HIGHEST COURT VOIDS STATE REDISTRICTING: SUPREME TRIBUNAL UPSETS ...
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HIGHEST COURT VOIDS STATE REDISTRICTING

Supreme Tribunal Upsets Republican Action Which Ignored Governor Roosevelt.

WETS AND DEMOCRATS GAIN

Minnesota and Missouri Representatives Are All to Be Elected at Large Under Decision.

By ARTHUR KROCK.
Special to THE NEW YORK TIMES.

WASHINGTON, April 11.—The United States Supreme Court today ruled illegal the resolution under which the New York Legislature, dominated by Republicans, voted in 1931 a Congressional reapportionment. Drawn as a resolution, the measure debarred Governor Roosevelt from passing on the legislation.

In analagous cases in Missouri and Minnesota, in which the Governors had failed to approve redistricting measures passed by the Legislature, the court upheld the same principle—that when State legislators are performing their law-giving function the Governor is an essential part of the legislative machinery. The decision in the New York case sustained the contention of Governor Roosevelt and Democratic leaders and affirms the opinion of the State Court of Appeals.

Justice Benjamin N. Cardozo of the Supreme Court, who, as Chief Justice of the Court of Appeals, wrote the New York opinion, did not sit in the cases decided today. But in its outline of the Minnesota case, which was dealt with as the central issue, the Supreme Court, speaking through Chief Justice Hughes, followed the line of his reasoning in the State Court of Appeals.

Gains for Wets Are Forecast.

The decisions in the Minnesota, Missouri and New York cases change at least twenty-four contests for seats in the Seventy-third Congress from district elections to elections at large. New York's two new Representatives, Missouri's reduced delegation of thirteen and Minnesota's nine must all be selected by the entire voting body of those States unless reapportionment shall meanwhile be enacted at special legislative sessions.

Information here is that no such special sessions will be called. As late as Saturday, Governor Floyd B. Olsen of Minnesota told inquirers that he would not convoke an extraordinary session.

His reason is partly political. In an at large election for nine Minnesota Representatives, the Governor's party—the Farmer-Labor—is expected

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HIGH COURT VOIDS STATE DISTRICTING

By ARTHUR KROCK.

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here to elect six or seven of its nominees.

Of the twenty-four Congressional elections changed into State races by Chief Justice Hughes's decision today, twenty-three are expected to result in wet victories, in the opinion of persons in Washington familiar with conditions in the three States. The one exception is a Republican nominee in Minnesota, and by "wet" is meant any candidate who will vote in Congress to resubmit prohibition to the people.

Political Effects Are Sweeping.

The twenty-three at-large Congressional elections may also be responsible for giving the Democrats a working majority in the next Congress because of the expected victory of so many Farmer-Laborites in Minnesota. They may also establish a House agrarian balance of power, such as exists in the Senate.

Therefore the political consequences of the Supreme Court decision may be as sweeping as have ever resulted from this source.

Chief Justice Hughes delivered three opinions, but his central theme was the Minnesota case. There the Governor refused to approve the Legislature's redistricting bill. It was filed as law, nevertheless, by the Secretary of State on the ground that the Legislature composed the law-making body.

The highest court in Minnesota upheld that argument in this particular instance, saying that, in reapportioning, the Legislature was an agent of Congress, and the Governor's veto power was confined to State measures.

Early Debates Are Cited.

The Hughes opinion conceded the existence of certain legislative functions (electing certain officials, ratifying amendments or consenting to the acquisition of lands) in which the Governor, under the intent of the Federal Constitution, need not legally participate.

But in the making of laws, whether under Federal or State constitutional grant of power, the Chief Justice held that either the Governor must sign them or they must be repassed over his veto by a two-thirds majority.

"There is no intimation," wrote Chief Justice Hughes, "either in the debates in the Federal convention or in a contemporaneous exposition, of a purpose to exclude a similar restriction [to the Presidential veto arrangement] imposed by State Constitutions upon State Legislatures when exercising the law-making power."

In the Missouri case the Governor vetoed the law; it was not repassed over his veto, and the Missouri Supreme Court declined therefore to require the Secretary of State to certify a candidacy for Congress in one of the new districts as outlined in the bill passed by the Legislature. Today the Supreme Court confirmed this ruling.

Law of 1911 Is Quoted.

Summing up theeffects of its decision on the processes of election next November, the Supreme Court said:

"There are three classes of States with respect to the number of Representatives under the present apportionment pursuant to the act of 1929, (1) where the number remains the same, (2) where it is increased, and (3) where it is decreased.

"In States where the number of Representatives remains the same, and the districts are unchanged, no question is presented; there is nothing inconsistent with any of the requirements of the Congress in proceeding with the election of Representatives in such States in the same manner as heretofore.

"Section 4 of the Act of 1911 provided that, in any case of an increase in the number of Representatives in any State, 'such additional Representative or Representatives shall be elected by the State at large and the other Representatives by the districts now prescribed by law,' until such State shall be redistricted.

"The Constitution itself provides in Article 1, Section 2; that 'the House of Representatives shall be composed of members chosen every second year by the people of the several States,' and we are of the opinion that under this provision, in the absence of the creation of new districts, additional Representatives allotted to a State under the present reapportionment would appropriately be elected by the State at large (New York).

Minnesota Problem Different.

"Such a course, with the election of the other Representatives in the existing districts until a redistricting act was passed, would present no inconsistency with any policy declared in the Act of 1911.

"Where, as in the case of Minnesota (and Missouri), the number of Representatives has been decreased, there is a different situation, as existing districts are not at all adapted to the new apportionment. It follows that in such a case, unless and until new districts are created, all Representatives allotted to the State must be elected by the State at large.

That would be required, in the absence of a redistricting act, in order to afford the representation to which the State is constitutionally entitled, and the general provisions of the Act of 1911 cannot be regarded as intended to have a different import.

"This conclusion disposes of all the questions properly before the court. Questions in relation to the application of the standards defined in Section 3 of the Act of 1911 to a redistricting statute, if such a statute should hereafter be enacted, are wholly abstract. The judgment is reversed and the cause is remanded for further proceedings not inconsistent with this opinion. It is so ordered."

Minnesota Contention Falls.

Collateral issues, bearing on the general functions of Legislatures and the power of Federal instruments to provide a code for Congressional elections, were reviewed at length by the Chief Justice.

To support its argument that the Minnesota Legislature, in redistricting, was not exercising a State law-making function, but was acting as a Federal agent, the Minnesota Secretary of State, through counsel, pointed to the fact that the words "by law" were used in the constitutional provision for Congress to fix "the times, places and manner of holding elections" and not in the clause giving authority of a similar kind to State Legislatures.

"We think the inference is strongly to the contrary," said the high court. "It is the nature of the function that makes the phrase 'by law' opposite. That is the same whether it is performed by State or National Legislature and the use of the phrase places the intent of the whole provision in a strong light.

State Constitution Dominates.

"Prescribing regulations to govern the conduct of the citizen, under the first clause, and making and altering such rules by law, under the second clause, involve action of the same inherent character.

"We find no suggestion in the Federal constitutional provision of an attempt to endow the Legislature of the State with power to enact laws in any manner other than that in which the Constitution of the State has provided that laws shall be enacted.

"Whether the Governor of the State, through the veto power, shall have a part in the making of State laws is a matter of State policy. Article 1, Section 4, of the Federal Constitution neither requires nor excludes such participation."

When the Constitution was adopted, said Chief Justice Hughes, only Massachusetts and New York had provided the veto power.

But succeeding events and customs have demonstrated that its grant is not repugnant to the organic laws, including that of Minnesota, which gives the veto power to its Governor over State law-making by a legislative majority. And a reapportionment act is a State law.

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