

MAINE STATE LEGISLATURE

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JAMES E. TIERNEY
ATTORNEY GENERAL



STATE OF MAINE
DEPARTMENT OF THE ATTORNEY GENERAL
STATE HOUSE STATION 6
AUGUSTA, MAINE 04333

March 28, 1983

Honorable Alberta M. Wentworth
House of Representatives
State House
Augusta, Maine 04333

Dear Representative Wentworth:

This will respond to your letter of March 15, 1983 in which you seek this Department's opinion as to whether the Apportionment Commission of the 111th Legislature complied with applicable constitutional requirements in its treatment of the Towns of Wells and Hollis. For the reasons which follow, it is the Opinion of this Department that the Commission's treatment of these towns meets the requirements of the Maine Constitution.

Based upon data from the 1980 Federal Decennial Census, the Commission used the figure 1,125,030 as the population of Maine. Utilizing the formula specified in Article IV, pt. 1, § 2, the Commission determined the average population figure for each Representative District to be 7,451. According to the Commission's report, the Towns of Wells and Hollis have populations of 6,719 and 2,892, respectively. In view of these population figures, neither Wells nor Hollis is entitled to a whole Representative District.

In its reapportionment plan submitted to the Legislature, the Commission divided the Town of Wells three times and the Town of Hollis twice. The largest portion of Wells (5,687) has been included in District 6 together with the contiguous Town of Ogunquit. The two smaller portions of Wells were placed in District 4 (with North and South Berwick) and District 7 (with Kennebunk). The two portions of Hollis were included in District 14 (with Dayton and part of Biddeford) and District 16 (with Buxton). The five Representative Districts which include portions of the Towns of Wells and Hollis have populations which range from 7,179 to 7,436.

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As you have pointed out in your letter, Article IV, pt. 1, § 2 establishes certain objectives which the Commission, and ultimately the Legislature, must seek to effectuate in the process of reapportioning the State. In particular, Article IV, pt. 1, § 2 provides, in pertinent part, as follows:

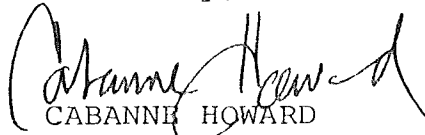
"Each Representative District shall be formed of contiguous and compact territory and shall cross political subdivision lines the least number of times necessary to establish as nearly as practicable equally populated districts. Whenever the population of a municipality entitles it to more than one district, all whole districts shall be drawn within municipal boundaries. Any population remainder within the municipality shall be included in a district drawn to cross the municipal boundary, provided that such population remainder of the municipality must be contiguous to another municipality or municipalities included in the district."

Since neither Wells nor Hollis is entitled to a whole district, the last two sentences of Article IV, pt. 1, § 2, quoted above, have no application to those municipalities. Moreover, based upon an examination of the Commission's report and reapportionment map, it is apparent that the Representative Districts of which Wells and Hollis form a part consist of "contiguous and compact territory." Finally, while the crossing of political subdivision lines was unavoidable, it appears that with respect to Wells and Hollis the Commission did so as little as possible consistent with the overriding objective that Representative Districts be substantially equal in population. See Opinion of the Justices, 307 A.2d 198, 208 (Me., 1973).

In view of the foregoing, it is this Department's opinion that the Apportionment Commission's treatment of Wells and Hollis was constitutionally permissible.

We hope this information is helpful to you. Please feel free to call upon this Office if we can be of further assistance.

Sincerely,



CABANNE HOWARD
Assistant Attorney General
Chief, Opinions Division

CH:mfe