EM0205: International Herald Tribune, January 23, 2002, page 3

High Court to Weigh Census Estimates

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WASHINGTON – The Supreme Court announced Tuesday that it would hear arguments in a case that could affect the regional and partisan makeup of the House of Representatives, in which Republicans hold a slim majority over Democrats.

At issue is Utah's claim that the 2000 census used an impermissible method to estimate a portion of the population. The result, according to the claim, is that North Carolina will get an additional seat in this November's elections that should have gone to Utah.

In the current Congress, Utah has 3 House members, 2 of them Republicans, while North Carolina has 12 – 5 Democrats and 7 Republicans. The current breakdown of the House as a whole is 222 Republicans, 211 Democrats and 2 independents.

The statistical method, which is called "hot-deck imputation," has been used by the Census Bureau since 1960. When census-takers cannot determine, after repeated attempts, whether a particular household is occupied or not, they "impute" a number of residents on the basis of neighbor households.

Utah argues that the method violates the constitutional requirement for "an actual enumeration" of all U.S. residents every 10 years and goes against a federal law banning the use of "sampling" by the census in any count done for purposes of apportioning House seats. A three-judge panel in a federal court in Utah upheld the method. But Utah appealed under special rules that permit parties in certain cases to attempt direct appeals to the Supreme Court without first going to a lower appeals court.

Without additional comment, the court said Tuesday that it would hold a hearing to determine whether it has jurisdiction in the dispute.

If the court determines it has jurisdiction, it will then decide the case.

That leaves open the crucial question of when the case might be heard.

Elections for all 435 House seats take place in November. But because of the court's internal timetable, there would not be enough time for the case to be argued before the justices go on a three-month summer recess at the end of June.

Court rules, however, permit the parties to move for expedited consideration, so the court could put the case on a faster track if requested.

The federal government, joined by North Carolina, argues that the method is not random and is not a form of sampling, in which a large population's characteristics are assigned on the basis of a projection of the characteristics found in a small, randomly-selected sample.

In the 2000 Census, imputation accounted for 0.4 percent of the total population of 281.4 million. North Carolina received a 0.4 percent boost from imputation; Utah received only 0.2 percent.

In another decision Tuesday, the court ruled that states may keep violent sexual offenders locked up beyond their prison terms only if they prove that the offenders lack some self control. In a partial victory for Kansas, the justices voted, 7 to 2, to throw out a ruling in favor of a convicted sex predator because a jury had not considered whether he could stop himself from committing a new crime if he were allowed to go free.

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