

June 1, 1965.

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squarely required by *Lucas v. Forty-fourth General Assembly*, 377 U. S. 713,¹⁰ I reluctantly acquiesce in the Court's summary affirmance.¹¹

HEARNE ET AL. *v.* SMYLIE, GOVERNOR OF
IDAHO, ET AL.

APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF IDAHO.

No. 617. Decided June 1, 1965.

Appeal dismissed.

Herman J. McDevitt for appellants.

Allan G. Shepard, Attorney General of Idaho, and
M. Allyn Dingel, Jr., Assistant Attorney General, for
Williams et al., appellees.

PER CURIAM.

The appeal in this case concerns an order of the United States District Court for the District of Idaho staying this reapportionment suit until 30 days after the adjournment of the 1965 Session of the Idaho Legislature. The Idaho Legislature, after adopting a new reapportionment plan, adjourned on March 25, 1965. The stay order now having expired by its own terms and the District Court and the parties now being in a position to proceed promptly with this litigation, the motions to dismiss are granted and the appeal is dismissed.

¹⁰ The gleam of a distinction between that case and this, which is suggested by what the Court said at p. 731 of its *Lucas* opinion, is wholly dissipated by what appears shortly thereafter at pp. 736-737.

¹¹ This affirmance does not of course touch the propriety of any relief that the District Court may later grant, or the extent to which provisions of the California Constitution are still binding on the State Legislature in drafting apportionment legislation, see *Forty-fourth General Assembly v. Lucas*, 379 U. S. 693.