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THE 1992 REAPPORTIONMENT LAW: THE DEMISE OF THE MULTI-MEMBER DISTRICT SYSTEM AND ITS EFFECT UPON THE REPRESENTATION OF WOMEN IN THE WYOMING LEGISLATURE.

*Michael J. Horan and James D. King**

“[E]lector laws are of special importance for every group and individual in the society, because they help to decide who writes other laws.”¹ For over three decades the American legal system has grappled with a vital component of electoral laws—the apportionment of legislative districts. In *Baker v. Carr*, the United States Supreme Court held that legislative apportionment is a justiciable issue.² This proved to be a stimulus for immediate challenges to state apportionment systems with a host of attacks on reapportionment plans following each subsequent national census.

Wyoming has seen its share of controversy concerning reapportionment of its legislature. The 1991 decision in *Gorin v. Karpan*³ marked only the latest federal court review of Wyoming’s legislative apportionment.⁴

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1. DOUGLAS W. RAE, *THE POLITICAL CONSEQUENCES OF ELECTORAL LAWS* 3 (rev. ed. 1971).

2. 369 U.S. 186, 197-98 (1962).

3. 775 F. Supp. 1430 (D. Wyo. 1991).

4. See *Brown v. Thomson*, 536 F. Supp. 780 (D. Wyo. 1982), *aff’d*, 462 U.S. 835 (1983); Thomp-

Always at issue is whether the allocation of legislative seats among the counties violates the Equal Protection Clause of the Fourteenth Amendment and the directive of the United States Supreme Court in *Reynolds v. Sims* that "the seats in both houses of a bicameral state legislature must be apportioned on a population basis."⁵ Unlike previous disputes over reapportionment, *Gorin* spurred a significant change in Wyoming's electoral laws by completely altering the system of representation. It is reasonable to ask whether this change has had an impact on who is elected to the legislature, and thus determines "who writes the other laws."⁶

THE 1991-1992 REAPPORTIONMENT

In a historic break with tradition, the Wyoming Legislature on February 21, 1992, enacted a bill reapportioning both its chambers from a mixed multi-member/single-member system to one based upon a purely single-member arrangement.⁶ The Act followed a bitter partisan debate between Democrats and Republicans in the Wyoming House of Representatives during a session called for the specific purpose of reapportioning the legislature's membership.⁷ Although Republican majorities in both houses had, earlier in the session, passed a bill continuing to employ the mixed system, that bill was vetoed by Governor Sullivan, who said it lacked "clarity, consistency, rationality and fairness."⁸ The Republican-backed bill would have created a Senate composed of thirty single-member districts, and a House of Representatives composed of sixteen single-member districts and twenty-three dual-member districts. In his veto message, the Governor made it clear that his principal objection to the bill was the multi-member districts feature, which he said was undemocratic and served only to unfairly protect incumbent legislators.⁹ The Republicans' reply to the veto was that the Governor was motivated by "hardball partisanship," but the veto was subsequently upheld in the House when Republicans failed, by a narrow margin,

son v. Thomson, 344 F. Supp. 1378 (D. Wyo. 1972); Schaefer v. Thomson, 251 F. Supp. 450 (D. Wyo. 1965), *aff'd sub nom.* Harrison v. Schaefer, 383 U.S. 269 (1966) (per curiam). See generally Sarah A. Gorin, *A History and Analysis of Wyoming Legislative Reapportionment Cases, 1963-1991* (1992) (unpublished M.A. thesis, University of Wyoming) (on file with the University of Wyoming Coe Library).

5. 377 U.S. 533, 568 (1964).

6. Legislative Reapportionment Act of 1992, 1992 Wyo. Sess. Laws ch. 1, §§ 1-3 (codified at WYO. STAT. ANN. §§ 28-2-116 to 119 (Michie 1997)) (Governor Sullivan signed the Act into law immediately). See Charles Pelkey, *Governor Signs Reapportionment*, THE CASPER STAR-TRIBUNE, Feb. 22, 1992, at A1.

7. Charles Pelkey, *GOP Leaders Charge Governor with "Hardball Partisanship"*, THE CASPER STAR-TRIBUNE, Feb. 18, 1992, at A1; Judith Kohler, *House Wrestles with Redistricting Fallout*, THE CASPER STAR-TRIBUNE, Feb. 24, 1992, at A1.

8. Charles Pelkey, *Sullivan Vetoes Redistrict Plan*, THE CASPER STAR-TRIBUNE, Feb. 18, 1992, at A1.

9. *Id.*

to muster the two-thirds majority necessary to override.¹⁰

Under the bill which ultimately became law, the Wyoming Senate, the membership of which had previously been elected from nine multi-member senatorial districts and eight single-senator districts,¹¹ would henceforth contain thirty single-senator election districts composed of substantially equal populations.¹² The Wyoming House of Representatives, whose members had previously been chosen from fifteen multi-representative, county-based districts and eight single-representative, county-based districts,¹³ would now contain sixty single-representative election districts, also of substantially equal population sizes, and without regard for county lines.¹⁴ Two House districts would be geographically "nested" within each Senate district.¹⁵ Thus, the multi-member tradition by which a district was entitled to as many as nine House seats and four Senate seats,¹⁶ with each voter therein able to cast as many votes as there were legislative seats to be filled in that county, was swept away and replaced by the single-member principle, in which each House and Senate district would have only one seat in each chamber, with voters casting only one vote in each legislative race. County lines, which once bulked so large in drawing and redrawing district boundaries in Wyoming law and politics,¹⁷ were eclipsed by the one-person, one-vote rule requiring that districts within each state's legislative chambers be constructed "as nearly of equal populations as is practicable."¹⁸

The 1992 special session of the Wyoming Legislature, and its major item of business, was the direct result of the decision in *Gorin v. Karpan*,¹⁹ in which a federal court held that the legislature's previous reapportionment

10. Pelkey, *supra* note 7; Charles Pelkey, *House Upholds Governor's Veto of Reapportionment*, THE CASPER STAR-TRIBUNE, Feb. 19, 1992, at A1.

11. Legislative Reapportionment Act of 1991, 1991 Wyo. Sess. Laws ch. 165, §§ 1-5 (codified at WYO. STAT. ANN. § 28-2-113 (Michie 1977 & Supp. 1991)) (repealed 1992).

12. WYO. STAT. ANN. § 28-2-118 (Michie 1997). Substantially equal, but not mathematically equal, populations were mandated by the United States Supreme Court in *Reynolds v. Sims*, 377 U.S. 533, 579 (1964).

13. WYO. STAT. ANN. § 28-2-113 (Michie 1977 & Supp. 1991) (repealed 1992). As then required by art. 3, section 3 of the Wyoming Constitution, each county was a representative district and was entitled to at least one seat in the House of Representatives, regardless of population. The same constitutional provision applied to seats in the Wyoming Senate but was held contrary to the Equal Protection Clause of the United States Constitution, amend. XIV, section 1, cl. 4. *Schaefer v. Thomson*, 240 F. Supp. 247 (D. Wyo. 1964), *aff'd sub nom. Harrison v. Schaefer*, 383 U.S. 269 (1966) (per curiam).

14. WYO. STAT. ANN. § 28-2-119 (Michie 1997). See *Reynolds*, 377 U.S. at 579.

15. See Legislative Apportionment Act of 1992, 1992 Wyo. Sess. Laws ch. 1, §§ 1-3, attchs. A, B; *Gorin v. Karpan*, 788 F. Supp. 1199, 1201 (D. Wyo. 1992).

16. This was the case with Laramie County under the 1991 reapportionment plan. 1991 Wyo. Sess. Laws ch. 165.

17. See WYO. CONST. art 3, § 3; *Gorin v. Karpan*, 775 F. Supp. 1430, 1432-33 (D. Wyo. 1991); *Gorin*, *supra* note 4, at 73-76.

18. *Reynolds*, 377 U.S. at 577.

19. 775 F. Supp. 1430 (D. Wyo. 1991).

(enacted a year earlier)²⁰ created unconstitutionally excessive percentage deviations from the equal population principle applicable to both houses of the state's legislature, as mandated by the United States Supreme Court in *Reynolds v. Sims*.²¹ While the *Gorin* court did not direct the legislature to adopt the single-member district system in the process of redrawing legislative district boundaries, the court made it perfectly clear that continued employment of multi-member districts would face great legal difficulties:

Whereas state-created multi-member districts are not *per se* unconstitutional and will be overturned only upon a showing that the plan operates to minimize or cancel out the voting strength of racial or political elements of the voting population, "single member districts are to be preferred in court-ordered legislative reapportionment plans unless the court can articulate a 'singular combination of unique factors' that justifies a different result." Therefore, "unless there are persuasive justifications, a court-ordered reapportionment plan of a state legislature must avoid use of multi-member districts"²²

Moreover, the court explicitly warned the legislature that if it failed to come up with an acceptable plan on time, the court itself would reapportion the state into single-member districts.²³ The Reapportionment Act of 1992 met the court's deadline with little time to spare and ultimately was pronounced constitutional by the same federal court which had struck down the 1991 Act.²⁴

THE EFFECTS OF CHANGING THE ELECTORAL STRUCTURE

Multi-member electoral districts are nothing new in America. Along with single-member and other types of electoral districts, they have been employed at the state and local levels of government since colonial times.²⁵ Until 1992, Wyoming continuously used them after gaining statehood.²⁶ The

20. See *supra* note 11.

21. 377 U.S. at 568.

22. 775 F. Supp. 1430, 1446-47 (D. Wyo. 1991) (quoting *Conner v. Finch*, 431 U.S. 407, 415 (1977); *Chapman v. Meier*, 420 U.S. 1, 26-27 (1975)).

23. *Id.* at 1446. The court gave the legislature until February 24, 1992, to submit an acceptable reapportionment plan. A federal court in 1964 issued a similar directive to the legislature regarding reapportionment of the Senate. When the legislature failed to act, the court reapportioned the Senate with a mixed multi-member/single-member system. *Schaefer v. Thomson*, 240 F. Supp. 247 (D. Wyo. 1964), *aff'd sub nom. Harrison v. Schaefer*, 383 U.S. 269 (1966) (per curiam).

24. *Gorin v. Karpan*, 788 F. Supp. 1199 (D. Wyo. 1992).

25. Ruth C. Silva, *Compared Values of the Single- and the Multi-Member Legislative District*, 17 W. POL. Q. 504, 504-05 (1964). With minor exceptions, federal law requires elections for the United States House of Representatives to be based on single-member districts. See 2 U.S.C. § 2c (1994).

26. Gary Yordy, *State Best Served by Mixed District Plan*, THE CASPER STAR-TRIBUNE, Feb. 2,

twentieth century has seen large numbers of multi-member districts abolished in favor of the single-member system, but eleven states still use them in elections for the lower house of their legislatures, and twenty-six percent of all lower house members come from states which have multi-member districts or mixed multi-member/single-member systems.²⁷ Multi-member districts have been criticized for causing voter confusion and apathy, for making representatives more remote from their constituents, for overrepresenting/underrepresenting political majorities/minorities, for heightening the importance of name recognition in the voter's mind, and for raising election campaign costs.²⁸ Where a multi-member election district contains a substantial number of minority racial or ethnic voters, it frequently comes under a cloud of suspicion as having been intentionally designed to preclude election of minority candidates by submerging them under a tide of ballots cast for white or Anglo candidates.²⁹ If proven, such schemes have been struck down as unconstitutional or contrary to the federal Voting Rights Act of 1965.³⁰ Nevertheless, the United States Supreme Court has persistently declined to find multi-member districting *per se* unconstitutional.³¹

Whether Wyoming uses single-member districts or multi-member districts for its legislative apportionment is important because of its potential impact on the representation of women in the legislature. "Fairness" in representation is not necessarily guaranteed by equal population across legislative districts, and philosophers and politicians have often addressed the issue. John Adams wrote that a legislature "should be an exact Portrait, in Miniature, of the People at large, as it should think, feel, reason and act like them."³² Of the many perspectives on representation, this one is the most relevant to the question of women's service in state legislatures. It reflects what Hanna Fenichel Pitkin terms "descriptive representation."³³ Under this

1992, at E8.

27. Table, *Multi-Member Districts* (National Council of State Legislatures, Denver, Colo., Oct. 1994) (on file with *Land and Water Law Review*).

28. See *Gorin v. Karpan*, 775 F. Supp. 1430, 1446 n.23 (D. Wyo. 1991); Gorin, *supra* note 4. See generally ROBERT G. DIXON, JR., *DEMOCRATIC REPRESENTATION: REAPPORTIONMENT IN LAW AND POLITICS* 503-527 (1968).

29. Richard G. Niemi, et. al., *The Impact of Multimember Districts on Party Representation in U.S. State Legislatures*, 10 LEGIS. STUD. Q. 441, 441-42 (1985); CHARLES S. BULLOCK III, *MINORITIES IN STATE LEGISLATURES IN CHANGING PATTERNS OF STATE LEGISLATIVE CAREERS* 39, 40-41 (Gary F. Moncrief & Joel A. Thompson eds. 1992); Bernard Grofman & Lisa Handley, *The Impact of the Voting Rights Act on Black Representation in Southern State Legislatures*, 16 LEGIS. STUD. Q. 111, 119-20 (1991).

30. Voting Rights Act Amendments of 1982, 42 U.S.C. § 1973 (1994). See *Thornburg v. Gingles*, 478 U.S. 30 (1986); *Mobile v. Bolden*, 446 U.S. 55 (1980); *White v. Regester*, 412 U.S. 755 (1973). See generally Michael E. Lewyn, *When Is Cumulative Voting Preferable to Single-Member Districting?*, 25 N.M.L. REV. 197, 200 (1995).

31. See *Thornburg*, 478 U.S. at 30; *Mobile*, 446 U.S. at 55; *White*, 412 U.S. at 755.

32. Letter from John Adams to John Penn (Mar. 27, 1776), in *THE ADAMS PAPERS*, at 80 (Robert J. Taylor, ed., 1979).

33. HANNA FENICHEL PITKIN, *THE CONCEPT OF REPRESENTATION* 80 (1967).

conceptualization, the legislator and constituents share characteristics. This sharing enables the legislator to act with knowledge of (or at least an appreciation for) the constituents' interests and preferences. For the legislature to be representative of the polity as a whole, it is argued, major groups within society must have proportional numbers of their members in the assembly. The legislative body becomes, in effect, a microcosm of the polity with all segments represented. Achieving equality as defined by descriptive representation also fosters acceptance of government and its actions. "Legitimacy is enhanced, because members of the group feel represented just because one of their own holds office."³⁴

Descriptive representation assumes "that people's characteristics are a guide to the actions they will take."³⁵ Charles Hyneman notes that legislator characteristics are "significant only if they bear some relation to legislative behavior—significant only if they affect the content or form of laws, or influence the procedure by which laws are enacted."³⁶ There are undoubtedly many characteristics that public officials and constituents could share that are uncorrelated with legislative behavior. Empirical studies have demonstrated, however, that gender is not among them, as having more women in office has significant repercussions for the governmental process. Women pursue different legislative agendas than men, proposing and enacting proportionally more legislation concerning issues such as family, education, and welfare.³⁷ As a consequence, the products of legislative deliberations are likely to change with the proportion of women in the chamber.³⁸

Wyoming has a rich history of extending political rights to both genders and, for many years, ranked among the national leaders in the percentage of legislative seats held by women.³⁹ Empirical evidence from studies of this and other states suggests that the change from multi-member districts to

34. Janet Clark, *Getting There: Women in Public Office*, 515 ANNALS AM. ACAD. POL. & SOC. SCI. 63, 64 (1991).

35. PITKIN, *supra* note 33, at 89.

36. Charles Hyneman, *Who Makes Our Laws?*, 60 POL. SCI. Q. 556 (1940).

37. See SUE THOMAS, *HOW WOMEN LEGISLATE* (1994); IRENE DIAMOND, *SEX ROLES IN THE STATE HOUSE* 45-46 (1977); Sue Thomas & Susan Welch, *The Impact of Gender on Activities and Priorities of State Legislators*, 44 W. POL. Q. 443, 450-52 (1991); Michelle A. Saint-Germaine, *Does Their Difference Make a Difference? The Impact of Women on Public Policy in the Arizona Legislature*, 70 SOC. SCI. Q. 958, 961 (1989); Emmy E. Werner, *Women in State Legislatures*, 21 W. POL. Q. 40, 46 (1968).

38. Another product of an increased number of women in state assemblies is an expanded pool of candidates for higher office. The state legislature is a key entry point into the political process, with candidates for higher offices, including United States Congress and governor, often recruited from these bodies. Thus, increasing the number of women in state legislatures contributes to more equitable representation of women at the national level and in executive positions. See Janet Clark et al., *Women As Candidates in Six States*, in *POLITICAL WOMEN: CURRENT ROLES IN STATE AND LOCAL GOVERNMENT* 141 (Janet Flammang ed. 1984).

39. In 1981, Wyoming ranked seventh among the fifty states in the percentage of legislative seats held by women. R. DARCY ET AL., *WOMEN, ELECTIONS, AND REPRESENTATION* 53-54 (2d ed. 1994).

single-member districts may result in fewer women being elected to the legislature.⁴⁰ Cross-sectional analyses comparing rates of women legislators under different electoral systems have consistently shown fewer women serving in legislatures based on single-member districts. R. Darcy, Susan Welch, and Janet Clark examined election results from fourteen states with mixed district types, observing that more women seek office and are elected in multi-member districts than in single-member districts.⁴¹ This confirmed their earlier conclusions from a case study of Wyoming, which revealed a direct relationship between the number of seats in a district and the proportion of women elected.⁴² Other analysts, examining different states and time periods, have confirmed that the proportion of women recruited for and elected to the state legislature correlates with the use of multi-member districts.⁴³

Several explanations for the relationship between electoral district and women's success as candidates have been proposed.⁴⁴ First, party elites may exercise a kind of affirmative action, slating women or providing more campaign resources to women in multi-member districts. Pressure to support women candidates is more easily accommodated in multi-member districts than in single-member districts. Also, voters may similarly practice a form of affirmative action. Those with reservations concerning the qualifications of women for public office can cast one ballot for a woman in a multi-member district knowing that they will also be represented by a man. Finally, the characteristics and accomplishments of individual candidates are often highlighted more than partisanship in multi-member districts. The typical head-to-head battle between a Republican and Democrat is replaced by something of a free-for-all where each candidate emphasizes his/her own strengths rather than his/her opponent's weaknesses. In this environment, gender gives women a distinctive characteristic, especially in districts where women candidates are novelties.

40. A number of other explanations for the underrepresentation of women in state legislatures have been suggested: sex-role socialization, which defines career expectations and family responsibilities for men and women; explicit sexual discrimination by political elites and voters who perceive women as less qualified to hold public office; and certain political environments (for example, party systems and political cultures) being less conducive to female candidates. The relationship between these factors and the representation of women in state legislatures is discussed in Clark, *supra* note 34, at 68-75, and in DARCY ET AL., *supra* note 39, at 55-63.

41. Darcy et al., *Women Candidates in Single- and Multi-Member Districts: American State Legislative Races*, 66 SOC. SCI. Q. 945 (1985); DARCY ET AL., *supra* note 39, at 160-68.

42. Clark et al., *supra* note 38, at 153-154.

43. See SUSAN J. CARROLL, WOMEN AS CANDIDATES IN AMERICAN POLITICS 40-41, 106-10 (2d ed. 1994); Gary F. Moncrief & Joel A. Thompson, *Electoral Structure and State Legislative Representation: A Research Note*, 54 J. POL. 246, 251-53 (1992); Wilma Rule, *Why More Women Are State Legislators: A Research Note*, 43 W. POL. Q. 437 (1990); Susan Welch & Donley T. Studlar, *Multi-Member Districts and the Representation of Women: Evidence from Britain and the United States*, 52 J. POL. 391 (1990).

44. Clark, *supra* note 34, at 74-75; DARCY ET AL., *supra* note 39, at 158-59.

Temporal analyses—studies of the effects of changing electoral structure—have not yielded such consistent results. Darcy, Welch, and Clark tested a hypothesis regarding conversion from multi-member districts to single-member districts in several states using data from the 1960s and 1970s. They concluded that “changes to single-member systems from multi-member district systems are associated with disproportionate drops in the proportion of women elected (compared to national trends) and changes to completely multi-member systems are associated with disproportionate increases in the proportion of women elected.”⁴⁵ Studies following the 1980 legislative redistricting found converting to single-member districts had the opposite effect in three southern states. Both chambers of the Florida legislature experienced increases in the number of women elected following redistricting.⁴⁶ In North Carolina, two fewer women were elected to the House of Representatives in the first election after abandoning multi-member districts but greater numbers of women won office in subsequent elections.⁴⁷ No change in the representation of women in the South Carolina Senate was evident after the conversion to all single-member districts.⁴⁸

What effect has the change in Wyoming’s electoral districts had on the representation of women in the legislature? Two key considerations dominate an assessment of the impact of a major policy change such as this. First, it is necessary to track the policy output—in this instance the proportion of legislative seats held by women—over an extended period of time. Merely comparing the proportion of legislators who were women in the sessions immediately before and after the change in apportionment has the potential for masking long-term trends. A biased conclusion will be reached if either of these sessions is an aberration, differing markedly from general patterns in women’s representation in the legislature. In a seminal article in the field of public policy evaluation, Donald T. Campbell and H. Laurence Ross demonstrated how public officials in Connecticut misinterpreted the effects of stricter law enforcement on traffic fatalities by doing a simple “before and after” comparison.⁴⁹ The analysis by Campbell and Ross showed that the year preceding implementation of the new policy deviated substantially from the decade-long trend.⁵⁰ Thus, traffic fatalities could be

45. Darcy et al., *supra* note 41, at 949 (emphasis in original). See also DARCY, ET AL., *supra* note 39, at 163-65.

46. Charles S. Bullock & Ronald Keith Gaddie, *Changing from Multimember to Single-Member Districts: Partisan, Racial, and Gender Consequences*, 25 ST. & LOC. GOV'T REV. 155, 159-60 (1993); Anita Pritchard, *Changes in Electoral Structures and the Success of Women Candidates: The Case of Florida*, 73 SOC. SCI. Q. 62, 64-67 (1992).

47. Bullock & Gaddie, *supra* note 46, at 160-61.

48. *Id.* at 157-58.

49. Donald T. Campbell & H. Laurence Ross, *The Connecticut Crackdown on Speeding: Time-Series Data in Quasi-Experimental Analysis*, 3 L. & SOC'Y REV. 33, 41-43 (1968).

50. *Id.* at 43-46.

expected to decrease the next year without changing law enforcement practices. Comparing the percentage of women serving in the legislature in the sessions immediately before and after the conversion to single-member district would be similarly misleading.

A second consideration in assessing the impact of converting to single-member legislative districts is whether the observed change in the policy output is the product of factors other than the modification of the legal structure, or what policy analysts refer to as the "history" threat to the validity of a study. This is the possibility that events other than the one being examined caused the observed changes in the policy output.⁵¹ Failing to control for these other factors may lead to the erroneous conclusion that converting to single-member districts caused the observed changes in the proportion of women elected to the state legislature. Of primary import in the present analysis is an improved political climate for women candidates. Public attitudes toward women as public officeholders have grown more favorable since the early 1970s,⁵² and voters are now more willing to cast ballots for women candidates.⁵³ The refined political climate may have rendered electoral structure a less significant factor for women seeking election to the legislature.

The method recommended for eliminating alternative hypotheses in a time-series design is the use of a control group that did not experience change. Similarities in the trends in the reformed (or experimental) group and the control group are indications of no effects resulting from the intervention or change.⁵⁴ The intervention is considered to have had an effect if the trends in the reformed group indicate a change in the hypothesized direction while those for the control group do not. For analyzing the impact of converting to all single-member districts on the representation of women in state legislatures, the control group consists of four states that retained their electoral structure in the reapportionment following the 1990 census. As in pure experiments, the control group offers a basis of comparison. Extraneous factors—for example, changing public attitudes on women's qualifications to hold office—are theorized to impact both the experimental and control states. This analytic design is considered quasi-experimental, however, since the subjects of analysis are not randomly assigned to experi-

51. *Id.* at 38-39; DONALD T. CAMPBELL & JULIAN C. STANLEY, *EXPERIMENTAL AND QUASI-EXPERIMENTAL DESIGNS FOR RESEARCH* 5 (1963).

52. Susan Welch & Lee Sigelman, *Changes in Public Attitudes Toward Women in Politics*, 63 *SOC. SCI. Q.* 312, 316 (1982).

53. Susan Welch et al., *The Effect of Candidate Gender on Electoral Outcomes in State Legislative Races*, 38 *W. POL. Q.* 464, 468-69 (1985).

54. THOMAS D. COOK & DONALD T. CAMPBELL, *QUASI-EXPERIMENTATION DESIGN AND ISSUES FOR FIELD SETTINGS* 211 (1979).

mental and control groups, as required in true experimentation.⁵⁵ The researcher cannot control the decisions of state policy-makers regarding the adoption of single-member districts or retention of multi-member districts. In the absence of random assignment of subjects, the preferred alternative is to identify subjects for the control group that are rough equivalents of those in the experimental group. This research design has been used to assess a number of policy changes in the American states, including legislative reapportionment following *Baker v. Carr*, executive reorganization, and voter registration procedures.⁵⁶

To eliminate as many alternative hypotheses as possible, the control states must share as many relevant characteristics as possible with the reformed state. For assessing the impact of Wyoming's switch to single-member legislative districts, four adjoining states were selected for the control group. Utah and Montana for many years have used single-member districts to apportion their legislatures. Idaho and South Dakota retained their systems of all multi-member districts or a mix of multi-member districts and single-member districts for the lower house of the legislature throughout the period under study. The control states were selected not simply as Wyoming's neighbors but because they share three key characteristics that correlate with more equitable representation of women in state legislatures. Each of these states—like Wyoming—possesses a political culture that promotes citizen involvement in the political process,⁵⁷ an electoral system dominated by the Republican Party,⁵⁸ and a citizen-oriented legislature.⁵⁹

The percentage of women elected to the lower house of the legislature between 1974 and 1998 (inclusive) is the basis of the analysis. The upper houses have been excluded from the analysis either because all legislators in

55. See CAMPBELL & STANLEY, *supra* note 51; COOK & CAMPBELL, *supra* note 54.

56. Richard J. Hardy & Kathryn E. Newcomer, *The Impact of Reapportionment on Policy Expenditures*, 3 L. & POL'Y Q. 464 (1981); Kenneth J. Meier, *Executive Reorganization of Government: Impact on Employment and Expenditures*, 24 AM. J. POL. SCI. 396 (1980); James D. King & Rodney A. Wamborn, *Impact of Election Day Registration on Voter Turnout: A Quasi-Experimental Analysis*, 14 POL'Y STUD. REV. 263 (1995/96).

57. Rule, *supra* note 43, at 441; Carol Nachmias, *Changes in the Election of Women to U.S. State Legislative Seats*, 12 LEGIS. STUD. Q. 125, 135 (1987); David B. Hill, *Political Culture and Female Political Representation*, 43 J. POL. 159, 164 (1981). Classifications of state political cultures are by DANIEL J. ELAZAR, *AMERICAN FEDERALISM: A VIEW FROM THE STATES* 124-25 (3d ed. 1984).

58. Rule, *supra* note 43, at 441; Werner, *supra* note 37, at 43. Data on electoral systems are from JOHN F. BIBBY & THOMAS M. HOLBROOK, *PARTIES AND ELECTIONS IN POLITICS IN THE AMERICAN STATES: A COMPARATIVE ANALYSIS* 78, 105 (Virginia Gray & Herbert Jacob eds., 6th ed. 1996).

59. Hill, *supra* note 57, at 166; Peverill Squire, *Legislative Professionalism and Membership Diversity in State Legislatures*, 17 LEGIS. STUD. Q. 69, 71 (1992). Classifications of legislatures are by Karl T. Kurtz, *Understanding Diversity of American State Legislatures*, in *EXTENSION OF REMARKS* (Legis. Stud. Sec., Am. Pol. Sci. Ass'n, Wash., D.C.), June 2-5, 1992, at 2 (on file with *Land and Water Law Review*).

the states under examination were elected from single-member districts or because the number of multi-member districts was too small for meaningful study. The analysis proceeds along two tracks. First, the patterns in the percentage of seats won by women are examined with an eye toward differences before and after the most recent reapportionment. In this portion of the analysis, we initially consider the success of women candidates in Wyoming in counties with multiple representatives and counties with a single representative over a span of nine elections (five before and four after the 1992 reapportionment). We then turn our attention to the general trends in the representation of women in Wyoming in comparison with those in our four control states. A lasting shift in the percent of women serving in the lower house after Wyoming adopted single-member districts is evidence of an effect on the time series, provided that the time series is not characterized by a steady rate of increase or decrease. If there is no shift in the percent of women elected, or if the proportions before and after the intervention fluctuate randomly, the policy change is deemed to have had no effect.⁶⁰ The change is considered to be neutral toward women's representation, however, if the general patterns of the control states mirror or closely resemble Wyoming's.

The second portion of the analysis uses a statistical model to identify the specific effects of converting to single-member districts on women's representation in the legislature. Differences between predicted and actual rates of representation of women in the post-reapportionment legislative sessions are considered. Comparisons of the pre-reapportionment and post-reapportionment periods are complicated by the fact that the 1980s were a time of advancement for women in the political arena. In 45 of the 50 states, women held a higher percentage of seats in the lower house of the state legislature in 1993 than they did in 1981.⁶¹ To account for these changes, the linear trend in the data is removed using a procedure which predicts the percentage of seats held by women for a given year. The difference between the actual and predicted percentages of seats won by women is the "residual."⁶² Positive residuals for 1992, 1994, 1996, and 1998 indicate higher percentages of women elected to the state House of Representatives in the post-reapportionment period than what would be expected from the overall pattern of women's representation; negative residuals indicate lower per-

60. CAMPBELL & STANLEY, *supra* note 51, at 37-42.

61. DARCY, ET AL., *supra* note 39, at 53-54.

62. Predictions are derived from the model: $Y_t = a + bTt + et$. Y_t is the percentage of seats won by women in year t , Tt is a linear trend indicator ($T=1$ for 1974, 2 for 1976, . . . 13 for 1998), and et is the error term. Coefficient estimates are obtained using ordinary least squares regression procedures and used to calculate predicted values of Y_t . For details of this procedure, see PATRICIA E. GAYNOR & RICKEY C. KIRKPATRICK, INTRODUCTION TO TIME-SERIES MODELING AND FORECASTING IN BUSINESS AND ECONOMICS 179-85 (1994); DAVID C. LEEGE & WAYNE L. FRANCIS, POLITICAL RESEARCH: DESIGN, MEASUREMENT, AND ANALYSIS 389-90 (1974).

centages.

Table 1 shows the Wyoming county comparisons for the pre- and post-reapportionment periods, Table 2 displays the percentage of seats in the lower house of the state legislature won by women in the five states in elections since 1974, and Table 3 presents the differences between the actual and predicted percentages (residuals) for the four post-reapportionment elections. Under the assumption that matching of Wyoming with states possessing similar characteristics controls for factors other than the change in electoral system, different patterns in the time series is evidence that altering the electoral system affected the representation of women in the legislature. The evidence is not overwhelming, but the scale tips toward the notion that converting to single-member districts resulted in fewer women being elected to the Wyoming Legislature.

The percent of Wyoming's legislative seats won by women remained fairly stable throughout the 1980s and into the post-reapportionment period (see the first column of Table 2). This stability masked a sharp distinction between counties with more than one representative—that is, with multi-member districts—and those with a single representative in the state House. Counting each election for each position as a separate case, one-third of the seats in the House of Representative were captured by women candidates during the 1982-1990 period (see Table 1). In single-member counties (districts), only one election in seven saw a woman victorious. The small number of counties with a single representative exaggerates the post-reapportionment success of women from these counties (when the proportion doubled).⁶³ More meaningful is the drop in the percentage of seats won by women in the counties that formerly comprised multi-member districts. The *number* of women elected is undoubtedly affected by the decrease from sixty-four to sixty seats in the House of Representatives, but the *percentage* of elections won is not. The drop from 33.6% to 24.5% is greater than what we would expect from idiosyncratic factors.

It is clear from Table 2 that the sharp decline in women's success at the polls in Wyoming first occurred in 1996 and continued into the 1998 election. The other four states, for the most part, have not witnessed similar declines. Women's representation in the assemblies of two control states—Montana and Utah—has continued to grow almost steadily since the 1970s. The 1980s were a period of expanded representation for women in Idaho, while the 1990s have seen remarkable stability in the percentage of seats

63. Two women accounted for the "victories" in single-member districts during this period. Marlene Simons was elected Representative from Crook in each of the five elections, while Clarene Law of Teton County was elected in 1990. Both have won re-election throughout the post-reapportionment period.

won by female candidates. The only legislature to experience a decline in percentage of seats secured by women candidates was South Dakota's. The decline was approximately half of that in Wyoming, however. Since the pattern in the percentage of seats won by women in the Wyoming House of Representatives is one of decline, while those in other states' assemblies is not, the tentative conclusion is that converting to single-member districts was a detriment to women's representation in the Equality State.

The residuals from the detrended data reported in Table 3 tell a similar tale. In Wyoming, Montana, Idaho, and South Dakota, the ratio of positive to negative residuals is 2:2 (3:1 in Utah). The negative residuals appear in 1996 and 1998 in Wyoming, Idaho, and South Dakota. All of this hints at a balance in the success of women candidates across states and, by inference, no effect of Wyoming's conversion to single-member districts. A closer look at the magnitude of the residuals, however, indicates that the drop in women's representation was far greater in Wyoming. All negative residuals save one were substantially smaller than those for Wyoming in the last two elections. The only exception is the 1998 election in South Dakota. Once again, although the evidence is not overwhelming, the trend points to the conclusion that women's representation in Wyoming has declined following reapportionment more than the experiences of her sister states would suggest. Under the assumption that the effects of other factors are distributed equally across the five states, the adoption of single-member districts looms as a major cause of the decrease in the percentage of female representatives.

Darcy, Welch, and Clark caution that "[g]iven the inertia of incumbency, it might be that the effects of changing the election system will not be fully felt until several elections have passed."⁶⁴ Their warning appears particularly appropriate for Wyoming. Limiting the analysis to the first two elections following reapportionment would yield a conclusion that shifting to single-member districts had no meaningful impact on the representation of women in the Legislature. The raw data and the residuals for the 1996 and 1998 elections, however, show an unmistakable delayed effect.

CONCLUSION

The decision in 1992 to apportion both chambers of the Wyoming Legislature into single-member districts was very much the product of judicial intervention. Although the legislature ultimately enacted the statute that altered the state's system of districting, the legal challenge to the Legislative Reapportionment Act of 1991, and subsequent ruling in *Gorin v. Karpan*,

64. DARCY, ET AL., *supra* note 39, at 163.

pushed legislators down a path they otherwise would not have followed. One consequence of the change to single-member districts was fewer women elected to the lower chamber. The proportion of women representatives in Wyoming fell from roughly one-in-three to one-in-five. In actual numbers, thirteen women serve in the House of Representatives of the Fifty-fifth Legislature, meeting in 1999, whereas the Fifty-third and Forty-ninth Legislatures had eighteen and twenty-two female representatives, respectively. The Equality State has suffered a relapse in the drive for true gender equality in legislative representation. The experiences of comparable states that did not alter their apportionment systems suggest that this decline is, at least in part, the product of shifting from multi-member legislative districts to single-member districts.

The public's reaction to changing Wyoming's legislative district system has been mixed. A public opinion survey conducted in 1996 showed Wyoming citizens evenly split on the issue. Survey participants were asked:

In 1992, the Wyoming Legislature decided to create single-member districts, that is only one senator and one representative can be elected from a district. How do you feel about this change? Was this a good change or should the legislature have retained the practice of allowing several representatives and senators to be elected from a single district?

A plurality of respondents (45 percent) indicated that they favored the change in single-member districts, while 40 percent believed the multi-member district system should have been retained. The division between the two perspectives is not substantial, however, and is within the margin of error for such a survey.⁶⁵

The Wyoming Legislature will reapportion itself following the 2000 census. Although the opportunity for returning to multi-member districts exists, such an occurrence is unlikely. First, abandoning single-member districts would be counter to the general trend in the United States away from multi-member districts for legislative apportionment. In 1962, before the United States Supreme Court's decisions in *Baker v. Carr* and *Reynolds v. Sims*, 41 states used multi-member districts to apportion the lower house of the legislature. That number dropped to 16 in 1982 and to 11 in 1992. No

65. These data are from the Wyoming Election Year Survey (1996). The survey is a poll of approximately 600 randomly selected Wyoming residents, interviewed by telephone prior to the general election. Similar polls have been conducted in conjunction with each biennial election beginning in 1972. The surveys are administered by the University of Wyoming's Survey Research Center, under sponsorship of the Department of Political Science and College of Arts and Sciences. Each survey has a margin of error of plus or minus four percentage points. Wyoming Election Year Survey (1996) (on file with *Land and Water Law Review*).

state converted from a single-member district system to a multi-member district system during the reapportionment that followed the 1990 census.⁶⁶ Furthermore, as demonstrated by the rulings in *Gorin v. Karpan* and a host of United States Supreme Court decisions, the courts have expressed a clear preference for single-member districts.⁶⁷ Any attempt by the legislature to re-instate a multi-member district system will almost certainly face judicial scrutiny. The continuing imbalance in population among Wyoming's counties would make defending such an apportionment difficult if not impossible. Single-member districts are undoubtedly here to stay.

What can be done to achieve more equitable legislative representation for women? For the most part, remedies are attitudinal and behavioral rather than legal.⁶⁸ The rate of political participation among women and men is almost equal. There are, for example, no significant differences in the percentages of women and men in Wyoming who vote, attend political events, or campaign on behalf of political parties and candidates.⁶⁹ The next step would be for more women to extend their participation to become candidates for office. This move should be more appealing as the political climate continues to become more favorable for women. A 1984 survey in Wyoming showed two-thirds of Wyoming residents disagreeing with the statement: "Men are better suited emotionally for politics than are women."⁷⁰ A comparable survey conducted in 1998 indicated that the proportion had risen to four-fifths.⁷¹ Thus, the segment of the population rejecting women candidates for reasons of gender stereotypes is shrinking. Although far from perfect, the political environment for women candidates has been more hospitable in Wyoming than in many other states.⁷² Women who are inclined to a proactive role in state and local government may well be advised to capitalize on this opportunity.

Like her sister states, Wyoming has not yet achieved John Adams' ideal of a legislature that is "an exact Portrait, in Miniature, of the People at

66. Niemi et al., *supra* note 29, at 446; *see also supra* note 27.

67. *Gorin v. Karpan*, 775 F. Supp. 1430 (D. Wyo. 1991); *Thornburg v. Gingles*, 478 U.S. 30 (1986); *Mobile v. Bolden*, 446 U.S. 55 (1980); *Connor v. Finch* 431 U.S. 407 (1977); *Chapman v. Meier* 420 U.S. 1 (1975); *White v. Regester*, 412 U.S. 755 (1973).

68. Term limits adopted in 1992 stand as another institutional change with the potential for reducing women's representation in the legislature. Research on legislative career patterns indicates that women tend to serve longer than men and thus are more likely to lose eligibility for office under provisions of term limit statutes. *See* James D. King, *Term Limits in Wyoming*, 14 COMP. ST. POL. 1, 14 (1993); Joel A. Thompson & Gary F. Moncrief, *The Implications of Term Limits for Women and Minorities: Some Evidence from the States*, 74 SOC. SCI. Q. 300, 303-05 (1993).

69. Wyoming Election Year Survey (1998) (on file with *Land and Water Law Review*).

70. Wyoming Election Year Survey (1984) (on file with *Land and Water Law Review*).

71. Wyoming Election Year Survey (1998) (on file with *Land and Water Law Review*).

72. *See generally* Regina Branton, A Comparison of Under-Representation of Women in Politics Nationally with Women in Wyoming Politics (1994) (unpublished M.A. thesis, University Wyoming) (on file with the University of Wyoming Coe Library).

large.”⁷³ Adopting single-member districts enabled Wyoming to satisfy the principle of “one-person, one-vote,” but the law of unintended consequences intervened, and meeting that standard came at the price of increased gender inequity in legislative representation. Future decisions regarding electoral laws must be made with an understanding that such statutes are not neutral and with consideration of the impact of any change on fairness within the governmental process.

73. See *supra* note 32.

Table 1
Women Elected to the Wyoming House of
Representatives by County Apportionment

	1980-1990	1992-1998
Counties with multiple representatives	33.6% (94)	24.5% (52)
Counties with a single representative	15.0% (6)	32.1% (9)
All counties	31.2% (100)	25.4% (61)

Source: Authors' calculations from *Wyoming Official Directory* (Cheyenne: Secretary of State's Office, various years). The percentage refers to the proportion of all electoral contests won by women candidates. The number in parentheses is the number of individual electoral contests won by women candidates.

Table 2
Women Elected to the Lower House of the State
Legislature (as a Percent of All Members)

Year	Wyo.	Mont.	Utah	Idaho	S.D.
1974	9.7	10.0	10.7	12.9	10.0
1976	9.7	12.0	6.7	11.4	8.6
1978	22.6	13.0	4.0	11.4	8.6
1980	22.6	13.0	8.0	11.4	11.4
1982	29.7	16.0	10.7	17.1	15.7
1984	34.4	17.0	8.0	20.2	15.7
1986	28.1	17.0	9.3	23.8	22.9
1988	28.1	21.0	14.7	26.2	18.6
1990	31.2	23.0	12.0	28.6	21.4
1992	28.3	21.0	16.0	32.9	20.0
1994	30.0	27.0	18.7	31.4	20.0
1996	20.0	26.0	20.0	27.1	18.6
1998	21.7	29.0	24.0	28.6	14.3

Sources: Authors' calculations from *Wyoming Official Directory* (various years) and *Fact Sheet: Women in State Legislatures*, Center for the American Woman and Politics, Eagleton Institute of Politics, Rutgers University.

Table 3
State Legislative Seats Won by
Women: Residual Analysis

	1992	1994	1996	1998
Wyoming	1.2	2.0	-8.9	8.1
Montana (<u>s</u>)	-2.5	2.0	-.6	.9
Utah (<u>s</u>)	-.4	.9	.8	3.4
Idaho (<u>m</u>)	5.4	2.0	-4.2	-4.6
South Dakota (<u>m</u>)	1.5	.6	-1.7	-6.9

Entries are the difference between the actual and predicted percentage of seats won by women in each election year. The states designated (s) use single-member districts, those marked (m) use multi-member districts.