"legislative" or "administrative" or necessarily important or unimportant; it is the fact that members of the body are elected from districts that triggers the application.[1926]

The second issue has been largely but not precisely resolved. In *Swann v. Adams*,[1927] the Court set aside a lower court ruling "for the failure of the State to present or the District Court to articulate acceptable reasons for the variations among the populations of the various legislative districts. . . . *De minimis* deviations are unavoidable, but variations of 30% among senate districts and 40% among house districts can hardly be deemed *de minimis* and none of our cases suggests that differences of this magnitude will be approved without a satisfactory explanation grounded on acceptable state policy." Two congressional districting cases were disposed of on the basis of *Swann*,[1928] but, although the Court ruled that no congressional districting could be approved without "a good-faith effort to achieve precise mathematical equality" or the justification of "each variance, no matter how small," [1929] it did not apply this strict standard to state legislative redistricting.[1930] And, in *Abate v. Mundt*,[1931] the Court approved a plan for apportioning a county governing body that permitted a substantial population disparity, explaining that in the absence of a built-in bias tending to favor any particular area or interest, a plan could take account of localized factors in justifying deviations from equality that might in other

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[1926] The Court observed that there might be instances "in which a State elects certain functionaries whose duties are so far removed from normal governmental activities and so disproportionately affect different groups that a popular election in compliance with *Reynolds*, *supra*, might not be required . . . ." 397 U.S. at 56. For cases involving such units, *see* Salyer Land Co. v. Tulare Water Storage Dist., 410 U.S. 719 (1973); Associated Enterprises v. Toltec Watershed Imp. Dist., 410 U.S. 743 (1973); Ball v. James, 451 U.S. 355 (1981). Judicial districts need not comply with *Reynolds*. Wells v. Edwards, 347 F. Supp. 453 (M.D. La. 1972) (three-judge court), aff'd, *per curiam*, 409 U.S. 1095 (1973).

[1927] 385 U.S. 440, 443–44 (1967). *See also* Kilgarlin v. Hill, 386 U.S. 120 (1967).

[1928] Kirkpatrick v. Preisler, 385 U.S. 450 (1967); Duddleston v. Grills, 385 U.S. 455 (1967).

[1929] Kirkpatrick v. Preisler, 394 U.S. 526, 530–31 (1969); Wells v. Rockefeller, 394 U.S. 542 (1969). The Court has continued to adhere to this strict standard for congressional districting, voiding a plan in which the maximum deviation between largest and smallest district was 0.7%, or 3,674 persons. Karcher v. Daggett, 462 U.S. 725 (1983) (rejecting assertion that deviations less than estimated census error are necessarily permissible).

[1930] The Court relied on *Swann* in disapproving of only slightly smaller deviations (roughly 28% and 25%) in Whitcomb v. Chavis, 403 U.S. 124, 161–63 (1971). In Connor v. Williams, 404 U.S. 549, 550 (1972), the Court said of plaintiffs' reliance on *Preisler* and *Wells* that "these decisions do not squarely control the instant appeal since they do not concern state legislative apportionment, but they do raise substantial questions concerning the constitutionality of the District Court's plan as a design for permanent apportionment."

[1931] 403 U.S. 182 (1971).