seattle), and one of the Republican leaders, Marshall A. Neill (Pullman). Legislators hoping for a compromise were alarmed only by Gallagher's presence on the six-man committee. Gallagher was a hard-boiled "old line" Democrat and very close to the Governor, and many feared that he would represent the sentiment to delay redistricting until 1965.

### Greive and Gorton Bargain

The six conferees met for the first time late Wednesday afternoon, April 3. The two redistricting aides were asked in and attended all the conference meetings. Discussion was erratic, as Greive and Gorton jumped from one district to another. They agreed on lines in a few uncontroversial rural areas, but could not even come close to solving the knottier problems. The stalemate remained.

The conferees met again Wednesday evening, still hopelessly deadlocked. The meeting lasted only half an hour. Before leaving, Gallagher advised the other conferees that an agreement had to be reached by the following afternoon if anything were to be done that session. As the remaining five lingered in the committee room, Greive began to press Gorton for some agreement, but they could reach none.

When it became evident to everyone that the conference effort was dead, Gorton presented a “stopgap” plan designed to placate the court for two years. He suggested they draw a plan eliminating the four smallest districts and dividing the four largest. Calling the whole idea ridiculous, Greive told Gorton, “Either you redistrict or you don’t.” He felt that he would not satisfy the court and that the Attorney General would probably tie up the issue in the courts until 1965.

By the next afternoon the frazzled conferees were fighting among themselves. They began to throw the blame for the deadlock on Senator Gallagher. Greive complained privately to Cherberg that Gallagher was slowing the negotiations, Gorton made statements to the press, and Gallagher roundly blasted back at the two.

Late Thursday afternoon only Greive and Gorton and their aides remained in the committee room. They were close to agreement on two key districts. But this was overshadowed by new and intense disagreement over another district—Greive’s own. In the 1962 election the voters in Greive’s district had ousted one of the two long-time Democratic incumbents in favor of conservative Republican D. Eberle (Seattle). The district had sent only two Republicans to Olympia during the previous 25 years, and Greive was determined that Eberle should not return in 1965. Greive added Democratic voters to his district and took out Republicans. Gorton did not object as long as he could draw Eberle into a separate subdistrict within the senatorial district, one that would be no more Democratic than the old district. Greive objected vehemently.

The discussion seemed hopelessly muddled. Gorton sensed this and, realizing that the legislators were almost ready to adjourn, decided to move on his own. He put his brief stopgap plan before the House, thinking that this might force Greive into more concessions.

Greive had, in fact, been preparing a new proposal that day. It was a Democratic stopgap plan, less sweeping than his previous bills, but nonetheless comprehensive in that it affected nearly all of the districts. He hoped it would revive interest in the failing negotiations.

In the evening Greive and his aide put the new plan before Gorton and the other conferees. All attention quickly centered on District 10, the smallest in the state. Greive wanted to save its Senator, Dewey Donohue, and Gorton wanted to eliminate the district. For an hour the two redistricting leaders bickered and bargained, and finally Gorton agreed to Greive's solution. It was a classic gerrymander, a dumbbell-shaped district one-half mile wide at the middle, but it would elect Senator Donohue. In return, Gorton won the Republican district he wanted for the adjoining tri-cities area.

The disposition of the pivotal Donohue district, plus general agreements made earlier on Spokane, set the pattern for all of eastern Washington. The conferees could thus concentrate their attention on the 34 districts west of the Cascade Mountains. Essentially that meant Seattle. Before anything could be done on Seattle, the Eberle issue had to be settled. Just before midnight Greive, as part of a package proposal for western Washington, offered half of the Republican demands in their Seattle strongholds in exchange for "half of Eberle's scalp." Gorton said he would study the proposal. Before the conferees broke up they told the two sides to draw a complete bill on the basis of the negotiations.

Gorton took about half an hour to leave the Capitol and walk to where the Republican leadership was gathered. In that time he decided that Greive's proposal was better than risking a showdown with the court. He was no longer confident of his earlier belief that the court would redistrict; he feared that the judges might force another special session, whose pressures might splinter Republican unity and allow Greive to pass his own bill.

When Gorton arrived at the Republican meeting he told Evans and Pritchard that he had received as good an offer as they could expect. The three presented the compromise to the rest of the Republican leadership. All agreed it sounded like an acceptable plan.

Greive, still unaware of the Republican commitment to the compromise, stayed on at the Capitol, watching over the work of the two aides. After talks with Gorton's aide, Greive decided to give Eberle a separate subdistrict. It would be harder on Eberle than the old district, but easier than having to run in the entire new senatorial district.

### The Conference Plan Dies

By Friday morning the general agreement had been translated into district lines. The conferees met briefly, then adjourned to study the rough draft and show it to their supporters. Their optimism was suddenly sobered. Seeing all the definite district boundaries was not the same as talking about the agreement in abstract terms; the vagueness of the general agreement had clouded controversies quite apparent now that the lines were mapped. Simultaneously, the conferees encountered fierce resistance from legislators whose expectations had been crushed, particularly from the opposing Democratic senators, who were amazed that Greive had compromised so much.

The conferees met again late Friday afternoon, April 5. Both sides wanted to win some gains to make the compromise palatable. Gorton planned to ask for a revision of the Spokane districts, since he felt they did not reflect Thursday's agreement. Greive and Gallagher wanted minor changes to benefit their supporters. But neither side was willing to retreat from its own advantages. Both Greive and Gorton knew the way out of this deadlock—involve more districts in the compromise and widen the scope of the bargaining. But the conferees hardly discussed this. The separate subdistrict for Eberle captured their attention and they argued over what it would do to him. Gorton hardly mentioned the Spokane problem.

That evening legislators continued to pressure the conferees with arguments against the compromise, with pleas for changes in the agreement. The strongest Republican opposition came from the Spokane representatives, who cried they would never be able to capture a majority of their county's delegation. Senate Democrats, in a special caucus, denounced both the plan and Greive's redistricting leadership. Greive had "sold out" the party and given control of the legislature to the Republicans, Gissberg argued. Senator Gallagher announced coldly that he had serious doubts about

the acceptability of all 19 Seattle and Everett districts. Many suspected that Greive had again lost control of his caucus.

Greive wanted desperately to save the compromise. He thought he had to win some concessions from Gorton, but Gorton had grown disenchanted with the plan and was totally unwilling to consider changes in it. Both redistricting leaders were harried and weary. They left the Capitol early Friday evening, telling their sides to prepare the final bill, without any new changes, by the next morning.

The bill was completed early Saturday morning. Few thought it would reach the floor of either house. The Senate Democratic caucus might prohibit Greive and Gallagher from signing the conference report, and that alone would keep the bill in the conference committee, although there were possibly enough votes on the floor to enact it.

Little time remained. The compromises on the budget were almost finished and would probably pass that day.

Greive knew that his caucus was evenly split. He thought he had a chance to win over any of six senators, if only he could bolster their districts. In the conference meeting that morning Greive insisted upon removal of a dozen Republican precincts from the Kitsap County district. Gorton flatly refused. He said that the district had been left alone in the original compromise, and if Greive wanted to make the district smaller, he could take out Democratic precincts.

Gorton wanted the compromise to fail. He thought he was being forced to sacrifice Republican compatriots such as Eberle to protect “Greive and his cronies.” When the Republican representatives caucused to consider the compromise, Gorton insisted that any member’s “nay” should kill the plan—he said he owed the caucus at least that much for its unity and support. But the leadership overruled Gorton and, after a secret ballot of 35-12, instructed him to sign the conference report.

When the conferees met that afternoon, both Greive and Gallagher again insisted on advantages in the Kitsap district, and in the new Republican district in North Seattle. Gorton, under much the same pressures, had his own demand: he had insisted Republicans be given advantages he said were in the original agreement but had been omitted from the bill.

When no one would yield, Greive said he would take the bill in its present form. But Gallagher again insisted in some changes, Greive asked for more, and Gorton refused. Rosenberg and Neill suggested that the six check with their caucuses before voting on the plan. As the meeting broke up, Gallagher remarked that he “wouldn’t do a selling job” before the senators.

In the Senate Democratic caucus that followed, Gallagher, Gissberg, and August Mardesich (Everett) led an assault against the compromise. Greive argued forcefully that it was an honorable compromise, as good as they could expect, but most of the senators didn’t want a compromise. They had come to Olympia expecting to enact their own redistricting bill and still thought (as Greive had for most of the session) that the coalition had to be broken or there would be no bill. Greive, having finally accepted the reality of the coalition, thought that a compromise was required, but most of the senators wanted to put off the task until 1965 or spare themselves the agony of a compromise by letting the court do the job. By a one-vote margin they rejected the conference committee plan.

Shortly after that, a bitterly divided House Democratic caucus also rejected the compromise, 23-20. They did not know the outcome of the Senate caucus when they did so, and the news of their decision was anticlimactic.

### The Legislature Adjourns

The session was in its final hours. Earlier that day Gorton and Moos had hoped to start the stopgap plan and a new constitutional amendment, but it was too late for that now. In a last-ditch effort for the farms, Moos brought out the old compromise constitutional amendment. (It had lain dormant in the Rules Committee for a week awaiting the outcome of the conference negotiations.) Moos hoped that the state courts might strike off the conditional clause that had buried it alive with H.B. 56 and that victory now might improve chances for a new constitutional amendment in 1965.

Chances for passage at this late hour were slim. The Republicans had been released from their pledges, the intransigent O’Brien was fighting to have all regular Democrats vote against Moos, and urban representatives from both parties wanted to go on record against the area scheme.

Debate was personal and biting. Finally Moos called for an oral roll call, and the legislators gathered in knots so they could keep running tallies of the vote.

Coalition unity lasted even at the end. Halfway through the vote it was apparent that every Republican and every dissident would stand by Moos, and he was pulling a few votes from the Democratic side. The outcome was in doubt until the very end, when, with one more vote to be cast and one more needed to pass, Speaker Day voted “aye” and put the measure across.

Moos was visibly moved by the personal tribute from legislators. But it was little more than that, for the plan went down with H.B. 56 and the legislature never again saw another redistricting constitutional amendment.

In the last remaining hours, Greive tried to revive the compromise. He implored opposing senators to change their position, sought out Republican legislators, and argued for some concession. That evening, just before the budget went to the Governor, Greive called the conferees together. The six met in the Speaker’s office with Day, Evans, and Copeland. Gallagher wanted the Republicans to give in on the tri-cities district. He suggested, but did not promise, that this could win Senate support for the bill. Gorton, who had remained silent during the discussion, began listing the areas where the Republicans had already made concessions. Greive, saying he couldn’t give in any more, left with Gallagher. Two hours later the legislature adjourned.



## V. Between the Sessions

Three weeks later the court threw redistricting back at the idle legislators. The judges revealed their plans at the March 25 hearing, the first since December. When Donald Vorhees, attorney for LWV, called on the court to take over the redistricting job, Judge Gilbert H. Jertberg interrupted and told Vorhees that if the court did the job, the legislators would probably never redistrict themselves again. Instead, the court indicated that it would force an at-large election of all legislators. Five days later the judges issued the formal order. Judge William T. Beeks explained that redistricting was a political act, and judicial power to redistrict should be used rarely, and only under exceptional circumstances. Such circumstances did not then exist.

Most observers felt that an at-large election would force the legislators to reassemble and draw new districts. That, at least, was the court's idea. But only an order from the Governor could call the legislators into special session, and Rosellini was in no mood to be bothered by 148 bickering legislators—especially while there was any chance of delaying the court order until 1965. The legislators, fearing the upheavals of an at-large election, wondered if delay were really feasible. Although many wished for the special session, they were powerless to do any more than berate the Governor.

In April O'Connell announced that he would appeal to the U.S. Supreme Court. Four months later he filed the state's brief. He argued, as he had at the court hearings in March, that the at-large election was inappropriate, too complicated, and violated the provision in the state constitution requiring single districts for state senators. In addition, he noted that redistricting was not required in Washington since in 1962 the voters had rejected the LWV initiative.

Most legislators thought these were obscure points. Gorton said they were ridiculous. All knew that O'Connell was merely attempting a delay, and few felt he could succeed. Nearly all the legislative leaders, including Greive and Gorton, began to prepare for the inevitable special session, which they expected Rosellini to call for January. They hoped that their pre-session activities would

yield an acceptable agreement that could be hastily enacted, thus avoiding another deadlock and a special session that might drag on forever, to the disgust of the voters and the embarrassment of the politicians.

But Gorton wanted one kind of agreement and Greive wanted another. Greive was willing to work for a compromise by revising the old conference committee bill. At the prompting of Speaker Day, Gorton met with Greive to discuss this—first in late July, then in October and November, and finally during the first week of 1964. The effort was futile. Neither side was willing to make any new concessions; moreover, Gorton actively stalled these negotiations. He believed, as a result of secret talks with Hallauer and McCormack, that a new agreement, based on the McCormack amendment, could be enacted by Greive's opponents. They had begun to draft their plan in May. Their biggest advance came during the summer, when Democratic senators from Seattle agreed to ignore Greive and draw their own proposal for the Seattle districts. By then Hallauer thought he had support from eleven Senate Democrats, and Gorton had grown so optimistic that he predicted openly that redistricting could be accomplished in two days if Rosellini would call the special session

Greive and Day, meanwhile, were unaware of the extent of Hallauer's activities. As the delay continued, with no reply coming from the court, they and others began to question the advantages they had seen in calling a special session.

### O'Connell Wins A Delay

It was now 1964. The U.S. Supreme Court had taken no action on Attorney General O'Connell's appeal. Washington was still threatened by the at-large election, for, lacking any response from the high court, the district court ruling remained in effect.

O'Connell began to worry. In June the state would have to activate machinery for the at-large election. In February, hoping to prevent this, he asked the Supreme Court to set aside the at-large election until it could hear the appeal.

Two weeks later Justice William O. Douglas signed the court order granting the stay. O'Connell and Rosellini hailed the action: no special session would be necessary; another election could be held under the old districts.

Legislators were less optimistic. Many feared that the high court would uphold the district court, throwing the case back to the state just before elections and thus forcing state officials to choose between a sudden, disorganized at-large election or a frantic special session during the election campaign. The Governor should call a special session immediately, some urged. Rosellini balked at this request, insisting that the court would never suddenly disrupt the state election machinery. He added that the legislators were too far from agreement; a special session would be lengthy, costly, and wasteful; and the Supreme Court might be preparing new redistricting guidelines, standards that would make all existing proposals unconstitutional.

Washington State prepared for another election under the unconstitutional districts. The U.S. Supreme Court prepared its landmark redistricting opinion for Reynolds v. Simms, handing down their “one man, one vote” decision on June 15. One week later, only 14 days before the state opened filings for campaigns in the old legislative districts, Thigpen v. Meyers came back to Washington. The high court, with a simple unsigned order, upheld the district court ruling.

The effect of the order was not cataclysmic, for by the rules of the federal court system this new order did not go into effect for 25 days. For 25 days Justice Douglas’ old order setting aside the at-large election remained in effect.

O’Connell wanted to use all 25 days. He advised state and local officials to continue under the old order, with the machinery of the old legislative districts. Then he waited. On July 6 the state began to accept filings for a normal election under the old unconstitutional law.

Gorton was frantic. With his aide and Mrs. McCaffree, he put the Hallauer proposal into bill form, while Hallauer worked to gather new support for the plan. Both were frustrated by Rosellini’s not calling a special session. When Rosellini had said that a special session would be fruitless, Gorton had retorted that the Governor could expect a redistricting bill on his desk within 72 hours after convening the legislators.

Rosellini wanted very much to avoid a special session. It would come during his campaign for a third term. Minority leader Evans and an ex-minister, Richard G. Christensen, were battling for the chance to run against him; either was favored to oust him in November. A special session would give Evans and the Republicans a pulpit for publicity; the coalition might revive the dormant

Legislative Council and begin to investigate and embarrass his administration. The special session would keep him in Olympia and off the political stump. He could call the legislators to Olympia, but he could not send them home. Furthermore, neither he nor Greive knew the extent of the activities of Hallauer and Gorton. Greive predicted that Hallauer could defeat redistricting bills, but couldn't muster the votes necessary to pass a bill. Both, like most of the Democrats, were anxious to wait until after the election.

Frustration with the 25-day delay became more general. There was disgust with Rosellini's and O'Connell's apparent defiance of the court. There was anxiety, especially among legislative candidates, fostered by the uncertainty about what the court might do. More legislators demanded a special session. The other parties in the court case insisted that O'Connell waive the 25-day period. And two men from Tacoma sued the state, hoping to halt the election machinery, but the state courts would not accept the case.

In desperation, Thigpen's attorney called Justice Douglas. O'Connell, he explained, was using the waiting period to prevent court action before the election. Justice Douglas' response was swift. He signed an order putting the Supreme Court's new ruling into effect immediately. On July 9, after 18 days of delay, O'Connell told state and local officials to stop the election machinery. Four days later, on Monday, July 13, O'Connell appeared before the district court. The state, he explained, was in the middle of its candidate filing period, and to terminate it now would incur a hardship on candidates who had not yet filed. He asked the court to let the state reopen the filing period for the old legislative districts. The court agreed, but not before Judge Beeks told O'Connell to return in four days with constructive suggestions for preventing unconstitutional government.

The court met on Thursday, July 16, to seek some remedy. Its chambers were flooded with spectators, official and otherwise. O'Connell, ignoring Judge Beeks' earlier admonishment, argued for another election under the old districts. Judge Jertberg interrupted O'Connell to say that the Governor should have authorized the Attorney General to tell the court that there would be a special session. O'Connell pleaded that a special session could not produce a redistricting solution; even if it could, the election machinery could not be revamped in time for the September primary. He asked

why the delay would be harmful, since most of the people weren't aware that they were being discriminated against.

O'Connell's arguments angered the other attorneys. Vorhees retorted that the Attorney General was more interested in protecting state officials than in representing the people of the state. Both Vorhees and Thigpen's attorney argued for definite action, each separately presenting the court with temporary stopgap redistricting schemes and urging the court to order his plan into law for the 1964 election.

Then Judge Beeks proposed the court's own stopgap plan. The legislators, he said, could run again in the old districts, but during the 1965 legislative session each legislator would have his vote "weighted" in accord with the number of people he represented. Some legislators would have one-half a vote, some two and one-half votes. Which did O'Connell prefer, Beeks asked, weighted votes or an at-large election? O'Connell asked for a few minutes to think it over, then answered that any change in the state election machinery was unacceptable. He would have to take the weighted vote.

One week later the court issued its order. It did not approve the weighted vote, but merely threatened, indicating that it might enact the scheme sometime before 1965.

The next day Rosellini answered the court. He had been given two alternatives, he said, and he chose the weighted vote. The state and county election officials whom he had consulted had told him that they could not revise the old districts in time for the September primary.

Later, when the election campaigns were fully underway, O'Connell went before the court to ask it to modify the weighted vote scheme. He proposed that the court permit normal voting for the first thirty days of the session. The judges, discouraged that the plan had not forced a special session, and disturbed by the technical problems in the scheme, never again mentioned weighted votes. Instead, the court ordered the 1965 legislature to pass an acceptable redistricting bill before acting on any other legislation except "housekeeping" matters.

### Greive Prepares a Blitz

Throughout the nation, on November 9, 1964, Republican candidates for state offices suffered heavy losses. In most respects Washington State was no exception. Riding on the massive Democratic landslide, the regular Democrats gained decisive control of the State House of Representatives—60 seats to the Republicans' 39. In the State Senate, although two seats changed hands, the Democrats kept their previous margin of 32 to 17. All six original dissidents were reelected to the House, but the regular Democrats now had enough votes to elect their own man to the Speakership.

The one exception to the general Republican losses was the nation's only Republican governor. Evans had routed his primary opponent, Christensen, then ousted incumbent Rosellini by the most decisive margin for that office in 25 years.

Evans wanted to be a strong Governor. He wanted to use all the powers of his office, not just to protect Republicans with his veto, but to strengthen Republican leadership, especially in the legislature. His first priority was redistricting.

But Evans might never see the redistricting bill. A legal quirk in the state constitution gave the Democrats two and one-half days to pass their own measure. By constitutional prescription, the legislature convened on the second Monday of January. But by legislative enactment, the Governor was not inaugurated until the following Wednesday. Governor Rosellini would retain all his powers, after the new Democratic legislature convened, for two and one-half very long days—two and one-half days for Greive to get a Democratic redistricting bill onto Rosellini's desk for his signature.

Republicans could do little more than worry and hope that two and one-half days was too little time for the badly divided Democrats to agree on 49 legislative districts. The Democrats might also fall apart over the choice of a successor to Speaker day, particularly if O'Brien moved to win back his old post. Or perhaps they might divide over the reelection of Greive as Senate majority Leader.

O'Brien did not make his bid. Instead he threw his support behind Vancouver attorney Robert M. Schaefer. All factions at the caucus meeting in November united behind Schaefer. Redistricting would put that unity to an immediate test.

In the Senate Greive's opponents made their strongest bid to overthrow him and failed by two votes. If Greive was to retain a working majority for redistricting, he would have to reforge his Senate following. He had two months to assemble the Chinese puzzle of redistricting into a bill that the Democratic legislators could accept at first sight. It was a nearly impossible task, but all respected the fact that only Greive could do it, if anyone could.

In November Greive was not entirely committed to "blitzing" a Democratic redistricting bill through the legislature. He was curious to learn whether Gorton was ready to negotiate now that the Democrats were firmly in control. Day provided Greive with the opportunity when he assembled the two redistricting leaders and five additional legislators. The group met only once, on January 2. A few general guidelines were discussed, and little else. Gorton was still convinced that he and Hallauer could upset Greive's leadership. He also knew that at this point Greive was willing to discuss only Republican concessions.

The meeting was complicated by the entrance of a third redistricting power. The newly powerful House Democrats has set in motion Representative Gary Grant, a young, second-term legislator from Renton. He was hurrying about the state, promoting a new proposal, and deeply annoying Greive and Gorton. The new Democrats were determined to play a major role and were intractably aggressive in their demands for Democratic advantages from redistricting.

The standoff at the meeting encouraged Greive to test his power. On January 5 he told Day to forget the redistricting meetings and began to polish the nearly-completed "blitz bill."

The Republican hopes to stop the blitz rested largely on the Democrats' inability to unite. There was little positive action that Evans and Gorton could take. It was useless for them to talk compromise when the blitz was imminent. Evans had tried this in December and the Democrats had ignored him. Even Gorton's relationship with Hallauer dissolved. Hallauer simply could not catch the attention of the more militant Democrats.

## VI. THE BLITZ

The fight began in the House. Just before the noon convening on January 11, Greive assembled all the Democrats in the large Highway Committee room to set out the strategy for enacting the bill blitz. Most were Democrats with Greive, but not enough to make a working majority.

The stakes and the tension were high. Instead of a calm, committed majority in the caucus, Greive found a situation that reflected the chaos in the Capitol that morning. Nothing seemed organized. Some of Greive supporters deliberately stayed away from the meeting. The House leaders would not agree to Greive's battle plan.

Greive wanted neither house to adopt any rules, thus avoiding the hurdles that normally slowed the path of the bill. In essence, on the floor the majority would rule. But O'Brien and Schaefer refused, setting out instead to change the House rules to reduce from two-thirds to a simple majority the margin necessary to shut off debate and bring the bill to a final vote.

This was a more elaborate undertaking, and on the floor Schaefer and O'Brien almost lost their strategy. Greive's weak showing in the caucus had encouraged Democratic opponents of the Blitz, and nine now voted against the rules change. Since one Democrat was absent, these votes were all Schaefer could spare. Another one-half dozen might have bolted, immediately killing the blitz, had not Schaefer and O'Brien been able to convince the dissenters that a vote for the rules amendment was not a commitment to vote for the bill.

The hard core of nine who opposed the blitz, primarily because they thought there out to be a compromise, were the six original dissidents, motivated by old loyalties; independent Dootson, who admired and trusted Gorton's redistricting principles; independent Democrat Jack Rogers (Bremerton); and rural conservative Eric D. Braun (Chelan).

Republicans were heartened by the close vote and by Day's and Perry's assurances that the blitz could not succeed, but they were far from confident. Forty-six hours remained. As one Republican legislator remarked wistfully, "The Democrats usually come up with votes when they are needed."



The Republicans had found good reasons to worry about the blitz bill when they saw it that morning, for it was hard on Republican incumbents. Perhaps ten additional House seats would be lost automatically. Gorton predicted that it would make Republican control of the legislature impossible even in landslide years. Moreover, the blitz bill was definitely constitutional, shattering Gorton's hopes for stopping it in the courts. Always before he had felt that Greive was incapable of drawing a redistricting bill that fell within the guidelines of the court.

### The Democrats Divide

Greive worked all afternoon to regroup the Democrats in the Senate. The blitz bill gave benefits to both his allies and his opponents; it was the best most Democrats could hope for. Greive helped them to realize this, and by late afternoon he had the votes. The Republicans hoped that Greive's opponents could stop the blitz, but the bill was too good, Greive was too clever.

At five in the afternoon Greive moved that "the rules of the Senate are that majority rules." Minority Leader Charles P. Moriarity (Seattle), who earlier had urged Republicans to stall the proceedings, objected, calling the new rules "unconventional" and "a device to push through the blitz bill." He asked Lieutenant Governor Cherberg to rule on the propriety of lack of rules. Cherberg replied that the majority would rule, "subject to certain provisions of the State Constitution."

Moriarity tried other delaying tactic when the Senate reconvened at nine, but Greive had the votes. Greive planned to hold the senators in session until they passed his bill. After six hours of continuous objections, amendments, and debate, the Senate approved the bill, 28-19. At three in the morning the blitz fight moved back to the House.

At ten on Tuesday morning the representatives convened; by ten that evening the outcome had been determined. It was 12 hours of turmoil. When the Democratic leadership had arrived at the Capitol they had thought they lacked only one vote. Someone else said he counted 44 votes, six short, while another Democrat claimed 50 votes if only the leadership would put the bill on the floor.

The Republicans worked steadily, twisting arms, promising better districts, calling up past debts, and strengthening old friendships. If a wavering Democrat was disgruntled with his district, Gorton or Pritchard would hint that better things might come from negotiations later. Moos

criticized the partisanship of the blitz when talking with rural conservatives and independents. And the Republican leadership called in lobbyists, from Boeing and the Association of Washington Industries, who, Democrats claimed, threatened reprisals against Democratic legislators whose paychecks or campaign funds depended on Republican-oriented industries. Gorton later denied that the lobbyists were in any position to threaten anyone, but the Republicans fought hard, since the blitz would be hard on their aims.

Just before noon Schaefer and O'Brien called the Democratic representatives into a caucus. They could spare nine votes. Eight Democrats opposed the blitz—the six original dissidents, Dootson, and Rogers. Six more seemed to be holding out for better districts. Frank J. Warnke (Auburn) wanted to be a state senator. W.S. Traylor (Port Angeles) disliked the way Greive had drawn the district of his friend Warnke and did not like his own district either. Sam Smith (Seattle) was totally erratic in his own demands, and no one would count on his vote. Three more Democratic representatives—Horace W. Bozarth (Douglas County), Joe D. Haussler (Okanogan County) and Eric Braun (Chelan County)—would not support the bill because Greive had merged their two districts. The new representative from Greive's own district, George Pierre, who had just defeated Representative Eberle, said he would not vote for anything with Greive's name on it. He accused Greive of trying to force him out of his seat. Pierre had achieved wide notoriety because of a post-election letter that had offered his "services" as a legislator in exchange for campaign cash. Pierre said Greive had written the embarrassing letter in order to pressure him into resigning. Greive hotly denied any implication in the incident.

Opposition at the House caucus was too strong. That afternoon Greive began to rewrite the bill, hoping to meet or modify the demands of representatives unhappy with their districts.

Republicans were jubilant. The blitz, even if approved by the House, would now require reapproval by the Senate. And the changes Greive made for the House Democrats might lose him support among the senators.

The strong House opposition continued. Schaefer called another caucus at 3:30, but it revealed no changes. This was an unstable opposition, one of confusion and indecision. Somehow, Greive knew, he had to break the logjam of dissatisfaction with the blitz.

In desperation, the House Democratic leadership took Representative Paul H. Conner (Port Angeles) from the Port Angeles hospital bed where he had lain for a week. His bleeding ulcer and subsequent absence was costing them one precious vote, and they were desperate to show any gain of support. House leaders brought Conner 121 miles to Olympia and stopped in the redistricting committee room to show him his district before he made them take him back to the hospital.

The Democrats' disappointments continued all that afternoon. On the evening news the Republicans heard one of the House leaders announce that the blitz effort was off.

Still Greive persisted. The key votes, he knew, had to come from the two districts he had merged in eastern Washington. He and his aide met with Bozarth, Haussler, and Braun. Finally, in the early evening, Bozarth and Haussler gave tentative support to a new plan. Greive, who believed he would be just one vote short, quickly sent word to the House leaders that the switch had begun.

Moos, Gorton, and Pritchard dropped their effort to hold Bozarth and Haussler, but intensified their attention on the other undecided Democrats. A few more defections would truly put Greive just one vote down, and in that case they could expect a floor fight that night. In extreme secrecy the Republicans prepared their final defense, to be used only if all else failed. They would inaugurate Evans prematurely.

Evans could be sworn in at any time on Wednesday, they thought. The statute designated only Wednesday, in the legislative chambers. Already the governor-to-be and his advisers had contacted a sympathetic State Supreme Court Justice, and Evans' family was traveling to Olympia so they could witness the ceremony. A secret cabal of advisers and legislators were ready to take over the administration of the state.

At one minute past midnight Evans and his entourage would step into the gallery of whichever house was then considering the redistricting bill. The minority leader would read a prepared speech, advising the legislators of Evans' presence and intention to be sworn in and asking the Democrats to forget the blitz and adjourn. The Democrats might balk at this, and Washington would have two governors for twelve hours, likely Rosellini with the redistricting bill and Evans in the state court trying to take it away from him.

That evening the Democratic leadership leveled intense pressure on Pierre, Smith, and Braun. Lobbyists from the Central Labor Council were called in to counter the work of Boeing and the Association of Washington Industries. Greive argued with undecided Democrats to give him the fiftieth and final vote.

At ten that evening the House Democrats went into caucus for the third and last time that day. Bozarth and Haussler would support the bill, and apparently, Smith would, too. Rogers, part of the hard-core nine, announced that he would provide the fiftieth vote. If both Braun and Pierre would support the bill, Greive had the votes.

But they would not. Braun would vote against the blitz no matter what they did to his district, and Pierre was immutable.

Anxious Republicans gathered around the caucus doors. When the downcast Democrats moved slowly through the Republican ranks to the other side of the chambers, the Republicans happily clasped each other's hands and adjourned the House until just before the inauguration the next day.

## VII. INCHING TOWARD A COMPROMISE

Governor Evans took his oath of office at noon on Wednesday. In his inaugural address he made a short statement on redistricting that Gorton had drafted earlier in the morning. Evans urged the legislators to promptly enact a redistricting bill the insured that “the party which wins a majority of the votes will win a majority of the seats in the legislature.”

With Evans in the Governor’s chair, the Republicans again held a veto over any Democratic action, and they set out to mold this into a powerful weapon and to take the initiative on the major legislative issues. The Republicans were unified; they organized themselves like an army. Evans was commander-in-chief; below him responsibility was divided, with each legislator carrying the weight on part of the issues and tasks.

Evans plunged into the legislative melee. He met frequently with his House and Senate leaders, usually early each morning, to map the day’s strategy. He met more frequently with the “new breed” leaders, often at the end of the day in the Governor’s Mansion. He was in constant contact, directly and indirectly, with other legislators.

### Gorton Presents a Plan

Gorton and his aide moved into the expansive offices of the new Republican Secretary of State, “new breed” leader A. Ludlow Kramer, and began to prepare a Republican redistricting bill. They worked from the proposal drawn the previous summer with Senator Hallauer; it was essentially the same plan. Relying upon a preponderance of “swing” districts, the bill was designed so that a moderate increase in Republican votes would produce a landslide of new Republican legislators. Only through swing districts, Gorton argued, could the voters really affect the composition of the legislature. Only in this way could “a majority of the people elect a majority of the legislators.” To do this Gorton had to cut Democratic margins in Democratic districts, and although the bill eliminated few Democrats, it did weaken many by creating these swing districts.

Gorton insisted that any bill reflect standards of political fairness, and proposed a statistical test for this. The statistics were complex, but the standards were elementary—each political party

should win that proportion of seats roughly corresponding to its share of the total vote for all legislative candidates.<sup>5</sup>

Many Democrats showed genuine interest in the test as Gorton and Moos lobbied for its use before all who would listen. On January 18 Speaker Schaefer asked Gorton to present the test to him, Grant, and two other House Democrats. House leadership was curious to see if Gorton had something they could use, and the test seemed to anticipate the Governor's demands.

After the meeting the four Democrats took Gorton's arguments, along with the redistricting bill he had left them "as an example of political fairness," to Greive. Greive, who had not yet seen the bill, was startled. He called in his aide and freshman Representative Hayes Elder (Dem., Seattle), who had been his assistant when he rewrote the LWV initiative in 1957. All three examined Gorton's bill and agreed that would be disastrous for the Democrats.

Greive immediately called a press conference and lambasted Gorton's bill as horribly unfair, saying that it would cost House Democrats alone 15 to 17 seats at the next election. This alerted newsmen, who were scheduled to hear Gorton explain the bill and the statistics on Tuesday. As a result, Gorton faced a hostile press the next morning and after that was never able to convince anyone but fellow Republicans of the utility of the test.

To most Democrats it seemed that Gorton was using the test simply as a shield to obscure a very partisan bill, and it irritated the most militant that Gorton should make such demands. Privately Greive expressed dismay that Gorton had even introduced the matter. Redistricting bills, Greive observed, were written by politicians, not political scientists, and Gorton, he lamented, was slowing progress by playing the wrong role. Furthermore, Greive held no stock in the test. He dismissed the talk about "statewide trends" with the observation that legislative elections depended almost entirely on the individual district and the personality of the candidate running it. One party, he said, might win all the seats with just 51 per cent of the total vote, if that was their margin in each of the 49 districts.

### Democrats Pass the Blitz Bill

The controversy over Gorton's statistical test roused the militancy of many Democrats. After all, they argued, they had won the election and were entitled to write the redistricting bill.

The intransigent view was strongest in the House, where the new Democratic leadership provided fresh troops for the redistricting battle. Their strategy was aimed, as Greive and Gorton had earlier aimed theirs, at total defeat of the opposition, in this case through forcing Evans to abandon his veto. Grant and Schaefer confidently assumed that Evans' veto was a tool that dulled with use. They planned to bombard the Governor with redistricting bills, all constitutional, all acceptable to the court, and all Democratic. Evans could veto only so many of those bills, they reasoned, before an angry public would cast him as an obstructionist and a politician, and he would be forced to capitulate.

House Democrats began redistricting Greive's old blitz bill, which Schaefer had sent to the redistricting committee, now chaired by Grant. Grant appointed a number of bipartisan subcommittees to study parts of the bill, and for a few days there was frantic activity that stopped soon after both parties realized that neither was willing to consider any serious concessions.

Grant made a few changes in the blitz bill (S.B. 2) and prepared to put it before the house. His biggest preoccupation was defending the constitutionality of the act, the keystone of his strategy to embarrass the Governor. Grant asked Attorney General O'Connell for an opinion on the bill, and O'Connell happily supplied a lengthy brief justifying the constitutionality of S.B. 2 on the basis of the population figures that Grant had supplied.

The opinion confirmed the "new breed's" suspicions that the Democratic Attorney General could not be trusted to represent the Republican Governor and Secretary of State before the court. As a popularly elected official, the youthful Attorney General was now the major contender for Evan's chair. Evans and Kramer began a move to drop O'Connell and have their defense presented by a private attorney. The only result was a general increase in hostilities between the two parties.

On Wednesday, January 20, Grant put S.B.2 on the House floor and distributed O'Connell's opinion. Gorton made a lengthy statement, stressing that it was not enough that the bill meet the

standards of the court; it must also meet the standards of political fairness. No bill that failed either test would get by the Governor. He admonished Democrats to begin a dialogue with Republicans, and moved the Republican bill as a substitute for S.B. 2—a starting point for a bipartisan compromise, he said. The Democrats, unmoved by Gorton’s speech, defeated the Republican bill. Grant insisted that his bill was both fair and constitutional. At the end of the lengthy debate the House, by a vote of 54-43, approved S.B. 2.

Now Grant and Schaefer had to convince the senators of their strategy, but one of the major reasons for their militancy meant nothing to the senators. Grant and Schaefer feared negotiations because they knew Greive and Gorton would dominate them and resist the intrusion of the new House leadership. Still, the Democratic senators were interested in the House strategy because, by approving S.B. 2, they could test Evans’ intentions. Many suspected that he might never wield his veto. Without approving either the House strategy or Grant’s and Schaefer’s reasons for it, the Senate Democratic caucus agreed to approve the House changes to S.B. 2, and send the bill to the Governor. Greive argued for conference negotiations, but the Democrats ignored this.

Greive put S.B. 2 before the Senate on Friday, January 22. The senators quickly approved it on a party-line vote, but, for reasons that at first mystified the Republicans, adjourned for the weekend and refused to send the bill to the Governor. In fact, the Democrats hoped that Evans would think about the matter for two days and decide not to veto the bill.

Evans did not need the document to make his intentions known. He assembled the Capitol press and lambasted the Democrats for delaying a redistricting solution. The Republicans, he said, were ready to begin meaningful negotiations any time. He attacked S.B. 2 as a partisan bill that simply obstructed rapid settlement of the redistricting issue, and announced he would veto it and all other bills like it, regardless of which party passed them. The Democratic delay entirely backfired, delighting the newsmen, and gave Evans his first major victory in the press, strengthening, especially in Evans’ mind, his stature as governor of all the people.



### House Democrats Defy Greive

Cherberg and Schaefer sent S.B. 2 to the Governor shortly after the legislators reassembled on Monday, January 25. At that time, the Democratic leadership enacted a Joint Resolution asking Evans to meet with them before vetoing the bill. Evans called them into his office that afternoon. He dismissed Greive's carefully prepared defense of S.B. 2 (Greive said that it met Gorton's statistical test) and pointed out to the Democrats, precinct by precinct, why he would veto it.

The veto message, filed the following day in the Senate, spurred on an angry debate. Evans was cast as an obstructionist and a partisan, and Senator McCutcheon offered a Joint Memorial asking the court to enact S.B. 2. The legislature, he said, had done what the court asked it to do. The senators approved McCutcheon's motion, but the House leadership, fearing that the court might draw an entirely new act, refused to even consider it.

On Wednesday Greive was ready with another redistricting bill. It contained substantial changes from S.B. 2, and was designed to be a starting point for negotiations. The Democratic senators, however, rejected the changes and insisted that Greive not wander from the basic structure of S.B. 2. Greive brought the altered act to the Senate floor that night, expressed the hope that the bill would precipitate a conference committee, and won Senate approval for measure, 27-70.

Meanwhile, differences between the House and Senate Democrats widened. Grant rejected the new form of S.B. 2, feeling that it caused his forces to lose all opportunity to devise their own proposal. Anxious to act independently, he invited the Republicans who had served on the subcommittees to renew negotiations.

At first this intramural activity amused Gorton and Moos, who had never taken Grant seriously. But soon the militancy of the new Democrats began to irritate Moos, who lost his temper before Grant's committee on Wednesday:

Talk all you want, but don't kid yourself that you are writing the redistricting bill—any redistricting bill. The subject is too important to waste on a bunch of freshmen and third-stringers [Grant was in his second term and four of the other nine Democrats on the committee were serving their first term]. If this committee was going to do the actual writing of the bill, this committee would be made up of big boys. And if you Democratic freshman think anybody is really looking after you, you've got another thing coming because when this

bill finally is written it's going to be written by a lot of wheeling-dealing senators—not you. And they don't know you either, so guess whose blood is going to come rolling out from under the conference door. Not theirs—yours.<sup>6</sup>

Grant tried to revive the negotiations the next day, Thursday, January 28. Moos and Gorton decided to test Grant's willingness to negotiate, preparing what they thought to be wholly innocuous requests, and put them before the new Democrats on the committee. Grant and his associates flatly rejected all three requests. Calling this a waste of time, Moos walked out of the committee, leading the bloc of Republicans.

Grant finally decided to go it alone; he would be Greive's equal and draw up a House bill for House Democrats (and do it in only two days). The news of the new bill spread quickly, and legislators hurried to tell Grant of their demands and supervise the drawing of their own districts. They overflowed Grant's committee room and harassed his staff, but Grant heard them all. Essentially the legislators reiterated the positions that Greive had already led them to. Thus the bill Grant produced was replica of S.B. 2, although it did have a new number—H.B. 196. It was a very important number, one Grant would never forget.

Grant put H.B. 196 before the House on Saturday, January 30. Most saw the bill as more fuel for the Governor's veto, and O'Brien argued that Evans must take the blame for obstructing the House proposal. Gorton again urged the Democrats to begin a dialogue. The bill passed, 57-40.

### Greive Opens Negotiations

Serious talks started that day. Greive opened them by sending Representative Elder to arrange an informal meeting with Gorton. Gorton, however, felt that his attendance would encourage Greive to think that the Republicans were ready to give in, so he sent Moos in his place.

The Republican strategy called for negotiations only after the Democratic position had softened. They hoped to hasten this softening through pressure from the Governor's office. On Thursday, January 28, Evans had startled the Democrats by promising drastic action if the legislature did not begin to move toward a redistricting solution. That drastic action, he explained the following day, meant a letter from him to the court asking it to take over the redistricting job. Most Democrats,

especially Greive, dreaded court involvement, fearing that the judges might ignore incumbent legislators.

Greive's strategy, on the other hand, called for softening the Republicans by negotiating with them. Talk began Saturday evening, with Moos and Senator Neill (the 1963 Republican conferee) gathering with Greive, his aide, Elder, and Representative Wesley C. Uhlman (Dem., Seattle). All areas of the state were discussed generally, with each side saying what it "had to have." Moos and Greive could set down common lines for only a few of the rural districts, but they were practically the same under each party's bill anyway.

The group met again Sunday afternoon, January 31, and this time Gorton was present. The result was nothing less than a shouting match between Greive and Gorton over the parceling out of the 26 districts for the state's three major urban centers—Seattle, Tacoma, and Spokane. When the legislators reassembled Sunday night, without Gorton, Greive offered to soften his demands in Seattle in exchange for additional gains in Tacoma and Spokane. At that point Moos began where Gorton had left off, reproaching Greive for taking away Republican margins with S.B. 2, then having the audacity to claim a concession when he handed those margins back in negotiations. Greive admonished Moos to remember that his party was outnumbered in the legislature. Any redistricting bill, Greive insisted, would have to please far more Democrats than Republicans.

The negotiations languished for the next few days, despite Greive's almost constant attempts to keep them going. The Republicans deliberately slowed them. Furthermore, Greive was plagued with a series of frustrating obstacles. He could not keep all the negotiators together. When he ran out to find one, another would escape. He was pestered by unwelcome Democrats who kept intruding on the talks, and his always-overworked staff could not meet the increased demands for information brought on by the negotiations, a problem made worse by Gorton's refusal to allow his staff to assist in any way.

Besides these problems, Gorton was busy developing a new strategy, designed to shake the Democrats' confidence in their legislative majority and put even more pressure on Greive. Gorton, his aide, Evans, and Mrs. McCaffree were secretly preparing an executive-request redistricting bill.

It would be submitted to the House with bipartisan sponsorship, with the full weight of the governor's prestige behind it.

Gorton optimistically predicted that he could even find the 11 Democratic votes necessary to win House approval. Ironically, the rules of the blitz still existed, and with those 11 Democrats Gorton could avoid the whole committee system and promptly put the bill to a final vote.

All these conditions might have produced a standoff, but Greive continued to extract progress from the talks. It was not substantive progress, although some agreements were made for a few rural districts. Rather, each side was educating the other about its own priorities and the alternative plans it favored. Slowly the two sides began to see the problems around which any bipartisan solution must pivot. This was no small accomplishment, for the scope of the changes wrought by the new redistricting would have to be more substantial than any yet considered by the legislature.

### The Governor Intervenes

The Republicans made their fist package proposal on Thursday night, February 4. It was a seven-point ultimatum, presented at the negotiations that night because the Governor would announce his bill the next day and Republicans hoped the Governor's move would pressure Greive into accepting the seven-point position.

Moos explained the proposal to Greive and the other negotiators. He began with minor points, to which Greive mildly objected. The Moos touched on an open sore. He insisted the Republicans retain the two districts they already controlled in Tacoma. Strangely enough, Greive accepted the Republican demand. It was strange because Republican solutions for Tacoma always eliminated one of the area's five Democratic senators, but Greive's acceptance was even odder. The one Tacoma senator whom Greive would gladly sacrifice was safely barricaded behind miles of solidly Democratic precincts. Greive, however, devised a weird gerrymander, making the senator swap his district with another Tacoma senator, most vulnerable and most powerful. Moos, gazing at the shapes of the districts, gasped, "Why, we couldn't show up on the floor with that."

Moos skipped on to the next trouble spot, Spokane. He insisted on no Democratic gains in the county, since Republicans wanted to retain the chance to unseat two vulnerable Democratic

senators. Unfortunately, the two were faithful to Greive, and Greive insisted that their districts be strengthened. When Moos insisted again, Greive retorted, “We might as well go to the court.” He would honor his promise to protect the two Senators. The court could break the promise, but he would not.

On Friday morning Governor Evans revealed his intention to submit the executive-request redistricting bill and began a search for representatives to sponsor it. The announcement caught the Democrats unprepared. Since no redistricting bill had come before either house since negotiations had begun one week ago, they criticized Evans for scuttling negotiations.

In fact, both Greive and Grant were preparing new plans too, with the primary aim of softening the Republicans. Both were considering a most radical strategy, first suggested by Representative William C. Klein (Dem., Vancouver). Klein had argued that legislative referendums, both in law and in practice, did not require the signature of the Governor. When Klein had suggested, two weeks earlier, that the Democrats pass S.B. 2 as a legislative referendum, most had laughed, but now the Democratic leadership was becoming intrigued with the strategy.

Meanwhile, negotiations, which had grown larger, quickened. Representative Copeland, now the House Minority Leader, had joined the talks. Friday morning Gorton had joined, then Democratic Senators Gissberg and McCutcheon, then “new breed” Senator Walter B. Williams (Rep., Seattle). Ostensibly, all came to work on the new proposals; in fact, most were there to keep an eye on their colleagues. Despite the expansion, there was still no representative of the new House Democrats attending the meetings.

On Friday and Saturday the negotiators moved closer to a general agreement. The biggest break came when Greive and Gorton, after much heated debate, agreed to divide the Seattle districts “seven-seven-two”—seven districts for the Democrats, seven for the Republicans, and two swing. The deadlock over Spokane was temporarily abated when Greive offered to protect one Republican representative in exchange for protection of those two vulnerable Democratic senators. And finally Gorton began to look seriously at the weird gerrymander for Tacoma.

This was progress, but very general and most elusive. Although the outline of a compromise was set, the more critical problem remained—where to draw district lines. The negotiators attacked

this problem on Sunday, February 7, and it collapsed the talks. The Republicans refused to meet with Greive until he modified his position.

Republican tenacity swung on their hopes for the Governor's bill, which Evans unveiled Monday. The bill received extensive coverage in the press and caught the attention of all legislators. The Democrats even refrained from the scathing attacks they had delivered on every previous Republican bill. Its sponsors were Moos and Democratic Representative Rogers, the blitz opponent who had continually implored both parties to cease their partisan outbursts and begin to compromise. Evans had also asked Representative Day to sponsor a bill, but Day had declined, thinking that the bill might adversely affect negotiations.

Gorton insisted openly that Republicans would compromise no further than the Governor's bill, and set out to shock the Democrats into submission by passing it through the House.

### Republican Unity Is Strained

Republican leadership almost immediately broke down. The Governor's bill, signaling as it did a return to a more uncompromising strategy, plus the seemingly deadlocked negotiations, strained the already uneasy relations between the "new breed" and Copeland, who had earlier outmaneuvered Moos to win the minority leadership. Copeland now demanded that Gorton conclude the negotiations with Greive, but Gorton feared that this would require him to surrender on vital positions.

When negotiations continued to flounder through Tuesday, Copeland exploded. Restless because his two opponents for the House leadership were managing the sole issue before the legislature, Copeland moved into negotiations. On Wednesday morning he told the House Republican caucus that he would achieve definite progress within 24 hours.

Greive pressed for a final settlement, hoping that Copeland's stand would destroy Gorton's leadership over redistricting. Renting a suite in a downtown hotel, he called Copeland, Neil and Day into a series of "secret" meetings.

The meetings were no secret. Even the press broadcast the news. Most legislators dismissed the hotel talks, but Gorton and Moos were furious. Both were working hard to win Democratic

voters for the Governor's bill, because he hoped that a compromise might emerge from the downtown hotel.

By Thursday night, February 11, Greive and Copeland were proclaiming that a redistricting settlement was imminent. This was too much for Gorton. He was convinced not only that Copeland had devastated the strategy for the Governor's bill, but that the minority leader, who had entered the negotiations with only an elementary knowledge of redistricting, had surrendered the Republican position.

Gorton asked Representative Pritchard to get Copeland out of the negotiations. Pritchard, Moos, and two other House Republicans sternly confronted Copeland with the choice of pulling out of the negotiations or facing a caucus revolt and a vote of no confidence.

Copeland made no definite reply, but his efforts to engineer a redistricting solution languished and died. Other events had diverted attention from the negotiations.

### Both Sides Move Alone

On Thursday, February 11, legislative activity on redistricting reached its highest level and its most disorganized. Everyone speculated that unhappy and impatient caucuses were ready to strip both Greive and Gorton of their redistricting leadership. The House Democrats had a new bill, the Senate Democrats had a new bill (the referendum), Gorton still had the Governor's bill, Greive had negotiations (although he wasn't sure with whom), and Copeland had the hotel talks. Fully half the legislators thought they had found the way to bring order to redistricting, and the significant was jumbled with the trivial.

In the House Grant was ready with a modified version of his earlier plans, scalped onto a Senate redistricting bill. Grant almost hoped it would precipitate a conference committee, which until this time he had rejected. Conference talks would put a House Democrat at the table and that would be an improvement on the informal talks, in which they had no man at all.

On the House floor Grant argued that only his bill was constitutional, Gorton ridiculed it, Moos called it "a fraud," tempers flared, and the Speaker once had to gavel into silence a member of

his own party for attacking the party. It was exciting debate, although it doubtlessly changed no votes; the bill passed 53-43.

Senate Democrats, meanwhile, insisted that Greive bring out the referendum bill. Greive had resisted all attempts to put Democratic measures before either house, fearing this would upset the “secret” talks and his plan to knock out Gorton. But the Democrats wanted action and rebelled at the hopeless negotiations. Many senators really wanted to put the referendum before the voters in April; Greive saw it primarily as a device for worrying the Republicans into submission.

The referendum did worry the Republicans. Outwardly, to be sure, they argued confidently that Evans could veto the act, and that the constitutional prohibition against vetoes applied only to referendums already approved by the people.<sup>7</sup> And the Governor could always veto the bill for money for a special election, they added. But privately the Republicans knew the issue would have to be resolved in the courts, and this gnawed at the security they had found in Evans’ veto.

Thursday evening Greive presented the Senate with the referendum bill—a measure quite similar to S.B. 2, but with the added provision that it would be submitted to the people in two months as a legislative referendum. Greive frankly observed that the purpose of the referendum was circumvention of the Governor’s veto. Evans was not part of the federal court order requiring the legislature to redistrict itself, he said, commenting that, “It is the Governor’s duty that we are transferring to the people.”

Republican leader Moriarity, insisting that the voters be given a real choice, asked the Senate to put the Governor’s bill on the same ballot. His request was designed to demonstrate that the Democrats were interested in enacting their own bill. But Moriarity’s motion was defeated, 31-17.

Moriarity then challenged Lieutenant Governor Cherberg’s authority to allow the proceedings to continue. Cherberg and Speaker Schaefer had been enjoined by the court against allowing the legislature to enact any bills other than redistricting. Moriarity argued that Cherberg was placing himself in danger of contempt proceedings by the court:

The federal district court’s order is that the legislature ‘shall apportion itself. . . pass a bill. . . enact into law.’ This referendum is not legislation. The Lieutenant Governor is enjoined



from signing a referendum, and would be in contempt if he were a party to the passage of the referendum.

Considerable data followed. Finally Cherberg retired to his chambers to discuss the point with Democratic leaders. An hour later (it was past one a.m.) he emerged and announced that he did not believe that the court had intended to deny the people the right of referendum. In another hour the measure was put to final passage. It passed with a single vote to spare 26-22. Seven Democrats voted against it; the Republicans lost one of the senators who had supported Greive in 1963.

Senate Democrats kept up their “hard-line” strategy. On Friday they rejected conference negotiations and sent to Evans the bill Grant had passed through the House the day before. The senators didn’t particularly like Grant’s bill, but it was available grist for the Governor. During the debate on the floor Senator McCutcheon had remarked that the leadership “probably couldn’t carry it if we didn’t know he was going to veto it.” After the chuckles Republican Senator Woodall had observed that McCutcheon had “let the cat out of the bag.” The bill passed anyway, 26-19.

The Governor would veto that bill too, but by then other things would have happened.

### The Democrats Go To The Governor

The state Chambers of Commerce, in planning their usual visit to the legislature, had invited Greive and Gorton to address them on redistricting. Both had accepted, and at the lunch on Saturday, February 13, Greive satirized his and Gorton’s role. The touch of humor lightened relations between the two redistricting leaders. Together they walked back to the Capitol, reminiscing about their redistricting battles. The light talk continued for two hours in Greive’s office.

On Sunday Greive sent for Copeland and Neill for a continuation of the hotel talks. Gorton intercepted the message and went himself. The two discussed how to map the seven-seven-two arrangement for Seattle-King County. All earlier attempts to draw this required the destruction of one of the existing Democratic districts. Now Gorton proposed a weird bird-shaped district, with a major Republican stronghold in the beak and scattering of Democratic outposts in the body. By

wedging the bird into the Seattle district map, the seven-seven-two scheme could be achieved without disturbing the political complexion of surrounding districts. A few Democrat incumbents were jostled, notably Representative Grant, but this did not seem to bother either Greive or Gorton. Now that Gorton had proposed his own gerrymander, he could hardly be pious about Greive's district swap in Tacoma, so both ratified it.

On Monday, February 15, Governor Evans met with Greive and asked him where negotiations stood. Greive produced a map that he and his aide had drawn the night before. It reflected the general agreements already made, but the district lines were Greive's own, for the negotiations had not yet become that specific. Greive insisted that if the negotiators made no new progress by Tuesday he would write up his version of the agreement and pass it through the Senate.

The Republicans, meanwhile, were trying to revive the Governor's bill. The key, Gorton knew, was the support of Day and the dissidents. He proposed wooing them with a more Democratic plan for Spokane. Since Gorton had convinced himself that Republicans could compromise no further than the lines in the Governor's bill, he insisted that the Democratic gains in Spokane be matched by Republican gains in Seattle. Day seemed interested when Gorton made the offer on Monday. Moos became the chief strategist for the measure and began to look very hard for the necessary 11 Democratic votes.

House Democratic leaders continued to become more dissatisfied with their minor role in redistricting. Ex-Speaker O'Brien, who had now stepped into the battle, and Speaker Schaefer both agreed that their fortunes rested in the formal conference committee. Tuesday morning Schaefer called all the Democratic leaders into his office and argued that conference negotiations should begin immediately. Greive did not object. The group called Evans and asked for a meeting, hoping to persuade him to support the formal talks.

### First Negotiations Begin

On Tuesday afternoon, February 16, an army of legislators descended upon the Governor's office. From the senate came Democrats Greive, Gissberg, Washington, and caucus chairman Robert

C. Bailey (Pacific County), and Republicans Moriarity, Neill, and John N. Ryder (Seattle). From the House came Democrats Schaefer, O'Brien, and Frank B. Brouillet (Puyallup), and Republicans Gorton, Copeland, and Robert F. Goldsworthy (Whitman County). Moos, busy selling the new Republican bill, did not attend, and Grant was not invited.

For two hours they talked. O'Brien insisted on a conference committee, but Gorton, Greive, and Evans talked district lines. District by district they ratified the progress that had been made earlier—the more definite agreements for the rural districts and Tacoma and the general plan for Seattle. Evans played the true mediator, proposing solutions, arbitrating, reconciling, interposing.

All this seemed to represent genuine progress. The negotiators broke for dinner, and Evans spoke to newsmen anxiously gathered outside his office. He told them that the parties were very close to agreement and claimed that only four major problem areas remained. Greive announced that redistricting bill was 92 percent complete.

The overly optimistic statements were designed to set the state for the final bloodletting. The last eight percent, the settling of district lines and remaining controversies would be as tough as the first 92. Some legislators would have their hopes crushed by the final compromises; if a solution seemed imminent, they might take the blow with less resistance. Furthermore, each side wanted the guilt to fall on the other.

The second mass meeting provided the crucial redistricting turning point. When the group reassembled that evening, Evans began making specific proposals for Seattle, presenting from memory plans that Gorton had briefed him on during dinner. Greive rejected the Governor's first two proposals—the standard Republican plan and a new bill designed to help Greive's opponents in the Senate. Then Evans laboriously drew out the general agreement as the Republicans saw it, Greive closely checking the movements of the pencil and Evan's explaining the reasons for each line. Greive studied the district lines on the map, and in less than five minutes agreed to accept them, although he hesitated over the 32<sup>nd</sup> district in North Seattle. O'Brien seemed reluctant, but Greive brushed those hesitations aside. Gorton and Greive initialed the map. This was the solution for Seattle.

Next the group turned its attention to the five Spokane districts. Greive continued to insist on “safer” districts for his two Democratic compatriots from Spokane, modified his position a bit, then insisted that the legislators involved be brought into the talks. After their arrival the two senators immediately objected to any departure from the lines in S.B. 2. Greive took them outside in the hall and insisted that they give a bit. One agreed, but the other remained adamant. Greive and Gorton then took the Spokane group into an adjoining room. Greive showed the two senators that their districts would be better than the old, but neither liked the way their new districts “looked.” Street by street the Spokane Democrats and Gorton haggled over district lines. Finally only about 450 voters, or one and one-half precincts, remained in dispute, but that was an interminable gap.

The other negotiators lounged in the Governor’s office, waiting on the Spokane talks. Most were pessimistic about the chances for finishing the compromise, for the differences remaining, although small, were intensely significant.

Only a few districts seemed to prevent a final compromise. Other differences would surely have appeared had the legislators taken time to scrutinize all their agreements, but in the haste of the negotiations only these five controversies stood out:

- 1) The 32<sup>nd</sup> district in North Seattle. The Republicans insisted on bolstering it to protect their valuable incumbent senator, while the Democrats insisted the district retain its old political complexion.
- 2) The new 21<sup>st</sup> district, to be carved out of the suburbs between Everett and Seattle. The area was inclined to be Republican, and the controversy was over how much the district would reflect this. And, yet to be discovered, the Republicans wanted to move one of the three Democratic incumbents in the Everett district into the new 21<sup>st</sup> district, thus protecting independent Dootson from a three-man race for two seats.
- 3) The 5<sup>th</sup> district in Spokane and its precinct and one-half.
- 4) The 12<sup>th</sup> district of Chelan and Douglas Counties. The problem was whether to split it into subdistricts for the representatives, more of a problem of personalities than of politics.

- 5) The 16<sup>th</sup> district in the tri-cities area. The Republicans wanted to subdivide this Democratic district, knowing that the Kennewick-Richland half would be less Democratic than the district as a whole.

Negotiations were deadlocked. Each side thought it had given far more than it should. Each insisted that the other side give in to save the compromise.

### Greive Searched for a Solution

On Wednesday, February 17, the Democratic leadership gathered in Speaker Schaefer's office to review their position. Gissberg refused to attend, insisting that the success of the matter now rested entirely with the Republicans. O'Brien and Schaefer argued that the party should give in no more, that all the contested areas should go to the Democrats. Greive, however, argued for some concession. He suggested that disagreements be divided down the middle, with each party having their way on half. But he was alone, for no one else wanted to give in.

The negotiators (the original group, plus Day, Grant, and the senator from the one unresolved Spokane district) reconvened in the Governor's office that afternoon. Talk was abbreviated and quiet. Each side quickly learned that the other would not yield. Again Greive suggested that the areas of disagreement be divided between the parties. Again all rejected his suggestion.

The Democrats adjourned to a separate room. Greive urged them to make some concession. Finally they agreed to divide the issues. The Republicans could subdivide districts 12 and 16 if they could have all disputed precincts in districts 5, 21, and 32. The group took the proposal back to the Governor's office, calling this their final stand. Evans suggested that all meet again that evening, but O'Brien and Schaefer refused. They would not return until the Republicans were ready to compromise.

The House Democrats did not return that evening, but Greive did. He discussed the disputed areas with the Republicans, made no progress, and then announced that he would pass his own version of compromise through the Senate. He wanted very much for the legislature to finish the job, feeling that any more delay would cause the fragile agreement to collapse.

All that afternoon and night Gorton's aide rushed to complete a draft of the Republican version of the compromise. When it was finished, he gave it to Greive and his aide and told them how to rewrite the plan in the five disputed areas. Greive accepted the ready-made draft. Later he accused Gorton of "fast-penciling" him on the lines of a few supposedly undisputed districts. In fact, those districts were then undisputed, but the agreement on them was usually vague enough that had Greive and Gorton drawn their own bills, slight differences would have appeared. Enough slight differences would collapse the compromise; that was the reason why Gorton's aide was so anxious to draw the final bill.

By the next morning, Thursday, February 18, most of the controversy over the 21<sup>st</sup> district disappeared as soon as Evans called Dootson into his office and explained the problem. Dootson was astonished. He admonished the Governor not to let this suspend the fate of what seemed to be an honorable compromise. "Do whatever you want with my district," he told Evans, "I am sure it will be the right thing."<sup>8</sup>

That morning legislative leaders from both parties met in Schaefer's office. Greive made a new proposal to the Republicans. He would subdivide the 16<sup>th</sup> district in exchange for major Democratic gains in the controversial 32<sup>nd</sup>. The Republicans left to discuss the proposal in the Governor's office. Moriarity and Ryder returned shortly with the news that the Republicans would not concede anything.

The two Republican senators walked back into what they described as a "Democratic bloodbath." O'Brien and Schaefer had grown furiously suspicious that the bill protected Greive's Senate faction in exchange for relinquishing control of the House to the Republicans. Senators and representatives ran in the same districts, Greive had retorted; "This is your own senator you are protecting."

Greive still continued his attempt to force a final settlement. Later that day he made a series of proposals to Moriarity, Ryder, and Neill, hoping to eliminate the 32<sup>nd</sup> district controversy. The three Republicans studied the proposals, then called Evans for his advice. Evans was with Gorton and Pritchard in the kitchen of the Governor's mansion, discussing the same problem. The essence

of Greive's proposals, Moriarity told them, was that everything could be settled if the Democratic position on the last three or four precincts in the 32<sup>nd</sup> district was accepted. Gorton was adamant—the Republicans must make no concessions. The three returned to Greive with the message.

The differences all hung on the 32<sup>nd</sup> district. The other problems had been forgotten or solved by mutual consent of the affected legislators.

### Senate Democrats Rebel

Greive's opponents in the Senate had already told him that they would try to defeat the compromise. With alarm they had realized what the bill would do to their faction. If they were ever to wrest control from Greive, they had to move now.

On Tuesday, the day negotiations had begun in the Governor's office, they had made overtures to Senator Williams, hoping to gain Republican support for separate negotiations that would exclude Greive. On Thursday night, February 18, the two leaders of the resistance, Gallagher and Senator Martin Durkan (Dem., King County), along with King County election official Edward Logan, called Gorton into one of the Senate hearing rooms and presented him with a redistricting plan for Seattle that was more favorable to the compromise. In addition, the three told Gorton they would not insist on the protection of the Spokane senators. Gorton was sorely tempted to accept the proposal, but feared it was only a ploy designed to destroy the compromise.

On Friday Greive faced the hostile senators. In the caucus Gallagher, Durkan, and Mardesich assailed the compromise as a total "sellout" of the Democratic Party. Others lodged equally vehement objections, and neither Greive nor Bailey dared ask for a caucus vote on the plan, fearing it might not command the support of half the Democrats. All that day and night Greive argued his case for the compromise, stating that it was necessary, that the Democrats could not dictate their own bill, and that this was an honorable compromise representing the only hope of the legislators to do the job themselves. If they failed now, Greive predicted, the court would take over the job and the desires of the incumbents would be forgotten forever.

The caucus met again on Saturday. Again, Greive's opponents attacked the plan. Greive now replied to their charges confidently, knowing he had the majority. He would move the compromise bill onto the Senate floor as soon as the remaining areas of dispute were settled.



## VIII. THE FIGHT ON THE FLOOR

Greive talked for two days with Republican senators Moriarity, Neill, and Ryder. They could reach no new agreement. On Sunday night, February 21, Greive, deciding that he could wait no longer, began to move his bill through the Senate.

To review Greive's bill the senators abandoned their chamber and locked themselves in a basement hearing room, barring all but senators and staff. Those locked out included some very angry newsmen. District by district Greive and his aide explained their bill and district by district Senator Gallagher questioned, embarrassed, and harassed. Gallagher spoke as chief opponent of the bill, frustrating its supporters, stalling the proceedings, trying to force Greive to lose his temper and his control of the meeting. Laboriously Greive continued to explain the bill. Each senator received his due recognition, until all 40 districts had been explained. The senators filed back up to the Senate floor.

Immediately one of the bill's opponents moved to adjourn. The vote would be close, for although Greive and the Republicans wanted to stay and work on the compromise, many of Greive's supporters were weary and anxious to quit for the day. Suddenly they realized that one Republican was missing. By the time they located the missing senator, who had left the hearing room for Gorton's office to question his district, it was too late. In his absence the remaining senators had voted 24-24, and Lieutenant Governor Cherberg had broken the tie and sent them home.

### The Positions Harden

As the chambers emptied the negotiations resumed. Greive and the three republican senators were now joined by Gorton and two other Senators, John A. Petrich (Dem., Tacoma) and Fred H. Dore (Dem., Seattle). Petrich objected that his Tacoma district, the version that Gorton's aide had drawn and Greive had accepted, was "too Republican." Gorton insisted that the lines in the bill were the lines agreed upon in the Governor's office. Soon Greive was shouting that he hadn't agreed to

any lines that made the district “that Republican.” Gorton retorted that Greive was opening up areas of the bill already decided.

Nothing could be decided for Petrich. Greive suddenly announced that he would settle the 32<sup>nd</sup> district and accept the lines originally negotiated. He drew this out on a map, but Gorton immediately objected. Greive’s lines, he said, left out three key precincts. Greive retorted that he couldn’t possibly give up those precincts. He could hardly control his caucus as it was, and his lines had been agreed upon. Gorton denied this, saying that the three precincts were in the original agreement, and that Greive had protected all his friends and now refused the Republicans the one senator they wanted to save.

The 32<sup>nd</sup> district had been redrawn too many times. Gorton offered to accept the lines both had initialed in the Governor’s office that first night. Greive threw up his hands and paced around the room. Knowing he couldn’t go back to his caucus with that, he angrily blasted Gorton for killing the compromise and predicted that redistricting would go to the court. Then Greive left hurriedly.

As much as the tired and frustrated negotiators remaining wanted to ignore it, Petrich’s specific problem was still present, threatening to drag the whole bill down with it. They talked for over an hour. Dore continued to urge the two sides to split the difference. This seemed to satisfy Petrich. Gorton, exhausted from Greive’s tirade and the continual pressures, finally agreed.

Meanwhile, the House had exploded over the compromise. O’Brien and Schaefer, seeing Greive move on his own, were convinced that the bill heavily favored Senate Democrats but surrendered the House. By Sunday night the “old line” Democrats in the House were in open revolt against the compromise.

For two weeks Moos and Gorton had been pressing redistricting bills on the Democratic representatives—first the Governor’s bill, then the Moos amendment, and now their own version of the compromise. Republicans raced to pass that through the House before Greive put his version through the Senate, feeling that this was the only way to avoid the deadlock and win acceptance of their position. A dozen House Democrats seemed ready to support the compromise, but Moos and Greive could not pin them down. Day expressed their hesitations when he told Gorton that he wanted to make sure he voted for the real compromise.

In fact, all House Democrats were under tremendous pressure to stick by their caucus; O'Brien deemed any wavering unjust and disloyal. He and Schaefer kept close surveillance over Gorton's and Moos' progress; any Democrats showing the slightest interest in either version of the compromise was called into the Speaker's office for a chat with his leaders.

To forestall passage of the compromise, O'Brien and Schaefer told Grant to prepare his own version, one that "did more" for the representatives. Having little knowledge of the negotiations, Grant began to draw another House bill for House Democrats. The lines of the compromise quickly faded into the shapes of S.B. 2. The "Speaker's Bill," as it was known, resembled the Greive-Gorton compromise in only 18 of the 49 districts. On Monday afternoon, February 22, Schaefer and Grant brought the Speaker's Bill before the House. Gorton did not attempt to substitute his version of the compromise, for he knew that not even Day would support it. Debate was short; the Speaker's Bill passed, 57-42.

### Greive Finishes the Compromise

While the House was passing the Speaker's Bill, Greive was making final preparations to move the compromise. On Monday morning, February 22, he called the Democratic senators into caucus to tackle their knottiest problem, an inner-party issue. Backers of Senator Hallauer wanted to insure his return to the Senate by denying a fellow Democrat the chance to run for his new seat until two years after his current term expired. (His and Hallauer's districts were merged under the bill.) The issue quickly became a pro- versus anti-Greive test. Opponents of the compromise, seeing an opportunity to discourage Greive's supporters, backed Hallauer. It was a perfect coalition, and on a secret ballot, Hallauer triumphed. The downcast supporters of the bill resolved to take the issue to the Senate floor.

Greive now began to twist the old "scalping" strategy, originally designed to force on the "new breed" Republicans a final automatic vote. But it was now the House Democrats who would bury any new bill. Greive searched through the senate redistricting committee and found H.B. 196, Grant's original bill, and prepared to scalp it with the compromise.

The redistricting committee met Monday evening. Greive was ready with his last-ditch strategy. Only the 32<sup>nd</sup> district seemed to stand in the way of a final settlement, and as soon as the committee convened Ryder and Neill moved to add three heavily republican precincts to the 32<sup>nd</sup> district. Ryder stressed that if the precincts were left out, Republicans would fight the bill all the way. Committee chairman McCutcheon said he regretted the Republican's stubbornness, but feared that defeat of their amendment would kill the compromise. He threw his support to the minority, other Democrats followed, and the Republicans won their point by a two-to-one margin.

Greive announced that the new Republican advantage must be matched. The 31<sup>st</sup> district in South Seattle was not Democratic enough, he said, adding that the Republicans had fast-penciled him and drawn it "swing." Gorton's aide huddled with the Republican senators in the committee as Greive spoke, frantically urging them to stop Greive's amendment. The lines of the 31<sup>st</sup> district, as drawn in the Governor's office, did make the district Democratic, but Republicans might win a House seat there in a good year. Such opportunities, he insisted, were what gave the bill its balance, and Greive's amendment to "lock up" the district for the Democrats would destroy that balance. This was news to the bewildered Republican senators, who protested mildly against Greive's proposal. It carried on a party-line vote.

Greive, insisting on another advantage, proposed to subdivide the 32<sup>nd</sup> district, insuring that one of its two representatives would almost always be a Democrat. Again the Republicans objected; again they were defeated.

Gorton, waiting downstairs in the Republican caucus room, was deeply crushed by the news of the changes. The three precincts gained in the 32<sup>nd</sup> district, important as they were, did not make up for the terrible loss in the 31<sup>st</sup>. Gorton could not bury the horrible thought that the bill was made worse by the committee.

The Republican senators caucused and heard Gorton argue that Greive's new changes radically altered the balance of the bill. Some senators objected. They said he had never told them that the district was supposed to be "this way." They thought it belonged to the Democrats. Other were simply discouraged. They had won their fight over the 32<sup>nd</sup> district only to open up greater wounds. But all agreed to oppose the 31<sup>st</sup> district change on the Senate floor.

When the Senate convened, Minority Leader Moriarity immediately moved to consider the 31<sup>st</sup> district as the first order of business. McCutcheon asked if the committee amendment to the 31<sup>st</sup> district would kill the bill, but Moriarity carefully avoided a direct answer. Other Democratic senators asked. Moriarity hinted that it would, but avoided any exact statement that would surely invite sharp criticism.

Senator Gissberg, strong opponent of the compromise, forced the question. He moved that the Senate begin considering the committee amendment with District 1. But the Republicans wanted to hold attention on the 31<sup>st</sup> district; this would be the test vote. Seven Democrats, most of them strong supporters of the compromise, joined the solid block of 17 Republicans and defeated Gissberg's motion 24-23 (two Democrats did not vote). The Republican success startled proponents of the bill, who came on with a flurry of motions, and Gallagher finally had the vote reconsidered. This time the two abstaining Democrats voted. Their votes were split, and again the Republicans triumphed, 25-24.

Cherberg put the 31<sup>st</sup> district amendment before the Senate. Moriarity's motion to lay it on the table was followed by another avalanche of motions to reconsider. Again he was defeated, 25-24.

So far the opponents of the compromise had led the fight against the Republican demand. Now Greive, who had been reassuring the supporters of the bill, asked for a question of consideration, which would kill Moriarity's motion if passed. Through this parliamentary technicality the Democrats were entitled to the 31<sup>st</sup> district. Senator Neill insisted that the compromise was "too delicate. . . a matter of balance," and that changes "like this" could break the whole settlement. Again Moriarity was asked whether the change would break the compromise. He would not be explicit, but Senator Greive understood and bitterly observed that the Governor was behind Republican obstinacy.

In the end Greive was able to convince the Democratic supporters of the compromise to hold fast, and opponents of the compromise were too upset to make any concession. Moriarity's motion was killed on a party-line vote. The Democrats then adopted their own version of the 31<sup>st</sup> district.

The Senate dragged through minor amendments until nearly three a.m. Democratic opponents of the bill knew they could not defeat the measure on their own. They needed help from

over half the Republicans. The bond welded suddenly. Senator Robert L. Charette (Dem., Aberdeen) brought out a copy of the old Governor's bill and moved to substitute it for the compromise. The senators, Charette accused, were motivated by nothing but interest in their own districts. Since that was how the game was played, he said, he was presenting the one bill that "best takes care of me." He added that Greive had sold out for personal gain, and "as long as the Democratic Party has been sold a bill of goods, we might as well go all the way with Dan."

Charette's speech infuriated democratic supporters of the compromise. To eliminate him quickly, McCutcheon moved to lay Charette's motion of the table. It was defeated, to everyone's surprise, 27-21, with Republican support.

McCutcheon exploded. Turning to the rear of the Senate chambers, he told opponents that he "wasn't going to take that from you back there." Charette retorted, and caucus chairman Bailey shot to his feet to lash out at the opponents. Opponent Mardesich spoke against the deal-making in the caucus, and more Democrats jumped into the fray.

Republicans, unnerved by the fracas that was splitting the Democrats and spilling from the secrecy of the Democratic caucus onto the Senate floor, did not dare to defend the Governor's bill strongly, lest they halt the fascinating display.

At last Senator Gallagher, leading opponent of the compromise, began to speak. "The Governor's bill," he said, "sinks the whole Democratic Party." His words had special meaning for Gorton, who remembered how Gallagher had made generous offers to the Republicans while trying to sidetrack the compromise. He was now making the most bitter attack on the Republican position.

Gallagher's remarks and Greive's influence brought the Democrats back into line. When the final vote was called, only four Democrats voted with the Republicans. A motion by McCutcheon to postpone indefinitely the Governor's bill passed, 28-20.

Now the Hallauer controversy, which had been put off until the end, came before the Senate. Earlier that evening Hallauer, hoping to tie his problem to the 31<sup>st</sup> district, had indicated to Gorton that he could organize enough Democrats to defeat the change. Gorton had relayed this to the Republican caucus, and all 17 Republicans had agreed to vote with Hallauer on his district number.

But just after the Senate had convened, Hallauer had reported back that he would have to support the 31<sup>st</sup> district change. Earlier he had pledged his support to the Democratic senator from the 31<sup>st</sup>, and the senator would not release him. This had enraged the Senate Republicans, who now voted solidly against Hallauer's position. Even though Hallauer commanded the votes of a majority of the Democrats, the Republican deluge gave away the victory. As if this were not enough for Hallauer, the Democratic senator from the 31<sup>st</sup> district voted against him.

The battle raged on through the night. It was now morning, and everyone was tired. Gorton, exhausted and gloomy over Hallauer's defeat, had failed to keep track of the political implication of all the changes in the bill. He sat sullenly on the secretary's desk in the caucus room as the Republicans filed in to decide what to do, while Democrats waited impatiently in the chambers.

Gorton did not like the bill, but he would not tell the senators how to vote. Ryder, Neill, and Moriarity informed the caucus that they could not vote for the bill because of the 31<sup>st</sup> district. The change had taken too much. In a fiery speech, Senator Woodall urged the caucus to vote together behind the three senators who had represented them in negotiations. Although everyone agreed, they were all tired, and the decision was too easy. The Democrats could tell by the dejection of the Republicans leaving the caucus room that the bill was dead.

Just before seven a.m. the senators voted. All votes for the compromise came from Greive and his supporters—a majority of his caucus, 19 votes in all. It was six votes shy.

### The Senators Approve

The Republicans wanted to change the 31<sup>st</sup> district, or at least half of it, and save the compromise. Greive protested strongly against this and announced that he had begun to work on another redistricting referendum.

Moos and Gorton implored Senate Democrats to yield and save the bill, but at first no one would succumb. Then, late Tuesday afternoon, just before the Senate convened, McCutcheon agreed to vote for a half-way solution. Republicans, expecting McCutcheon's position to sway other Democrats, were jubilant.

As soon as the Senate convened Neill moved to bring the defeated bill back before the Senate. Republicans and Democrats joined in approving reconsideration, 34-13.

Neill moved to pass the bill back to the amendment stage (second reading) so that he could offer the 31<sup>st</sup> district change, but the Democrats were not in the mood to debate the question. Only four, including McCutcheon, were willing to even consider retreat, and the opportunity was lost, 26-21.

Having reconsidered the bill, the senators still had the compromise before them on final passage. Moriarity asked for a caucus, and the republican senators retired to decide what to do.

The caucus decision to support the compromise was immediate, spontaneous, and unanimous. Gorton advised the Republicans that time had run out and the court was ready to take over the redistricting task. Although he had not analyzed the compromise in any detail, he had compared it to old Democratic and Republican measures, and now he told the senators that the compromise bill was as good as the party might ever get. Not wanting to appear overly anxious for the bill's success, however, he told the Republicans to split their vote. The senators agreed to vote 10-7, and Gorton then assigned the seven "nays."

As soon as Cherberg brought the Senate to order, Neill announced that the time for negotiations was past and that the bill was a reasonable balance. Opponents of the compromise resumed their attacks, but only a few spoke before Greive told them that "most who say we sold the party down the river don't know what they're talking about." The compromise, he added, "comes pretty close to reflecting the popular vote." The Clerk then called the role, and the Republicans added their 10 votes to the 21 Greive already had, passing the bill through the Senate and onto the House, 30-18.

The Republican ruse fooled the press, but the Democratic representatives crowded into the Senate chambers were taken in. They considered the bill a "complete sellout" and were convinced that the Republicans meant to pass it in to the Governor before Democrats examined it closely. O'Brien and Schaefer billed the battle as a party affair, Democrats against Republicans.

Earlier Gorton had been confident that any compromise bill first passed by the Senate would whisk through the House. But it now appeared that O'Brien and Schaefer were firmly in control, and



passage would have come by a single vote, if at all. Yet the proponents of the compromise had a most powerful weapon for breaking House Democratic resistance. While the bill was in the Senate the court had acted.

The original court order, issued in October, had prohibited the lawmakers from even considering legislation other than redistricting, and this prohibition had included committee work. It had been designed to spur the legislators to a rapid resolution of the redistricting issue. But in late January Attorney General O'Connell, on his own initiative, had intervened and nullified that order. Arguing that the judge had not intended a ban on all legislative operations but only on the passage of bills, he had convinced the court to "correct" its October order and issue a new decree allowing lawmakers to begin committee work and amend bills on the floor. Since the final passage of most bills was rarely accomplished before the final weeks of most legislative sessions, the "corrected" court order never effectively hindered the normal progress of legislation.

On the fortieth day of the session, Friday, February 19, while Greive had been calming his hostile caucus, the court had suddenly and unexpectedly turned the pressure on the legislators. It had called a hearing of all the parties and scheduled it for the following Friday, February 26. The stunned legislators, fearing that the judges had become impatient, assumed that the order meant that on Friday the court would take over the job and draw its own bill.

As soon as the compromise bill passed the Senate on Tuesday, February 23, both Greive and Gorton began to argue that any representative's vote against the compromise was a vote to send the matter to the court.

### O'Brien Stops the Compromise

Ex-Speaker O'Brien, now in full command, was using all his political skill to hold his caucus together and defeat the compromise bill, a bill he thought would surely destroy the Democratic majority in the House. He kept up "the Treatment" in the Speaker's office. He and his colleagues argued with wavering legislators, making appeals for loyalty, promising power, threatening retribution, and using rational arguments. The threats and promises they made were not insignificant.

But O'Brien opposed a force that awed veteran legislators and even the unshakable newsmen—the bizarre team of Greive, Gorton, and all their supporters, working together, side by side, trying to pass their redistricting compromise. Slowly they eroded O'Brien's margin. When the bill came to the House they had already won over seven of the necessary eleven Democrats. The seven, long-time supporters of a reasonable compromise who had always rebelled at the militancy of O'Brien and the "old line" Democrats, were Jack Rogers, co-sponsor of the Governor's bill; Jack Dootson, frequent supporter of Gorton's redistricting leadership; Hayes Elder, Greive's old aide and strong ally; and four of the original six dissidents, Day, Perry, Hurley, and King. (All 39 Republicans would vote for the bill. In their Wednesday morning caucus Gorton convinced them that was absolutely necessary—they must pass the bill or face the court. Gorton still had reservations about the measure, but he knew that the redistricting battle in the legislature was at its end.)

On Wednesday, February 24, fearing that the compromise would pass if ever put to a vote, O'Brien changed his tactics. He devised a series of parliamentary maneuvers designed to prevent the bill from ever reaching final passage. The House, he argued, should not vote on the compromise now. Instead, the bill should be sent to a conference committee, where he could extract enough concessions from the Republicans to make it palatable.

This was O'Brien's position Wednesday afternoon, when support for the bill jumped from 46-49, leaving O'Brien with no votes to spare. Greive had won over one of his strongest supporters in the House, Representative Wayne Angevine (Dem. Seattle). Angevine had been a state senator, had been defeated, and then had been elected to the House. The bill seemed to guarantee his return to the upper body. Day and Perry had convinced the two other original dissidents, Kink and McCormick, to follow their old friends.

O'Brien and Schaefer called the Democrats into caucus to make sure they still had that one crucial vote, the vote with which they hoped to precipitate a conference committee and put the compromise to rest. But Greive's arguments had won over the fiftieth vote for the compromise. Representative Mark Litchman (Dem., Seattle), fearing that the court was about to draw the districts, announced that would have to vote the bill.

When the caucus doors opened and democratic representatives filed across the Republican side of the chambers, a whisper from one of the dissidents sent out the news that Litchman would vote for the bill. Litchman emerged from the caucus almost last. At his side was O'Brien, arguing heartily for a little more time to work out a few concessions. Litchman was surrounded on the House floor. The crowd filed to the Speaker's rostrum to argue the impending problem. Litchman would vote "aye" on the opposing motions—O'Brien's to delay and Gorton's to enact the compromise. In other words, the whole outcome of redistricting apparently swung on whichever motion was voted on first. House rules explicitly required Schaefer to put Gorton's motion to enact first, but at that moment Schaefer would bury the rules.

O'Brien left the group around the rostrum and returned to Litchman, who had once been his old majority leader. He offered Litchman, who hoped to please everyone, an argument that might force him out of his quandary. The Republicans, O'Brien warned, had secretly devised ways to rewrite the compromise bill, using the Governor's power of "line-item" veto. By striking lines out of the bill, the Governor could redraw districts; by striking whole sections, he could enact just the districts he liked and force renegotiations on the others.

The floor debate began. Minority Leader Copeland assured the Democrats that his vote for the compromise was his recommendation that the Governor sign the bill in its entirety. But Copeland was in no position to make any denials, for the use of the "line-item" veto had been part of the Republican strategy since the session had begun. Knowing this, Litchman explained that he would vote for the compromise when he was assured that the Governor would not use the "line-item" veto. Saying that "without a commitment from the Governor this bill is dead," Litchman voted against the republican motion to approve the Senate-made compromise. The bill lost by a single vote.

During the debate the Democrats had brutally attacked the bill, accusing Gorton, Greive, and Evans of a conspiracy to "grab power." Republicans had held back replies, fearing that a sharp speech might lose votes. But Litchman's switch, when victory seemed so close, brought a bitter rebuttal. When O'Brien moved that the House ask the Senate for a conference committee, Pritchard caustically observed:

We've has a conference going for 45 days. . .you over there can't go straighten out your senators. . .you're going to the court. . .Who's going to be on the conference committee? You over there probably can't decide on two members to represent all of you.

The conference request was approved by a single vote. But the issue was not dead yet. The Senate could insist on its version and ask the House for another vote.

### The Governor Replies

Litchman's request caused great consternation among the Republicans, who could not decide whether to have Evans answer him or forget him and try to win another legislator. Most, including Gorton, favored going for another vote, or even letting the issue go to court. They believed that the Governor just didn't do such things. The Governor's personal advisers, on the other hand, flatly told Evans that he had better take some action. He must appear to have "done his part," they urged.

The two sides carried their arguments before Evans at the morning leadership meeting on Thursday. The legislators argued against any degrading and precedent-setting move, while the advisers, insisting that precedents on redistricting would not carry over to other issues, pleaded for any action to absolve the Governor from possible castigation should the bill fail. Interestingly enough, by that time none of the Republicans favored using the "line-item" veto. They thought it would surely invite a court test and no one wanted to risk court nullification of the whole bill for a few "line-item" changes.

By that morning the pressures on wavering House Democrats had become intense. The foremost argument was the imminence of the court hearing the next day. Again the Republicans called in outside groups—this time political and civic leaders favoring redistricting whole districts were served by the wavering representatives. Moos and Pritchard plied indecisive Democrats, while Gorton pushed representatives he thought might crack. Greive, meanwhile, dispatched swarms of senators to calm the fears of their district's representatives.

Still O'Brien held on. He argued solely for delay, hoping that the tension would splinter the bill's supporters before it exhausted his Democrats. To Greive's and Gorton's apparitions of court

action, he gave assurances that the court would delay and perhaps even lift its ban on passing bills. To Greive's and Gorton's intractability, O'Brien asked for a conference committee and some Senate action on the recently passed Speaker's Bill.

That afternoon the senators acted on the Speaker's Bill by burying it in McCutcheon's redistricting committee. Greive then asked the Senate to insist on the settlement and request the representatives to vote on it again. On the floor he argued:

Either we do or do not have a compromise . . .this is an honorable compromise. . .Conference is impossible; if you pull you one district, you wind up pulling them all out. . .I'm not convinced that the bill does the things the House says it does. . .those were lies.

Senate support for the compromise bill had not waned; while O'Brien was arguing his case, Greive had gained another Senate supporter—22 in all—and this time all 17 Republicans voted together. The 39-10 margin was resounding evidence that the Senate did not desire to reopen negotiations on the compromise.

Governor Evans called in the press shortly after the Senate acted. Because of the court hearing, he said, today was the “last chance” to show that the legislative process could function properly. Because of the separation of powers, he continued, it was unwise for binding agreements to be made between the legislature and the Governor. He added that he was very happy with the compromise and stood ready to approve it as soon as the House passed it. The press repeatedly questioned whether this meant no “line-item” vetoes, and each time Evans replied that he wouldn't be approving the bill if he were to do that.

Greive, Gorton, and all their supporters gleefully prepared to pass the compromise through the House that night with Litchman's vote. But half an hour later the state received a new message from the court, and it appeared to all the compromise bill was dead.

### The Legislative Battle Ends

The impending hearing, the crux of the proponents' central argument, had been delayed for ten long days. O'Brien had privately pressured O'Connell to have the court lift its ban on passing

legislation or at least delay the hearing. When Judge Beeks had contacted Attorney General O'Connell to ask what a delay might do, O'Connell had replied, without consulting the Governor or the bill's proponents, that a delay was in order because a redistricting solution was imminent. He had quietly convinced the other parties in the suit to support the delay and that Thursday morning had sent one of his assistants to Seattle with the necessary papers. Only hours before the order was signed, a few Republicans learned of it and objected to the court, but to no avail.

Evans called the press back and reprimanded O'Connell for his independent action. At the same time, Greive, who was normally close to the Attorney General, told the press that O'Connell had "blown it."

Litchman stolidly maintained his support for the compromise when he heard the news. He met with Greive, who afterward predicted that Litchman would not be shaken by the court delay. An hour later Democrats claimed they had recovered Litchman's vote, but by then the legislature was floating on a sea of rumors, including the suspicion that Speaker Schaefer would adjourn the House that night, regardless of whether he had the votes, but "railroading" through the motion.

Senators, state officials, staff, and spectators packed the wings and galleries when the House convened at eight in the evening. Governor Evans stood just off the floor with his advisers, for he wanted to watch the culmination of the long redistricting battle. While the Democrats caucused and the Republicans waited nervously, another rumor rippled through the crowd on the floor. Three more Democrats had defected, and the reason for the long delay was O'Brien's effort, behind the caucus closed doors, to hold as many votes as possible.

At last the Democrats opened the caucus doors and walked through the masses blocking the wing, through the Republican side of the chambers, and to their seats. They filed by quickly and quietly. Neither Day, Perry, Elder, nor Angevine would stop and talk to the Republicans.

The House still had that curious lack of coordination existing just before the start of any long session. Suddenly one of the Democratic leaders moved to adjourn. It snapped the Republican legislators to attention. In an instant most were on their feet, shouting for recognition. It was the normal response of the opposition faced with a "railroad," and normally futile.

Speaker Schaefer hesitated. The House was in an uproar, and already newsmen were at their cameras, filming the event. Schaefer waited just a bit longer. Then he casually recognized O'Brien, who, with complete confidence, called for an oral roll call.

The Republicans continued to shout as the reader called off the names, some cursed loudly, and nearly all began to boo when Litchman voted for adjournment, apparently providing O'Brien with what would be the fiftieth vote.

With that the Republicans quieted, drowned by the realization that they did not have the votes. The reader droned through the next 31 names alphabetically. When he came to elderly freshman Democrat Ben F. Taplin, Taplin voted so softly that only a few positively heard him say no, yet the mood in the chambers changed so suddenly that everyone knew what had happened.

What followed, after a short period of general disbelief, was a great rush toward Taplin, who sat unresponsively in his seat as if nothing had really happened. The leadership milled around his desk. O'Brien, in a rage, insisted that Taplin change his vote, but Moose stoically stood guard over the man whose vote he had so carefully nurtured.

By then the roll call was over. Speaker Schaefer, announcing that the motion to adjourn had failed, 50-49, recessed the House and called for another Democratic caucus.

No one before had asked Taplin his vote in the caucus, and few Democrats during the past 46 days had paid much attention to the legislator from rural Asotin County. But now, behind locked doors in the caucus room, Taplin was the whole party. O'Brien pressured Taplin to vote for adjournment and give his leaders just one last try at the Senate. After twenty minutes Taplin finally yielded to the voices of this caucus and agreed to vote for an adjournment, but only once. He would not delay beyond the following day, for his vote was committed to the bill. (Earlier he had asked Moos and Pritchard if the Governor might veto his separate sub-direct under the bill. That morning, before the press conference, Pritchard had returned with the Governor's private assurance that he would not.)

The cortege of Democrats moved back into the chambers and without any debate, carried the motion to adjourn by that single vote.

It was only a formality when the representatives reassembled early Friday afternoon, February 26. To be sure, O'Brien had done his best during the night to move the senators or win back a vote in the House. At the Speaker's rostrum O'Brien argued again that the House should ask the Senate for a conference before finally voting on the compromise bill.

This time O'Brien did not have the votes. He made his motion and opened the bitter complaints of the Democrats, but after a short time Copeland moved that the House adopt the compromise bill. Thus began the final legislative act in the two-year redistricting battle.

As the debate wore on, the Democrats' speeches grew more and more bitter. The Governor, some said, was a "power-hungry dictator," bent on engineering a redistricting bill that would destroy their party. They told of the legislative travesty that had denied to their party, to which the voters had given full control of the legislature, the right to draw the final redistricting bill.

Through all the floor debate of the last days Gorton had remained silent, so as not to stir hostilities. After the legislators had grown tired of talking and were ready to vote he said:

We have reached the end of a road that started over two years ago. It had involved all issues that normally come before the legislature. In the sense that we were forced to deal with one another—and have taken great amounts of time. . .and have districts with weird and wonderful shapes. . .[this] may have resulted in a better solution for the people of this state than would a solution dictated by one party or another. Senator Greive has been devoted to a solution to this problem for three years; I never noticed that he was anxious to do in his own party. It's hard to see how a district that "saves our senators" doesn't also "save our representatives." The legislature is as poor an arena as possible for redistricting, but we can say, "we did it." The only thing to be joyful over is "you have done the job."

In the end 56 representatives voted for the bill—all 39 Republicans, Dootson, Rogers, the six dissidents, Elder, and Angevine, and the new votes of Taplin, three more of Moos' friends, two Democrats who had felt the pressures from local political and civic leaders, and Litchman. O'Brien was able to hold only 43 votes.

By prior agreement Schaefer and Cherberg immediately signed the bill, passing it on to Governor Evans. An hour later, at a ceremony in his office, Governor Evans signed the new redistricting of the Washington State Legislature into law.



## IX. AFTERMATH

All that remained was for the court to approve the bill and drop its ban on legislation. The Attorney General believed that the ban could be lifted as soon as he had ruled on the constitutionality of the new law. Therefore, shortly after the redistricting bill was signed, Assistant Attorney General Philip Austin began to prepare the state's brief. Austin wanted to hand it over to the court on Monday. The calculation of the exact district populations, however, would take at least the entire weekend. This meant that Austin could not make the Monday deadline; furthermore, the two redistricting aides were too weary to toil through Saturday and Sunday.

As a result, Austin accepted the list of district populations that the aides had hastily prepared during the floor fight. The figures were approximations. For some large districts the aides had made conservative estimates. The figures were not terribly inaccurate, but the error might have approached 10 per cent for some of the larger districts, not a small variance for district populations that were not supposed to vary more than 15 per cent from the "ideal."

On Saturday, hoping to provide Austin with more accurate figures, the aides calculated the populations of the larger districts. As they expected, their estimates had been too small. They reported this to Austin, who changed some of the figures accordingly but merely "adjusted" others. Essentially the original figures were retained.

Austin completed the brief during the weekend and on Monday, March 1, filed it with the court. The judges, immediately agreeing to drop the ban on legislation, set a hearing for the following week.

On Tuesday Austin met with the LWV and Thigpen's attorney. He asked them to accept the populations in the state's brief so all could go before the court with a single set of figures. Thigpen's attorney was not disposed to challenge Austin's figures, but Seattle LWV officer Lois North, experienced in counting district populations, suspected that some of the figures might be too small and asked for a few days to check them. When the group met again on Friday, Mrs. North

announced that her check showed that Austin's figures for the larger districts might be off by as much as 10 per cent. Nevertheless, Austin was able to persuade her and the others that his figures were sufficiently accurate for legal purposes, and since no one wanted to reopen the legislative battle, all agreed to use the state's populations.

During the next three days Thigpen's attorney reversed his position, deciding that the districts were too inequitable. When the court met on Tuesday, March 9, he did not speak out against the figures he had stipulated, but instead argued that the bill was unconstitutional because the populations were based on the 1960 census instead of the current 1965 populations. Since 1960, he noted, suburban areas had grown considerably. Since all agreed that the districts were barely equitable by 1960 standards, he argued, the districts were surely unconstitutional by 1965 standards.

Austin, who was prepared for this, stressed that there was ample precedence for using the 1960 census maps to calculate the districts' populations. Even though those figures might not reflect existing populations, he said, the 1960 census was the only reliable measure. Any reckoning of district populations based on incomplete 1965 figures, Austin insisted, would produce rough estimates.

The three judges upheld Austin's arguments. Noting that the plan was hardly perfect, the agreed that it "would do until 1971," when the state constitution required the legislators to redistrict again.

### The Final Skirmish

O'Brien still tried to alter the redistricting bill after it became law. In late March he and Grant drew up an amendment that would nullify the Republican gains on the Seattle area by redrawing half a dozen districts there. O'Brien planned to pass the amendment through the House, then go before the State Supreme Court and argue that the districts in the Greive-Gorton bill violated the "convenient and continuous" clause in the state constitution. As a result, O'Brien hoped, the court would throw out the Greive-Gorton districts and substitute his own six.

Democratic Representative Warnke later took charge of the bill's passage and altered this strategy substantially. He thought he could push O'Brien's amendment through both the House and

the Senate, then enlist the support of his employers at Boeing to pressure Evans into signing the measure.

Gorton knew that Governor Evans would veto O'Brien's amendment, but he had an interest in having it pass. Gorton wanted to tie it up with a set of his own amendments that would correct some minor errors that had been discovered in the redistricting law. Earlier he had feared that any attempt on his part to present the corrections would encourage the Democrats to reopen the entire redistricting battle, but when Warnke proposed confining all changes to the O'Brien amendment, Gorton cheerfully offered his corrections as a rider to the bill.

It was a strange coalition—Gorton and O'Brien—but it pleased Warnke, who was anxious to get his bill through the legislature. Gorton thought it was perfectly safe, since he knew that Evans would line-item veto Warnke's amendments, thus enacting only Gorton's corrections.

The representatives were full of both good humor and dreadful apprehension when the measure came before the House on May 3. One Democrat cried, "We may be opening up a can of snakes that could run all over us." Even with the combined support of O'Brien and Gorton, however, the merged measure could clear the House by only two votes.

The bill dies in the Senate. McCutcheon refused to take it into his redistricting committee and instead had it buried forever in the Senate Rules Committee.

## X. POSTSCRIPT

The Republicans won control of the House in the 1966 elections. They came to Olympia with 55 representatives to 44 for the Democrats. The new districting was one major factor in the Republican victory. Thirty-three new representatives came to Olympia, twice the normal turnover; 28 were Republicans. The shrinking of Democratic districts, particularly in the suburbs, made campaigns there more manageable and more visible, and this gave advantages to the better-organized Republicans. (It should be noted too that although the new districting contained no Republican bias, neither did it benefit the Democrats measurably. Had the blitz passed, Republican control would probably been impossible.

But the new districting was only one factor; the other was the popularity of the “new breed,” especially Governor Evans. Many people who had voted for Democratic legislators in 1964 voted Republican in 1966. The Republicans won new seats in districts that had been made more difficult for them under the redistricting. One of the many ironies of redistricting lies here. The “new breed’s” dreams had always been premised on control of the State House of Representatives, yet it was the popularity of their Governor that finally won them the House.

Redistricting produced slightly different consequences for the senators. Although the Republicans picked up three seats, the Democrats also gained. The result of the 29-20 division in the Senate was not only more influence for the Republicans, but more unity for the Democrats. Of the five seats that changed hands, four were to Greive’s immediate advantage, and this was with only half of the 49 senators up for election. Greive protected his faction and bolstered his stature. Thus, in 1967 he took the majority leadership in a walk, subsequently becoming the most powerful Democrat in Olympia.

Why did redistricting succeed? Why were Washington legislators able to reach a compromise when similar processes in other states have broken down completely?

One key was the high morale of the minority Republicans, particularly their confidence in Gorton’s leadership. Surely they fared far better than their numbers would indicate. One

correspondent suggested that the Republicans succeeded because they were able to “divide and conquer” the Democrats. Gorton, to be sure, had great faith in his ability to pressure Greive. Yet the Republicans were able to pressure, divide, and conquer only because they were unified and responsive to the direction of their leaders, who were alert and clever. On that matter, the compromise owed a great deal to Gorton’s abandonment of his general criteria and final willingness to haggle precincts with Greive. It was doubtful that the legislature could have reached a settlement in any other way.

Another key was the Democrats’ pure factionalism and the factions’ willingness to do each other in. Not everyone could be saved under redistricting. It was harder to redistrict the Democrats because there were more of them. Greive’s realization that he did not have to deal with all the Democrats in the end made a solution attainable, and his ability to lead as many as he did, under circumstances far more adverse than Gorton’s, made it possible. Greive could lead, not just represent, legislative sentiment. He alone, among all the state leaders, was inextricably committed to the legislative solution. If Gorton’s persistence produced the compromise, Greive’s ability produced the bill.

A third key was built in the legislative process. Lawmakers simply became tired. Most were weary after two and one-half years of redistricting battles; most were ready to make a deal. Students of the legislative process often overlook this most critical of legislative motivations—the fatigue that hangs over the chambers after lawmakers have exhausted attempts to dictate their own particular solution. The legislative branch is often characterized as the scene of compromise and conciliation, but early in the game it can also be the most hidebound and unwielding. The fact is illustrated by Grant’s and O’Brien’s behavior. Never having been dragged through the earlier battles, they remained militant and uncompromising to the end.

It must be added that of all the factors that tired or moved the legislators, the court was not one. Beyond the instigation of the redistricting battle, the effect of the court was negligible, and even there many have suggested that the court simply gave Greive and Gorton an excuse for starting what the political situation already necessitated. The judges never held to remedies that would have

hastened a solution, and in a few instances actually took the side of those who would slow it. They never suggested to the legislators either the aims of redistricting or the guidelines the legislature should adopt. In the end they never even bothered to really test the new bill against their vague dictates. Those who fear the growth of the court's political power should note that here the court's political performance was confused and insignificant.

Finally, the legislature succeeded because they persisted, partly because they wanted to control the district-drawing and felt that any amateur attempt to redistrict would be disastrous, and partly because of a curious pride they held in the legislative institution. State legislatures may or may not have the capacity to govern, but that cannot be resolved in this one story. Suffice it to say that here, for over two years, the legislators had persisted in the hope that somehow they might accomplish the impossible—the redistricting of Washington State.

**(Footnotes)**

1 The State Constitution prescribed that “the legislature shall apportion and district anew the members of the senate and the house of representatives according to the number of inhabitants” after each U.S. census.

2 Under the standard interpretation, the largest district had a population of 84,000 and the smallest, 42,000. Greive argued, however, that those districts did not approach the population limits. In the smaller district, with one senator and a single representative, each legislator represented 21,000 persons; in the larger district, with one senator and three representatives, each also represented 21,000.

3 Greive had picked Donohue to chair the committee; he had also chosen the committee members. Redistricting was so important that the bills moved at the will of the leadership, almost independent of the committee system. The redistricting committees played the role the leadership allowed them—a great deal in the House, very little in the Senate.

4 Only 30 of the 49 districts were to be represented by one senator and two representatives, the combination suggested by the Attorney General. Some of the districts with one senator and one representative were very small; some of the districts with one senator and three representatives were very large—the extremes between them far

exceeded the standard interpretation of the two-to-one rule, and, in some cases, single-representative districts had more population than districts with two representatives.

Greive's bill contained both a regular bill and a "conditional" one that would automatically become law in 1965 should the constitutional amendment pass at the polls in 1964. The regular bill, in that case, would serve only for the 1965 election.

Greive's regular bill would eliminate five incumbent senators. Gorton's bill would eliminate six or eight. Gorton took the seats of two Republican senators and four to six Democratic senators. Greive eliminated three Republicans and just two Democrats.

Under Greive's regular bill, seven representatives would lose their seats, with three more probably unable to win in their new districts. Out of the ten, only one was a Democrat! Under Gorton's bill, six representatives would lose their seats, but it would be two Republicans and four Democrats.

Had Greive's plan been in effect during the 1962 election, the Democrats probably would have won 55 House seats (instead of 51). Had Gorton's bill been in effect, the Democrats might have won only 46 or 47 seats, while the Republicans might have won control of the House with 52 or 53.

Greive's bill substantially decreased the number of "swing" districts. Gorton's bill increased them (at the expense of the Democrats). Gorton objected that Greive had "locked up" so many districts in his bill that the Republicans would never be able to win more than 48 House seats.

5 For example, in a state with 100 single-member legislative districts, a party receiving 55 per cent of the total vote for all legislative candidates would receive 55 seats. When a party received over 55 per cent, their percentage of the seats would increase geometrically, due to the nature of the single-member district scheme.

Gorton suggested that returns for statewide candidates provided a better test than votes for legislative candidates, which were hard to manage. Thus a candidate for a statewide office, such as governor, who received 55 per cent of the vote would receive at least 55 per cent of the votes in half of the legislative districts. He would show majorities (50 per cent or better) in about 57 of the 100 districts—the 50 districts where he received at least 55 per cent and the seven districts where he received between 50 and 55 per cent.

6 Adele Ferguson, the Bremerton Sun, January 29, 1965

7 Amendment 7 to the State Constitution read in part: “The veto power of the governor shall not extend to measures initiated by or referred to the people. All elections on measures referred to the people of this state shall be had at the biennial regular elections, except where the legislature shall order a special election.”

8 In the 1966 Democratic primary all three ran for the two seats and Dootson was defeated.



