

The Post-Register

The political pulse

Idaho Falls, Idaho, Wednesday, June 16, 1982

C-9

Legislative limelights

Reapportion ruling poses complex points

BY BEN J. PLASTINO

Post-Register political editor

The ruling by District Judge Dar Cogswell overturning the 1982 Idaho legislative reapportionment proposal creates many ramifications that throw a cloud over the Nov. 2 general election.

Most legislators, particularly the leadership, are confident the judge's ruling will be overturned but if it isn't it likely will be bounced to the U.S. Supreme Court which has decreed a "one man one vote rule."

Legislators and attorneys agreed that Cogswell based his ruling on the Idaho Constitution which specifies there will be no cutting across county lines. The U.S. Supreme Court in its ruling obliterates such a state provision, whether it be in Idaho or any other state.

Gov. John V. Evans has sided with Judge Cogswell on no county boundary splits, but he, along with all of the legislators, agrees an appeal should be carried to the state's highest court.

Attorney General David H. Leroy had indicated he would do this as soon as he has conferred with the legislative leadership of both parties, state elected officials and others who may be interested and effected.

* * *

While the appeal is pending, Cogswell's decision, of course, is prevented from applying but it still leaves a cloud over the legislative election process. Even if the Idaho Supreme Court were to affirm the lower court ruling — as is possible — it is probable the case would be tossed to the U.S. Supreme Court. This could take months, maybe even into next year. It is assumed this will still stay the district judge's ruling.

The district judge allows the Nov. 2 general election but decrees a special election in April and ordered the lawmakers to draft a new plan. Legislators and attorneys say this is contradictory as he, in effect, infers the legislators elected in November are illegal and must stand election again. He still requires they draft a new reapportionment proposal.

Attorneys also pointed out that under such a premise what the 1983 Legislature does could come under legal challenge.

The judge's ruling, in effect, allows the elected legislators to only serve until next April, or through the 1983 session, before facing a second election.

Judge Cogswell, in a Post-Register interview from his 1st District Judge chambers at Sandpoint, explained his ruling would not question the 1983 Legislature's legality. He said the Supreme Court has ruled incumbents hold office until replaced and this would apply in this case.

"I don't see any problem in anyone legally challenging what the 1983 Legislature does," said Judge Cogswell.

Judge Cogswell cleared one point: There would be two special elections, not one, in 1983 if his decision prevails.

The April special election would replace the primary of last May 25, followed by a general election at a time to be set by the legislature.

* * *

In eastern Idaho, there were four primary legislative elections, all comparatively close. Most legislative offices also are contested for the Nov. 2 general election.

For example, in District 30, made up of central Bonneville and west Shelley, J. F. Chadband won by only 148 votes over K. Dale Leatham, with George J. Bever, far behind for the Republican state representative nomination.

In the May 25 election, an analysis showed that in Bonneville County, there were at least 1,000 independents and Democrats who crossed over. The vast majority likely voted for Chadband to give him the slim victory but they might not do this in a strictly legislative election. Also if Bever foregoes another try it would help Leatham because it is probable most of the Bever votes would go for Leatham, rather than Chadband.

This absence of crossover votes in 1983 also would help what are believed to be the more conservative candidates and reverse some results in other primary legislative races throughout the state.

The 1,000 crossover is arrived at by the fact that only 4,800 voted for U.S. Rep. George Hansen while some 5,700 or more voted for other unopposed Republican tickets in Bonneville County.

This could open a can of worms and bring many complications that could be halted only by the Idaho Supreme Court, and if it upholds Cogswell on the appeal, then the U.S. Supreme Court.