St. Paul 1, May 24, 1965.

The Honorable A. M. Keith
President of the Senate

State of Minnesota

Sir:

I return herewith S. F. No. 102, the reapportionment bill, without my approval.

When I assumed office as Governor I also took an oath to uphold the Constitution of the United States and of this state. Confronted by a legislative act which I consider unconstitutional, I would consider it a violation of that oath to give the act my approval.

In view of the mandate of Article IV, Section 2, of the Minnesota Constitution, that the legislature be apportioned according to population, the requirement of the 14th Amendment to the Constitution of the United States to the same effect, and the clear trend of decision in the courts, I am of the opinion that this bill is unconstitutional.

I cannot construe "one man, one vote," to read "one man, two votes."

It is unfortunate that a reapportionment bill fair to all our people has not been enacted.

Since it became apparent in the summer of 1964 that we would face this question this session, I have done all I could to promote the enactment of a reapportionment plan fair to rural residents and city dwellers, and to members of both major political parties and independents alike.

On July 30, 1964, I appointed a Bi-Partisan Reapportionment Commission, which, under the outstanding leadership of Franklin Rogers, produced a reapportionment bill and proposed many other useful reforms.

I have taken no absolute positions, I have sought compromise, and I am deeply disheartened that we must come to this parting of the ways.

Essential to any reapportionment plan which is to stand the Constitutional test of fairness and equity is a reasonable equality of population among districts. Is it this aspect of the reapportionment controversy which has caused such dismay among residents of our rural areas. This plan is not only intolerably deficient in population equality, but manifestly unfair to rural areas as well, as I shall indicate below.

The House districts proposed in this bill range in size from 16,588 in Houston County to 33,158 in Anoka County. The proposed Senate districts range in size from 39,063 in Kittson, Roseau, Lake of the Woods, and Marshall counties to 63,825 in McLeod, Sibley, and Nicollet counties.

Accordingly, the largest House district is twice the size of the smallest, in effect giving the residents of Coon Rapids one-half the voting strength of the residents of Caledonia, while the largest Senate district is 1.63 times the size of the smallest.

Even if we assume that the three House members of the 11th Senate district compensate for its size, the next largest Senate district in Anoka County, is still 1.59 times the size of the smallest.

Putting this in another way, and using the test of deviation from the ideal district size of 25,288, it will be seen that the smallest House district is 34% smaller than it ought to be, while the largest is 31% larger. The largest Senate district is 25.3% larger than the ideal district of 50,953, and the smallest is 23% smaller.

This is the worst population disparity of any of the six reapportionment plans presented to or passed by either House of the legislature.

It compares very adversely with the 15% deviation from the ideal which was recently adopted by the United States House of Representatives as the maximum deviation it would permit in the formation of its own districts, the 15% which Governor Rockefeller has sought to be observed in New York, and the deviations as small as ½% or 1% which are being proposed and enacted in some other states.

Employing another test used by the courts to determine the validity of apportionment legislation, I note that, under this bill, a majority of the House—168 members—could be elected by districts containing only 45.14% of our people. A majority in the Senate can be elected by districts containing only 46.61% of our people. In practical terms, this means that true majority rule fails to prevail in the Senate by over 141,000 Minnesotans, and by over 178,000 in the House.

These are hardly minor deviations from the ideal. The Constitution permits *no* intentional discrimination, and permits deviations from the rule of equality only where made for valid considerations of public policy, such as the maintenance of local subdivision boundaries or the prevention of gerrymandering. This bill contains population deviations and inconsistencies which scarcely seems to proceed from rational public policy.

For instance, let us consider the case of our rural areas.

Reapportionment, in and of itself, involves great dislocation of traditional political and social boundary lines in our rural areas. It seems to me that our rural people have a right to expect that dislocation of these boundaries be kept to a minimum, and that where it occurs, that it be necessary and fair.

It is sought to explain away numerous population inequities in this bill by asserting the need to respect these boundaries.

Yet despite the bills protestations that "with a view to maintaining the integrity of the various political subdivisions, senate districts and representative districts are territorially coextensive with local units of government," at least ten county boundaries are

violated *without* achieving reasonable population equity within the districts containing the split counties.

The most flagrant case is that of District 55, wherein the northern seven townships of Mille Lacs county are attached to Aitkin and Kanabec counties. The House districts, thus created are *less* equal in population than they would be if county boundaries had been respected and Mille Lacs county left intact as a House district with rural Sherburne county.

In another instance, also within a single Senate district, portions of Goodhue county are attached to Wabasha county—the boundary line is thus crossed—yet the district is still divided in such a manner that the vote of a citizen of Wabasha is worth 1½ times that of a citizen of Wanamingo. This is hardly rational public policy.

In addition to serious population inequities among rural districts, the bill also contains a consistent pattern of discrimination against residents of the Twin Cities metropolitan area.

In the counties of Anoka, Hennepin, Ramsey, and Washington, and in the urbanized portion of Dakota county—our fastest growing areas—the average population per Senator is over 53,000, and the average population per representative over 26,500, while in the remainder of the state the average population per Senator is about 49,000, and that per representative a little over 24,000.

Further, of the 10 smallest Senate districts, only 2 are located in this metropolitan area, as compared with 6 of the 10 largest Senate districts.

In the House, the pattern of discrimination is even clearer. Only *one* of the 20 smallest House districts is located in this metropolitan area, as compared with 13—65%—of the 20 *largest* districts.

The smallest Senate and House districts are located in counties which lost population between the 1950 and 1960 censuses, while the largest Senate district with two House members, and the largest House district are both located in Anoka county, a suburban county whose population grew by 141% during those years and is apparently still growing at a similar rate.

I think this shows a clear pattern of discrimination against the Twin Cities area—discrimination which is in all likelihood worse than it appears, since the area has grown considerably since the 1960 census, while the growth in the remainder of the state has been of substantially slower rate.

Within the metropolitan area there are unnecessary and invidious discriminations among districts which cannot be explained by an acceptable standard of public policy.

For instance, the three legislative districts in north and northeast Minneapolis contain an average of 58,455 people apiece, while the six districts in the southern portion of the city contain an average of 51,646 people.

Surely the drawing of boundaries within a large city, where

population figures are available by city block, is not so difficult as to necessitate this great a discrimination. Could these disparities be due to unexpressed reasons having little to do with a desire for population equity?

In addition, despite the protestations of the bill that established boundary lines will be respected, the city of West St. Paul, the villages of Coon Rapids, Roseville, St. Anthony, Inver Grove Heights, and the rapidly urbanizing township of Eagan are divided in the formation of districts for no reason connected with population equity. In fact, in almost every case, population equity in the districts containing the divided municipalities was better under prior proposals which did *not* divide them.

Constitutional fairness, further, is not a question of population equity alone. Of similar importance is the need for political fairness. People are not abstract population statistics—they have political beliefs and political rights.

Among these rights is that of the majority of the people to select the political party and the political philosophy which will control the legislature. A bill which negates this right frustrates an essential condition of democracy and in addition raises grave questions of constitutionality.

This bill is designed to insure continued control of the legislature by the party which currently holds the majority. It is, in short, a blatant, calculated, political gerrymander.

While space is too limited to enumerate each instance of gerrymandering, examples of the techniques employed will quickly demonstrate the devious means by which it has been achieved.

(1) In a consistent pattern of discrimination, DFL-oriented districts tend to be larger than Republican-oriented districts, thus concentrating as many DFL voters as possible into as few districts as possible.

Using the results of the 1962 gubernatorial race as an indicator of partisan sympathy, seven of the ten largest Senate districts are DFL-oriented, while seven of the ten smallest Senate districts are Republican-oriented.

This discrimination is most apparent in the city of Minneapolis, where those districts which are normally expected to be DFL-oriented contain an average of 55,972 persons apiece, while those which are Republican-oriented average 51,345—a difference of 4,637 persons per district.

(2) The principle that political boundary lines will be respected, asserted to justify otherwise intolerable population inequities, is in fact applied only where advantageous to the current legislative majority. For instance, in the 64th, 66th, and 67th districts, county lines are crossed freely to prevent a contest between two majority party House members who represent the present 66th and 67th districts. In the Mille Lacs county gerrymander referred to above, the sole purpose of this violation of county lines is also to protect two incumbent Republican representatives.

(3) The asserted principle that "to the extent deemed permissible, traditional and established legislative district lines have been regarded," is similarly applied in a fashion which is inconsistent with a respect for population equity, but quite consistent with a solicitious concern for the welfare of Republicans. .

The blatant gerrymandering which has occurred to provide safe seats for the majority party and to deprive DFL sympathizers of the just representation to which their numbers entitled them is readily apparent to anyone who looks at the crazy-quilt map of Minneapolis or Ramsey County.

The extent to which "traditional and established legislative district lines have been regarded" in Ramsey county is indicated by the wholesale reshuffling of Senate seats to give a new and unfamiliar Senator to over one-half the residents of St. Paul, purely to overcome Ramsey County's overwhelming DFL majority and to give to the Republicans a 4-4 split in the county Senate delegation.

But reshuffling is not enough; in addition, the districts created totally ignore the principles of voter convenience, compactness, and contiguity. The new 45th district, for instance, has at least twenty-two boundary shifts and extends over seven miles through the heart of the city, narrowing at one point to a bottleneck of seven blocks' breadth. The new 44th district is similarly heedless of voter convenience, being composed of two formerly separate House districts now joined by a total contiguous portion of six blocks' length.

In Minneapolis the gerrymander has carved out districts with as many as twenty-seven twists and turns, carefully carving out safe seats for Republican incumbents while concentrating DFL voters, wherever they may be, into districts where they will do no harm.

(4) While boundaries are drawn to prevent contests among incumbent members of the current legislative majority, they are intentionally drawn, where possible, to create contests among DFL incumbents.

The most flagrant example of this practice occurs in the nine contiguous counties which make up districts 18, 22, and 23. Every DFL legislator but one—eight in all—who now resides in these counties, is pitted against another DFL legislator.

In one instance, that of new district 23, the newly elected DFL senator was involved in a contest almost before the ink is dry on his election certificate. It is indicative of the motives behind this arrangement to note that it does not appear in either the House-passed or the Senate-passed reapportionment bill. At the time these bills were introduced, Chippewa county was the residence of a Senator from the current legislative majority.

(5) Another gerrymandering device is the selective use of at-large House districts in suburban Hennepin county, despite the indications in our Constitution that single member House districts are to be preferred and despite the opinion of most recognized

authorities that single-member districts are more fairly representative and more desirable than multi-member districts.

There is little or no reason to use multi-member House districts in suburban Hennepin county. Since the area's complement of legislators is almost doubled by this bill, all districts are entirely new, and there are no local customs, or traditions which indicate that single-member districts are either undesirable or unconstructible. In fact—in two of the seven suburban Senate districts—single-member House districts *are* established.

This selective use of at-large House districts is not based upon considerations of public policy, but is rather a deliberate attempt to permit the overall Republican majority in all senatorial districts but one to control as well the two House members, notwithstanding the existence of municipalities and other areas within these Senate districts which have natural DFL majorities.

How successful this device becomes is indicated by a simple computation.

In the 1962 gubernatorial election, conceded by most to be a reasonable test of relative party strength, 40% of the voters of suburban Hennepin county voted DFL. Through the multi-member district device this 40% of the voting public—already held to probably 14% of the Senate delegation—may expect to elect one member of the House out of fourteen, or 7% of the delegation.

Extending the multi-member district to suburban Hennepin is inadvisable; doing it for purely partisan motives, as here, is inexcusable.

I note in this connection that the United States Supreme Court has recently indicated that the use of multi-member districts to cancel out the voting strength of political elements may suffer Constitutional infirmities.

I had hoped that this session would produce a constitutional and fair, reapportionment act. At least six comprehensive bills were introduced, each of which came substantially closer to the Constitutional mandate than does this bill—and a number of which could, with minor adjustments to achieve population equity—have been statesmanlike solutions to this difficult problem. I was particularly heartened by the introduction of the Sinclair-Rosenmeier bill. Even as this plan passed the Senate modifications could easily have been made to render it fair to everyone.

I remain, as always, willing and ready to discuss all aspects of this situation, and to seek a reasonable solution.

The people of Minnesota have the right to expect a just reapportionment in accordance with the Constitution.

Sincerely,

Karl F. Rolvaag, Governor.

Which message was read and received by the Secretary of the Senate.