

PUBLIC HEARING

before

ASSEMBLY STATE GOVERNMENT COMMITTEE

ASSEMBLY CONCURRENT RESOLUTION 105  
(Proposes an amendment to the Constitution  
creating the New Jersey Redistricting Commission)

and

ASSEMBLY CONCURRENT RESOLUTION 140  
(Provides for the New Jersey Redistricting Commission)

April 16, 1987  
Room 334  
State House Annex  
Trenton, New Jersey

MEMBERS OF COMMITTEE PRESENT:

Assemblyman Richard A. Zimmer, Chairman  
Assemblywoman Marion Crecco, Vice Chairman

ALSO PRESENT:

Donald S. Margeson  
Office of Legislative Services  
Aide, Assembly State Government Committee

\* \* \* \* \*

Hearing Recorded and Transcribed by  
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Hearing Unit  
State House Annex  
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Trenton, New Jersey 08625

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*Chairperson*  
MARION CRECCO  
*Vice-Chairperson*  
ROBERT J. MARTIN  
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JOSEPH CHARLES, JR.

New Jersey State Legislature  
ASSEMBLY STATE GOVERNMENT COMMITTEE  
STATE HOUSE ANNEX CN-068  
TRENTON, NEW JERSEY 08625  
TELEPHONE (609) 292-9106

APR 6 4 21 PM '87

April 6, 1987

NOTICE OF PUBLIC HEARING AND COMMITTEE MEETING

I. PUBLIC HEARING

The Assembly State Government Committee will hold a public hearing on Thursday, April 16, 1987 at 10:00 A.M. in Room 334 of the State House Annex in Trenton, concerning the following legislation:

ACR-105  
Franks, Pelly

Proposes an amendment to the Constitution creating the New Jersey Redistricting Commission.

ACR-140  
Zimmer, Franks

Provides for the New Jersey Redistricting Commission.

Anyone wishing to offer testimony concerning this legislation at the public hearing may contact Donald S. Margeson, Assistant Secretary of the Committee, at (609) 292-9106.

II. COMMITTEE MEETING

Immediately following the conclusion of the public hearing, the Committee will hold a meeting to consider the resolutions listed above.

# STATE OF NEW JERSEY

INTRODUCED MAY 8, 1986

By Assemblymen FRANKS and PELLY

A CONCURRENT RESOLUTION proposing to amend Article II and Article IV, Section II **[and to repeal Article IV, Section III]**\* of the Constitution of the State of New Jersey, and providing a schedule therefor.

1 BE IT RESOLVED *by the General Assembly of the State of New*  
2 *Jersey (the Senate concurring):*

1 1. The following proposed amendment to the Constitution of the  
2 State of New Jersey is hereby agreed to:

#### PROPOSED AMENDMENT

3 a. Amend Article II to read as follows:

#### Article II

#### ELECTIONS AND SUFFRAGE

#### SECTION I

4 1. General elections shall be held annually on the first Tuesday  
5 after the first Monday in November; but the time of holding such  
6 elections may be altered by law. The Governor and members of the  
7 Legislature shall be chosen at general elections. Local elective  
8 officers shall be chosen at general elections or at such other times  
9 as shall be provided by law.

10 2. All questions submitted to the people of the entire State shall  
11 be voted upon at general elections.

12-14 3. (a) Every citizen of the United States, of the age of 18 years,  
15 who shall have been a resident of this State and of the county in  
16 which he claims his vote 30 days, next before the election, shall be  
17 entitled to vote for all officers that now are or hereafter may be  
18 elective by the people, and upon all questions which may be sub-  
19 mitted to a vote of the people; and

**EXPLANATION**—Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter printed in italics *thus* is new matter.

Matter enclosed in asterisks or stars has been adopted as follows:

\*—Assembly committee amendments adopted June 8, 1987.

20 (b) (Deleted by amendment, effective December 5, 1974.)

21 (c) Any person registered as a voter in any election district of  
 22 this State who has removed or shall remove to another state or to  
 23 another county within this State and is not able there to qualify to  
 24 vote by reason of an insufficient period of residence in such state  
 25 or county, shall, as a citizen of the United States, have the right to  
 26 vote for electors for President and Vice President of the United  
 27 States, only, by Presidential Elector Absentee Ballot, in the county  
 28 from which he has removed, in such manner as the Legislature  
 29 shall provide.

30 4. In time of war no elector in the military service of the State or  
 31 in the armed forces of the United States shall be deprived of his  
 32 vote by reason of absence from his election district. The Legislature  
 33 may provide for absentee voting by members of the armed forces  
 34 of the United States in time of peace. The Legislature may provide  
 35 the manner in which and the time and place at which such absent  
 36 electors may vote, and for the return and canvass of their votes in  
 37 the election district in which they respectively reside.

38 5. No person in the military, naval or marine service of the  
 39 United States shall be considered a resident of this State by being  
 40 stationed in any garrison, barrack, or military or naval place or  
 41 station within this State.

42 6. No idiot or insane person shall enjoy the right of suffrage.

43 7. The Legislature may pass laws to deprive persons of the right  
 44 of suffrage who shall be convicted of such crimes as it may desig-  
 45 nate. Any person so deprived, when pardoned or otherwise restored  
 46 by law to the right of suffrage, shall again enjoy that right.

#### SECTION II

47 1. ~~[(a)]~~ After each federal census taken in a year ending in  
 48 zero, the Congressional districts ~~and 40 legislative districts]~~  
 49 shall be established by the New Jersey Redistricting Commission.

50 ~~[(b)]~~ The commission shall consist of ~~10~~ 11 members.  
 51 ~~At least eight of the members shall be persons who at the time of~~  
 52 ~~their appointment to the commission are, and during their entire~~  
 53 ~~tenure thereon remain, affiliated with the political party whose can-~~  
 54 ~~didate for Governor receives the largest number of votes in the most~~  
 55 ~~recent gubernatorial election or the political party whose candidate~~  
 56 ~~for Governor receives the second largest number of votes in that~~  
 57 ~~election, but no more than five members shall be affiliated with~~  
 58 ~~either party. A person shall be considered to be affiliated with a~~  
 59 ~~political party if he has voted in at least four of that party's five~~  
 60 ~~preceding primary elections for the general election and in no pri-~~  
 61 ~~mary election of any other party.]~~ The members of the commission

63 and racial diversity and in the ~~following~~ manner ~~;~~ ~~pro-~~  
63A vided herein.\*

63B \*(a) There shall first be appointed 10 members as follows:\*

64 (1) one member to be appointed by the President of the Senate;

65 (2) one member to be appointed by the Speaker of the General  
66 Assembly;

67 (3) one member to be appointed by the minority leader of the  
68 Senate;

69 (4) one member to be appointed by the minority leader of the  
70 General Assembly; \*and\*

71 (5) ~~two~~ ~~six~~ members, ~~one~~ ~~three~~ to be appointed by  
72 the chairman of the State committee of each of the two political  
73 parties whose candidates for Governor ~~receive~~ ~~received~~ the  
74 largest numbers of votes at the most recent gubernatorial election,  
75 who shall ~~rotate~~ ~~serve in rotation~~ as ~~chairmen~~ ~~chair-~~  
75A ~~men~~ of the commission from meeting to meeting ~~;~~ ~~and~~ ~~;~~.\*

76 ~~(6)~~ four members, to be appointed by a majority of the Su-  
77 preme Court, one of whom shall have run for a public or party  
78 office, and at least one of whom shall be affiliated with one of the  
79 two political parties whose candidates for Governor received the  
80 largest numbers of votes in the most recent gubernatorial election  
81 and at least one of whom shall be affiliated with the other of those  
82 parties.

83 Appointments to the commission shall be made on or before  
84 November 15 of each year ending in zero and shall be certified by  
85 the appointing official or officials to the Secretary of State on or  
86 before December 1 of that year. ~~Vacancies~~ ~~;~~ \*Appointments to  
87 the commission under this subparagraph shall be made on or before  
88 November 15 of each year ending in zero and shall be certified by  
89 the appointing official or officials to the Secretary of State on or  
90 before December 1 of that year.

91 (b) There shall then be appointed one member, to serve as an  
92 independent member, who shall have been for the preceding five  
93 years a resident of this State, but who shall not during that period  
94 have registered in or declared officially his affiliation with a political  
95 party or voted in the primary election of a political party, and who  
96 shall never have held appointed or elected public or party office in  
97 this State. The independent member shall be appointed by the  
98 previously appointed members of the commission as follows: the  
99 members appointed by the appointing authorities of the political  
100 party whose candidate for Governor received the largest number  
101 of votes at the preceding gubernatorial election shall as a group

102 select three nominees meeting the foregoing qualifications, and  
103 the members appointed by the appointing authorities of the politi-  
104 cal party whose candidate for Governor received the next largest  
105 number of votes at that election shall do the same. If one person  
106 is nominated by both groups, then that person shall be the indepen-  
107 dent member, and if more than one person is nominated by both  
108 groups, the previous appointees shall by lot choose one of them to  
109 be the independent member. If no person is nominated by both  
110 groups, the members shall elect the independent member by ballot  
111 upon the vote of six of the previously appointed members.

112 Appointment to the commission of the independent member under  
113 this subparagraph shall be made on or before January 15 of each  
114 year ending in one and shall be certified by the other members of  
115 the commission to the Secretary of State on or before January 31  
116 of that year. If the other members are unable to appoint or to  
117 certify an independent member within the time allowed therefor,  
118 there shall be no independent member of the commission.

119 The commission shall meet to organize as soon as may be practi-  
120 cal after certification of the appointment of the independent mem-  
121 ber or, if the commission is unable to agree upon that appointment,  
122 after the last day allowed for making that appointment, but in no  
123 case later than February 15 of each year ending in one. At the  
124 organizational meeting the members of the commission shall deter-  
125 mine the order of rotation of the chairmanship thereof among the  
126 eligible members and such other organizational matters as they  
127 deem appropriate. Thereafter, a meeting of the commission may  
128 be called by the member designated under the order of rotation to  
129 serve as the chairman of that meeting or upon the request of six  
130 members, and six members of the commission shall constitute a  
131 quorum at any meeting thereof for the purpose of taking any action.

132 Vacancies\* in the membership of the commission occurring prior  
133 to the certification by the commission of Congressional\* [and legis-  
134 lative]\* districts or during any period in which the districts estab-  
135 lished by the commission may be or are under challenge\* [under the  
136 provisions of paragraph 7 of this section.]\* \*in the courts of this  
137 State or the courts of the United States\* shall be filled within five  
138 days of their occurrence in the same manner as the original ap-  
139 pointments were made.

140 \*(c) On or before April 1 of each year ending in one, or within  
141 three months after receipt by the Governor of the official figures  
142 for the federal census taken in the preceding year, whichever is  
143 later, the commission shall certify the establishment of 40 legis-  
144 lative districts to the Secretary of State.\* On or before \* [January

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145] of each year ending in [two] one\*, or within  
146 three months after receipt by the Governor of \*[those]\* \*the\*  
147 official [Federal census] figures \*for the federal decennial census  
148 taken in the preceding year\*, whichever is later, the commission  
149 shall certify the establishment of the Congressional districts to the  
150 Secretary of State. The commission shall certify the establishment  
151 of districts pursuant to a majority vote of its members \*[with at  
152 least three of the Supreme Court's appointees and at least one  
153 member affiliated with each political party from the remaining  
154 appointees voting with the majority]\*. \*Any vote by the commis-  
155 sion upon a proposal to certify the establishment of a Congressional  
156 district plan shall be taken by roll call and shall be recorded, and  
157 vote of any member in favor of any Congressional district plan  
158 shall nullify any vote which he shall previously have cast during  
159 the life of the commission in favor of a different Congressional  
160 district plan. If the commission is unable to certify the establish-  
161 ment of districts by the time required due to the inability of a plan  
162 to achieve six votes, the two district plans receiving the greatest  
163 number of votes, but not fewer than four votes, shall be submitted  
164 to the Supreme Court, which shall select and certify whichever of  
165 the two plans so submitted conforms most closely to the standards  
166 established in subparagraphs (a), (b), (c), (d) and (e) of para-  
167 graph 2 of this section.\*

168 2. \*[The New Jersey Redistricting Commission shall establish  
169 Congressional and legislative districts composed of contiguous  
170 territory, as nearly equal in population as is practicable. Districts  
171 shall be as compact as possible and shall be drawn to coincide with  
172 the boundaries of counties and municipalities as nearly as is  
173 practicable, and no district boundary shall divide a municipality  
174 unless the population of the municipality, as determined by the  
175 most recent federal decennial census, exceeds the number obtained  
176 by dividing the population of the State according to that census  
177 by the total number of Congressional or legislative districts, as  
178 appropriate.]\* \*The plan certified by the New Jersey Redistricting  
179 Commission for the establishment of Congressional districts shall  
180 provide for equality of population among districts; for the preser-  
181 vation of minority voting status within each district; for the geo-  
182 graphical coherence of individual districts; for the protection of  
183 the interest which fellow citizens of the counties and municipalities  
184 share in having common representation, so that district boundaries  
185 follow county and municipal boundaries to the greatest extent pos-  
186 sible; and for reasonable protection for districts from decade to  
187 decade against disruptive alteration due to redistricting.

188 (a) (1) In the plan, the population of each Congressional dis-  
189 trict shall be as nearly equal to possible, and the difference in  
190 population between the most populous and least populous districts  
191 as small as possible, as required by the Constitution of the United  
192 States.

193 (2) No Congressional district shall be established which frag-  
194 ments an ethnic or racial minority community which, if left intact,  
195 would constitute a majority or significant plurality of voters or  
196 potential voters within a single district. For the purposes of this  
197 subsubparagraph, a minority community means any group enjoy-  
198 ing special protection under the civil rights provisions of the Con-  
199 stitution of the United States.

200 (b) A plan which first meets the standards provided for in sub-  
201 paragraph (a) of this paragraph shall next include Congressional  
202 districts which are contiguous and compact.\*

203 ~~["The"]~~ (c) A plan which first meets the standards provided  
204 for in subparagraph (a) of this paragraph and then meets the stan-  
205 dards provided for in subparagraph (b) of this paragraph shall  
206 next include Congressional districts in which the\* number of county  
207 ~~["and municipal"]~~ fragments shall be no more than 20% greater  
208 than the lowest possible number of \*county\* fragments. The num-  
209 ber of \*county\* fragments is obtained by determining the number  
210 of whole counties ~~["and municipalities"]~~\* and parts of counties  
211 ~~["and municipalities"]~~\* contained in each district and then totalling  
212 these fragments for all the districts.

213 (d) A plan which first meets the standards provided for in sub-  
214 paragraph (a) of this paragraph and then meets the standards  
215 provided for in subparagraphs (b) and (c) of this paragraph shall  
216 next include Congressional districts in which no district boundary  
217 divides a municipality unless the population of the municipality, as  
218 determined by the most recent federal decennial census, exceeds  
219 the number obtained by dividing the population of the State by the  
220 total number of Congressional districts.

221 (e) To the fullest extent reasonable and when not in conflict with  
222 the foregoing standards, Congressional districts shall be drawn to  
223 preserve geographic continuity.\*

224 3. ~~["Except in the case of executive sessions, meetings"]~~\* ~~["Meet-~~  
225 ~~ings"]~~\* of the New Jersey Redistricting Commission shall be held at  
226 convenient times and locations and shall be open to members of the  
227 general public. ~~["Executive sessions of the commission shall be~~  
228 ~~conducted upon written request of at least six members or the vote~~  
229 ~~of at least six members.]~~\*

232 State. The commission shall \*~~accept~~\* \*, subject to the constraints  
233 of time and convenience, review\* written plans for the establish-  
234 ment of Congressional \*~~and legislative~~\* districts \*~~from~~\* \*sub-  
235 mitted by\* members of the general public.

236 5. The Legislature shall appropriate the funds necessary for  
237 the efficient operation of the New Jersey Redistricting Commis-  
238 sion.

239 6. The establishment of Congressional \*~~and legislative~~\* dis-  
240 tricts shall be used thereafter for the election of members of the  
241 House of Representatives \*~~and Legislature~~\* and, except \*~~as~~  
242 provided by paragraph 7 of this section]\* \*during any period in  
243 which the districts so established shall be under challenge in the  
244 courts in this State or of the United States\*, shall remain un-  
245 altered \*~~until~~\* \*through\* the next year ending in zero in which  
246 a federal census for New Jersey is taken.

247 7. Notwithstanding any provision to the contrary of the Con-  
248 stitution of this State and except as otherwise required by the  
249 Constitution of the United States or by any federal law, \*~~origi-~~  
250 nal]\* \*no court of this State shall have\* jurisdiction over any  
251 judicial proceeding challenging the \*actions of the New Jersey Re-  
252 districting Commission, including its\* establishment of Congres-  
253 sional \*~~or legislative~~\* districts \*~~shall lie with a judicial panel~~  
254 composed of three judges, as hereinafter provided.

255 Any]\* \*court in this section, except that the Supreme Court of this  
256 State shall have original and exclusive jurisdiction to consider any  
257 cause brought upon the petition of a\* legally qualified voter of the  
258 State \*~~may challenge the districts established by the Redistricting~~  
259 Commission by filing, within 45 days of the certification of their  
260 establishment, a petition for injunctive relief with any Judge of  
261 the Superior Court. No petition shall be accepted after the expira-  
262 tion of the 45 day period. Upon the filing of the petition, the Judge  
263 to whom the petition is presented shall immediately notify the Chief  
264 Justice of the Supreme Court, who shall designate two other  
265 Judges of the Superior Court, at least one of whom shall be a Judge  
266 of the Appellate Division of the Superior Court and shall be desig-  
267 nated to preside at the trial of the action. The judges so designated  
268 and the judge to whom the petition was presented shall serve as  
269 members of the panel to hear and determine the action or pro-  
270 ceeding. At least five days' notice of hearing of the action shall  
271 be given to the Governor and the Attorney General.]\* \*concerning

272 the qualifications of members of the commission under paragraph  
273 1 of this section or concerning the compliance of the commission  
274 or any of its members with the applicable procedural requirements  
275 of paragraphs 1, 3 and 4 of this section, and to grant relief appro-  
276 priate to the cause, including the issuance of an order to the com-  
277 mission to establish new districts.\* The ~~panel~~ Court shall  
278 give any petition filed as provided herein precedence over all other  
279 matters. It shall render judgment within ~~60~~ 30\* days of the  
280 ~~close of~~ date on which the petition ~~period~~ is filed\*.  
281 ~~If the panel finds any or all of the districts unacceptable, it shall~~  
282 order the commission to establish new ones within 60 days.

283 A judgment by the panel may be appealed to the Supreme  
284 Court within 10 days of the day on which it is rendered. The  
285 Supreme Court shall give that appeal precedence over all other  
286 matters.]\*

287 b. Amend Article IV, Section II to read as follows:

288 [1. The Senate shall be composed of 40 senators apportioned  
289 among Senate districts as nearly as may be according to the  
290 number of their inhabitants as reported in the last preceding  
291 decennial census of the United States and according to the method  
292 of equal proportions. Each Senate district shall be composed,  
293 wherever practicable, of one single county, and, if not so practi-  
294 cable, of two or more contiguous whole counties.

295 2. Each senator shall be elected by the legally qualified voters of  
296 the Senate district, except that if the Senate district is composed  
297 of two or more counties and two senators are apportioned to the  
298 district, one senator shall be elected by the legally qualified voters  
299 of each Assembly district. Each senator shall be elected for a term  
300 beginning at noon of the second Tuesday in January next follow-  
301 ing his election and ending at noon of the second Tuesday in  
302 January four years thereafter, except that each senator, to be  
303 elected for a term beginning in January of the second year  
304 following the year in which a decennial census of the United  
305 States is taken, shall be elected for a term of two years.

306 3. The General Assembly shall be composed of 80 members.  
307 Each Senate district to which only one senator is apportioned  
308 shall constitute an Assembly district. Each of the remaining  
309 Senate districts shall be divided into Assembly districts equal in  
310 number to the number of senators apportioned to the Senate  
311 district. The Assembly districts shall be composed of contiguous  
312 territory, as nearly compact and equal in the number of their  
313 inhabitants as possible, and in no event shall each such district

314 contain less than 80% nor more than 120% of one-fortieth of the  
315 total number of inhabitants of the State as reported in the last  
316 preceding decennial census of the United States. Unless necessary  
317 to meet the foregoing requirements, no county or municipality  
318 shall be divided among Assembly districts unless it shall contain  
319 more than one-fortieth of the total number of inhabitants of the  
320 State, and no county or municipality shall be divided among a  
321 number of Assembly districts larger than one plus the whole  
322 number obtained by dividing the number of inhabitants in the  
323 county or municipality by one-fortieth of the total number of  
324 inhabitants of the State.

325 4. Two members of the General Assembly shall be elected by the  
326 legally qualified voters of each Assembly district for terms begin-  
327 ning at noon of the second Tuesday in January next following  
328 their election and ending at noon of the second Tuesday in  
329 January 2 years thereafter.】

330 1. *The Senate shall be composed of 40 senators. One senator*  
331 *shall be elected by the legally qualified voters of each legislative*  
332 *district for a term beginning at noon of the second Tuesday in*  
333 *January next following his election and ending at noon of the*  
334 *second Tuesday in January four years thereafter, except that*  
335 *each senator to be elected for a term beginning in January of*  
336 *the second year following a year ending in zero in which a federal*  
337 *census is taken, shall be elected for a term of two years.*

338 2. *The General Assembly shall be composed of 80 members.*  
339 *Two members of the General Assembly shall be elected by the*  
340 *legally qualified voters of each legislative district for a term*  
341 *beginning at noon of the second Tuesday in January next follow-*  
342 *ing their election and ending at noon of the second Tuesday in*  
343 *January two years thereafter.*

344 \*【c. Article IV, Section III, is repealed】\*

#### SCHEDULE

345 This Constitutional amendment shall, if approved, be appli-  
346 cable to any establishment of Congressional\*【or legislative】\* dis-  
347 tricts for use subsequent to the official federal census in 1990.

1 2. When this proposed amendment to the Constitution is finally  
2 agreed to, pursuant to Article IX, paragraph 1 of the Constitu-  
3 tion, it shall be submitted to the people at the next general  
4 election occurring more than three months after the final agree-  
5 ment and shall be published at least once in at least one news-  
6 paper of each county designated by the President of the Senate  
7 and the Speaker of the General Assembly and the Secretary of  
8 State, not less than three months prior to the general election.

1 3. This proposed amendment to the Constitution shall be sub-  
 2 mitted to the people at the election in the following manner and  
 3 form:

4 There shall be printed on each official ballot to be used at the  
 5 general election, the following:

6 a. In every municipality in which voting machines are not used,  
 7 a legend which shall immediately precede the question as follows:

8 If you favor the proposition printed below make a cross (X),  
 9 plus (+) or check (V) in the square opposite the word "Yes."  
 10 If you are opposed thereto make a cross (X), plus (+) or check  
 11 (V) in the square opposite the word "No."

12 b. In every municipality, the following question:

	Yes.	<p style="text-align: center;">CREATES THE NEW JERSEY                  REDISTRICTING COMMISSION</p> <p>Shall the amendment of Article II and Article IV, Section II *<del>and the repeal of Article IV, Section III,</del>* of the Constitution, agreed to by the Legislature, providing for the creation of the New Jersey Redistricting Commission *<del>and eliminating the Apportionment Commission</del>*, be adopted?</p>
	No.	<p style="text-align: center;">INTERPRETIVE STATEMENT</p> <p>Adoption of this amendment would create a bipartisan New Jersey Redistricting Commission that would redraw *<del>both</del>* Congressional *<del>and legislative</del>* districts at the beginning of each decade. Currently, *<del>legislative</del>* districts are created by an Apportionment Commission, which would be eliminated by this amendment, and *<del>Congressional</del>* districts are created by vote of the Legislature.</p>

ELECTIONS

Proposes an amendment to the Constitution creating the New Jersey Redistricting Commission.

# STATE OF NEW JERSEY

INTRODUCED MARCH 12, 1987

By Assemblymen ZIMMER, FRANKS, Rafferty  
and Stuhltrager

A CONCURRENT RESOLUTION proposing to amend Article II and Article IV, Sections I and II and to repeal Article IV, Section III of the Constitution of the State of New Jersey, and providing a schedule therefor.

1 BE IT RESOLVED *by the General Assembly of the State of New*  
2 *Jersey (the Senate concurring):*

1 1. The following proposed amendment to the Constitution of  
2 the State of New Jersey is hereby agreed to:

## PROPOSED AMENDMENT

3 a. Amend Article II to read as follows:

### ARTICLE II

#### ELECTIONS **[AND]** SUFFRAGE *AND REDISTRICTING*

##### *SECTION I*

4 1. General elections shall be held annually on the first Tuesday  
5 after the first Monday in November; but the time of holding such  
6 elections may be altered by law. The Governor and members of  
7 the Legislature shall be chosen at general elections. Local elective  
8 officers shall be chosen at general elections or at such other times  
9 as shall be provided by law.

10 2. All questions submitted to the people of the entire State shall  
11 be voted upon at general elections.

12 3. (a) Every citizen of the United States, of the age of 18 years,  
13 who shall have been a resident of this State and of the county in  
14 which he claims his vote 30 days, next before the election, shall be  
15 entitled to vote for all officers that now are or hereafter may be

**EXPLANATION**—Matter enclosed in bold-faced brackets [thus] in the above bill  
is not enacted and is intended to be omitted in the law.

Matter printed in italics *thus* is new matter.

16 elective by the people, and upon all questions which may be sub-  
17 mitted to a vote of the people; and

18 (b) (Deleted by amendment, effective December 5, 1974.)

19 (c) Any person registered as a voter in any election district of  
20 this State who has removed or shall remove to another state or to  
21 another county within this State and is not able there to qualify to  
22 vote by reason of an insufficient period of residence in such state  
23 or county, shall, as a citizen of the United States, have the right  
24 to vote for electors for President and Vice President of the United  
25 States, only, by Presidential Elector Absentee Ballot, in the county  
26 from which he has removed, in such manner as the Legislature  
27 shall provide.

28 4. In time of war no elector in the military service of the State  
29 or in the armed forces of the United States shall be deprived of  
30 his vote by reason of absence from his election district. The  
31 Legislature may provide for absentee voting by members of the  
32 armed forces of the United States in time of peace. The Legisla-  
33 ture may provide the manner in which and the time and place at  
34 which such absent electors may vote, and for the return and  
35 canvass of their votes in the election district in which they respec-  
36 tively reside.

37 5. No person in the military, naval or marine service of the  
38 United States shall be considered a resident of this State by being  
39 stationed in any garrison, barrack, or military or naval place or  
40 station within this State.

41 6. No idiot or insane person shall enjoy the right of suffrage.

42 7. The Legislature may pass laws to deprive persons of the right  
43 of suffrage who shall be convicted of such crimes as it may  
44 designate. Any person so deprived, when pardoned or otherwise  
45 restored by law to the right of suffrage, shall again enjoy that  
46 right.

## SECTION II

47 1. (a) After each federal census taken in a year ending in zero,  
48 the Congressional, Senate and Assembly districts shall be estab-  
49 lished by the New Jersey Redistricting Commission.

50 (b) The commission shall consist of 10 members. No more than  
51 five members shall be affiliated with the same political party. The  
52 members of the commission shall be appointed with due considera-  
53 tion to geographic, ethnic and racial diversity and in the following  
54 manner:

55 (1) One member to be appointed by the President of the Senate;

56 (2) One member to be appointed by the Speaker of the General  
57 Assembly;

58  
59 *Senate;*

60 *(4) One member to be appointed by the minority leader of the*  
61 *General Assembly;*

62 *(5) Four members, two to be appointed by the chairman of the*  
63 *State committee of each of the two political parties whose candi-*  
64 *dates for Governor receive the largest numbers of votes at the*  
65 *most recent gubernatorial election, who shall rotate as chairmen*  
66 *of the commission from meeting to meeting; and*

67 *(6) Two members, to be appointed by the Supreme Court after*  
68 *receiving the vote of no fewer than five members of the court, one*  
69 *of whom shall be affiliated with the political party whose candidate*  
70 *for Governor receives the largest number of votes in the most*  
71 *recent gubernatorial election and the other of whom shall be*  
72 *affiliated with the political party whose candidate for Governor*  
73 *receives the second largest number of votes in that election. For*  
74 *the purposes of this subparagraph, a person shall be considered*  
75 *to be affiliated with a political party if that person has voted for*  
76 *candidates of that party in at least three of the five consecutive*  
77 *preceding primary elections for the general elections and in no*  
78 *primary elections of any other party in the five preceding primary*  
79 *elections for the general elections.*

80 *(c) Appointments to the commission shall be made on or before*  
81 *November 15 of each year ending in zero and shall be certified by*  
82 *the appointing official or officials to the Secretary of State on or*  
83 *before December 1 of that year. Vacancies in the membership of*  
84 *the commission occurring prior to the certification by the commis-*  
85 *sion of Congressional and legislative districts or during any period*  
86 *in which the districts established by the commission may be or*  
87 *are under challenge, under the provisions of paragraph 7 of this*  
88 *section, shall be filled within five days of their occurrence in the*  
89 *same manner as the original appointments were made.*

90 *(d) On or before April 1 of each year ending in one, or within*  
91 *three months after receipt by the Governor of the official figures*  
92 *for the federal census taken in the preceding year, whichever is*  
93 *later, the commission shall certify to the Secretary of State the*  
94 *establishment of 40 Senate and 80 Assembly districts pursuant*  
95 *to a majority vote of at least seven of its members. On or before*  
96 *January 1 of each year ending in two, or within three months*  
97 *after receipt by the Governor of those official federal census*  
98 *figures, whichever is later, the commission shall certify to the*  
99 *Secretary of State the establishment of Congressional districts pur-*

100 suant to a majority vote of at least seven of its members. Any  
101 vote by the commission upon a proposal to certify the establish-  
102 ment of a Congressional district plan, a Senate district plan or an  
103 Assembly district plan shall be taken by rollcall and shall be  
104 recorded, and the vote of any member in favor of any Congres-  
105 sional district plan, Senate district plan or Assembly district plan  
106 shall nullify any vote which he shall previously have cast during  
107 the life of the commission in favor of a different Congressional  
108 district plan, Senate district plan or Assembly district plan, as  
109 the case may be. If the commission is unable to certify the estab-  
110 lishment of Congressional or legislative districts by the time re-  
111 quired due to the inability of a plan to achieve seven votes, the  
112 district plans receiving the greatest number of votes and the next  
113 greatest number of votes over a minimum of three shall be sub-  
114 mitted to the Supreme Court, which shall select and certify the  
115 plan which conforms most closely to the standards established in  
116 subparagraphs (a), (b), and (c), of paragraph 2 of this section.

117 2. The plan certified by the New Jersey Redistricting Commis-  
118 sion for the establishment of Congressional, Senate and Assembly  
119 districts shall provide for equality of population among districts;  
120 the preservation of minority voting status within each district; and  
121 contiguity and compactness, with boundaries which follow county  
122 and municipal boundaries to the greatest extent possible and do  
123 not cross election district boundaries. No districts shall be drawn  
124 for the purpose of permitting one political party to achieve  
125 political advantage over another party.

126 (a) (1) In the plan, the population of each district shall be as  
127 nearly equal as possible as required by the Constitution of the  
128 United States. In no event shall there be more than a one-half of  
129 one percent deviation between the most populous and least  
130 populous Congressional district created, nor shall there be more  
131 than a five percent deviation between the most populous and least  
132 populous Senate district and the most populous and least populous  
133 Assembly district created.

134 (2) No district shall be established which fragments an ethnic  
135 or racial minority community which, if left intact, would con-  
136 stitute a majority or significant plurality of voters or potential  
137 voters within a single district. For the purposes of this subsub-  
138 paragraph, a minority community means any group enjoying  
139 special protection under the civil rights provisions of the Con-  
140 stitution of the United States.

141 (b) A plan which first meets the standards provided for in sub-  
142 paragraph (a) of this section shall next include districts which are

A district is contiguous when its boundary is not broken at any point, surrounds the entire area of the district and does not intersect, come tangent to, or cross over itself at any point. In no event shall any district be contained entirely or in part within another district. A district is compact when the population contained within it is not less than 80% of the population contained within census units located entirely within the area circumscribed by the shortest line which could be drawn around the district so as to include every point therein. In no event shall a boundary between two adjoining counties or municipalities be crossed by more than one district. For the purposes of this subparagraph, census units shall include election districts, enumeration districts or census blocks.

(c) (1) A plan which first meets the standards provided for in subparagraph (a) of this section and then meets the standards provided for in subparagraph (b) of this section shall next, to the fullest extent possible, include districts whose boundaries are drawn along existing county and municipal boundaries. When establishing Congressional districts, the greatest deference shall be given to keeping counties divided among the smallest number of districts and the next greatest deference shall be given to keeping municipalities divided among the smallest number of districts. When establishing legislative districts, the greatest deference shall be given to keeping municipalities divided among the smallest number of districts and the next greatest deference shall be given to keeping counties divided among the smallest number of districts. In no event shall Congressional or legislative district boundaries violate election district boundaries.

(2) As part of this standard, no county or municipality shall contain more than two district fragments, except that if any county or municipality clearly has sufficient population to contain within it one or more entire districts that county or municipality shall not contain more than one district fragment. In all districts, the total number of county fragments which do not constitute a district shall not exceed one less than the total number of counties or districts, whichever is less. Each district shall contain no more than two fragments of municipalities. In all districts, the total number of district fragments which consist of only part of a municipality shall not exceed two less than the total number of districts. For the purposes of this subsubparagraph, a district fragment means that part of a Congressional, Senate or Assembly district which is located within a county or a municipality and which is not a complete district.

186 (d) The standards established in subparagraphs (a), (b), and  
187 (c) of this paragraph shall be applied to the creation of separate  
188 Congressional, Senate and Assembly districts to the greatest  
189 extent possible.

190 3. Meetings of the New Jersey Redistricting Commission shall  
191 be held at convenient times and locations and shall be open to  
192 members of the general public.

193 4. The New Jersey Redistricting Commission shall hold public  
194 hearings throughout the State. The commission shall accept  
195 written plans for the establishment of districts from members of  
196 the general public.

197 5. The Legislature shall appropriate the funds necessary for the  
198 efficient operation of the New Jersey Redistricting Commission.

199 6. The establishment of Congressional, Senate and Assembly  
200 districts shall be used thereafter for the election of members of  
201 the House of Representatives and Legislature, and except as pro-  
202 vided by paragraph 7 of this section, shall remain unaltered until  
203 the certification of a plan following the next year ending in zero  
204 in which a federal census for New Jersey is taken.

205 7. (a) Notwithstanding any provision to the contrary of the  
206 Constitution of this State and except as otherwise required by  
207 the Constitution of the United States or by any federal law,  
208 original jurisdiction over any judicial proceeding challenging the  
209 establishment of Congressional, Senate or Assembly districts shall  
210 lie with a judicial panel composed of three judges, as hereinafter  
211 provided.

212 (b) Any legally qualified voter of the State may challenge the  
213 districts established by the New Jersey Redistricting Commission  
214 by filing, within 45 days of the certification of their establishment,  
215 a petition for injunctive relief with any judge of the Superior  
216 Court. No petition shall be accepted after the expiration of the  
217 45-day period. Upon filing the petition, the judge to whom the peti-  
218 tion is presented shall immediately notify the Chief Justice of the  
219 Supreme Court, who shall designate two other judges of the  
220 Superior Court, at least one of whom shall be a judge of the  
221 Appellate Division of the Superior Court and shall be designated  
222 to preside at the trial of the action. The judges so designated and  
223 the judge to whom the petition was presented shall serve as mem-  
224 bers of the panel to hear and determine the action or proceeding.  
225 At least five days' notice of hearing of the action shall be given to  
226 the Governor and the Attorney General. The panel shall give any  
227 petition filed as provided herein precedence over all other matters.

228 *It shall render judgment within 60 days of the close of the petition*  
229 *period. If the panel or a federal court finds any or all of the*  
230 *districts unacceptable, the commission shall reconvene and estab-*  
231 *lish new ones within 60 days.*

232 *(c) A judgment by the panel may be appealed to the Supreme*  
233 *Court within 10 days of the day on which it is rendered. The*  
234 *Supreme Court shall give that appeal precedence over all other*  
235 *matters.*

236 b. Amend Article IV, section I to read as follows:

237 1. The legislative power shall be vested in a Senate and General  
238 Assembly.

239 2. (a) No person shall be a member of the Senate who shall not  
240 have attained the age of 30 years, and have been a citizen and  
241 resident of the State for four years, and of the district for which  
242 he shall be elected one year, next before his election. No person  
243 shall be a member of the General Assembly who shall not have  
244 attained the age of 21 years and have been a citizen and  
245 resident of the State for two years, and of the district for which  
246 he shall be elected one year, next before his election. No person  
247 shall be eligible for membership in the Legislature unless he be  
248 entitled to the right of suffrage.

249 (b) *The above provisions concerning residency notwithstanding,*  
250 *in the first election held after a legislative redistricting plan is*  
251 *certified by the New Jersey Redistricting Commission, a person*  
252 *may be a candidate for member of the Legislature from any Senate*  
253 *or Assembly district which contains part of the district in which*  
254 *that person resided prior to the certification of the redistricting*  
255 *plan. In subsequent elections until the election following certifica-*  
256 *tion of the next legislative redistricting plan by the New Jersey*  
257 *Redistricting Commission, a person shall be a candidate for mem-*  
258 *ber of the Legislature only from the Senate or Assembly district*  
259 *in which he resides.*

260 3. Each Legislature shall be constituted for a term of two years  
261 beginning at noon on the second Tuesday in January in each even  
262 numbered year, at which time the Senate and General Assembly  
263 shall meet and organize separately and the first annual session of  
264 the Legislature shall commence. Said first annual session shall  
265 terminate at noon on the second Tuesday in January next follow-  
266 ing, at which time the second annual session shall commence and  
267 it shall terminate at noon on the second Tuesday in January then  
268 next following but either session may be sooner terminated by  
269 adjournment sine die. All business before either House or any of

270 the committees thereof at the end of the first annual session may  
271 be resumed in the second annual session. The legislative year shall  
272 commence at noon on the second Tuesday in January of each year.

273 4. Special sessions of the Legislature shall be called by the  
274 Governor upon petition of a majority of all the members of each  
275 House, and may be called by the Governor whenever in his opinion  
276 the public interest shall require.

277 c. Amend Article IV, section II to read as follows:

278 [1. The Senate shall be composed of forty senators apportioned  
279 among Senate districts as nearly as may be according to the num-  
280 ber of their inhabitants as reported in the last preceding decennial  
281 census of the United States and according to the method of equal  
282 proportions. Each Senate district shall be composed, whenever  
283 practicable, of one single county, and, if not so practicable, of two  
284 or more contiguous whole counties.

285 2. Each senator shall be elected by the legally qualified voters of  
286 the Senate district, except that if the Senate district is composed  
287 of two or more counties and two senators are apportioned to the  
288 district, one senator shall be elected by the legally qualified voters  
289 of each Assembly district. Each senator shall be elected for a term  
290 beginning at noon of the second Tuesday in January next following  
291 his election and ending at noon of the second Tuesday in January  
292 four years thereafter except that each senator to be elected for a  
293 term beginning in January of the second year following the year  
294 in which a decennial census of the United States is taken, shall be  
295 elected for a term of two years.

296 3. The General Assembly shall be composed of eighty members.  
297 Each Senate district to which only one senator is apportioned shall  
298 constitute an Assembly district. Each of the remaining Senate  
299 districts shall be divided into Assembly districts equal in number  
300 to the number of senators apportioned to the Senate district. The  
301 Assembly districts shall be composed of contiguous territory, as  
302 nearly compact and equal in the number of their inhabitants as  
303 possible, and in no event shall each such district contain less than  
304 eighty per cent nor more than one hundred twenty per cent of  
305 one-fortieth of the total number of inhabitants of the State as  
306 reported in the last preceding decennial census of the United  
307 States. Unless necessary to meet the foregoing requirements, no  
308 county or municipality shall be divided among Assembly districts  
309 unless it shall contain more than one-fortieth of the total number  
310 of inhabitants of the State, and no county or municipality shall be  
311 divided among a number of Assembly districts larger than one

312 plus the whole number obtained by dividing the number of in-  
313 habitants in the county or municipality by one-fortieth of the total  
314 number of inhabitants of the State.

315 4. Two members of the General Assembly shall be elected by the  
316 legally qualified voters of each Assembly district for terms begin-  
317 ning at noon of the second Tuesday in January next following  
318 their election and ending at noon of the second Tuesday in Janu-  
319 ary two years thereafter.】

320 1. *The Senate shall be composed of 40 members. One member*  
321 *of the Senate shall be elected by the legally qualified voters of*  
322 *each Senate district for a term beginning at noon of the second*  
323 *Tuesday in January next following his election and ending at noon*  
324 *of the second Tuesday in January four years thereafter, except*  
325 *that each senator to be elected for a term beginning in January*  
326 *of the second year following a year ending in zero in which a fed-*  
327 *eral census is taken shall be elected for a term of two years.*

328 2. *The General Assembly shall be composed of 80 members.*  
329 *One member of the General Assembly shall be elected by the*  
330 *legally qualified voters of each Assembly district for a term be-*  
331 *ginning at noon of the second Tuesday in January next following*  
332 *his election and ending at noon of the second Tuesday in January*  
333 *two years thereafter.*

334 d. Article IV, Section III is repealed.

1 2. When this proposed amendment to the Constitution is finally  
2 agreed to, pursuant to Article IX, paragraph 1 of the Constitu-  
3 tion, it shall be submitted to the people at the next general  
4 election occurring more than three months after the final agree-  
5 ment and shall be published at least once in at least one news-  
6 paper of each county designated by the President of the Senate  
7 and the Speaker of the General Assembly and the Secretary of  
8 State, not less than three months prior to the general election.

1 3. This proposed amendment to the Constitution shall be sub-  
2 mitted to the people at the election in the following manner and  
3 form:

4 There shall be printed on each official ballot to be used at the  
5 general election. the following:

6 a. In every municipality in which voting machines are not used,  
7 a legend which shall immediately precede the question as follows:

8 If you favor the proposition printed below make a cross (X),  
9 plus (+) or check (✓) in the square opposite the word "Yes."  
10 If you are opposed thereto make a cross (X), plus (+) or check  
11 (✓) in the square opposite the word "No."

12 b. In every municipality, the following question:

	Yes.	<p style="text-align: center;">CREATES NEW JERSEY REDISTRICTING COMMISSION AND PROVIDES STANDARDS</p> <p>Shall the amendment of Article II and Article IV, Sections I and II and the repeal of Article IV, Section III of the Constitution, agreed to by the Legislature, providing for the creation of the New Jersey Redistricting Commission, redistricting standards and separate Congressional, Senate and General Assembly districts, be adopted?</p>
	No.	<p style="text-align: center;">INTERPRETIVE STATEMENT</p> <p>Adoption of this amendment would establish new redistricting standards and would create a bipartisan New Jersey Redistricting Commission that would redraw Congressional, Senate and Assembly districts at the beginning of each decade based on those standards. The amendment also provides that separate Congressional, Senate, and Assembly districts would be created instead of the present system which provides for one Senator and two "at large" Assembly members elected from the same legislative district.</p>

SCHEDULE

13 This constitutional amendment shall, if approved, be applicable  
 14 to any establishment of Congressional, Senate or Assembly dis-  
 15 tricts for use subsequent to the official federal census in 1990.

STATEMENT

The purpose of this Constitutional amendment is to make substantial changes in the way in which Congressional and legislative districts are established after every federal census.

The resolution does this by creating the New Jersey Redistricting Commission, which would draw Congressional, Senate and Assembly districts for members of the House of Representatives and the State Legislature based upon a comprehensive set of anti-gerrymandering standards. The commission would consist of 10 members, no fewer than eight of whom must be affiliated with either of the two major political parties. The resolution abolishes the present Apportionment Commission, which establishes legislative districts, and takes away from the Legislature responsibility for drawing Congressional districts.

The resolution also provides for the establishment of separate Congressional, Senate, and General Assembly districts. At present, the New Jersey Constitution provides for one Senator and two "at large" Assembly members from each legislative district. In addition, the resolution provides that in the first election held after a legislative redistricting plan is certified by the redistricting commission, any person may be a candidate for member of the Legislature from any district which contains part of the district in which that person resided prior to the certification of the redistricting plan.

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#### ELECTIONS

Proposes to amend Constitution to provide for the New Jersey Redistricting Commission, redistricting standards and separate Congressional, Senate and Assembly districts.

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ASSEMBLYMAN RICHARD A. ZIMMER (Chairman): I will call this Committee meeting to order. I would like to say on a personal note, that there is a certain symmetry that as my last official act as an Assemblyman we're dealing with redistricting because I vividly recall the first speech that I gave as an Assemblyman was in opposition to the Congressional redistricting bill that was on the floor in January of 1982 that eventually was enacted and was thrown out by the U.S. Supreme Court. I think we have a serious flaw in our redistricting process and I commend the sponsors of the legislation that we will be considering today for making a serious, and I believe ultimately it will be a successful, effort to remedy these flaws.

I'd first like for Robert Franks to speak. Would you prefer that Don read the description of the bill, or would you like to speak on it?

A S S E M B L Y M A N R O B E R T D. F R A N K S: Mr. Chairman, at your option.

ASSEMBLYMAN ZIMMER: Okay, you speak on it.

ASSEMBLYMAN FRANKS: Mr. Chairman, you spoke a moment ago of symmetry. This was one of the bills that very early in my own legislative career was introduced. I'm delighted to have with me my co-prime sponsor of this initiative. If Assemblyman Frank Pelly will join me at the table.

Mr. Chairman, rather than be redundant and once again make the case for something which I believe now has become compelling in the minds of the public, I would like to briefly talk about the role that this particular public hearing or Committee meeting may play in allowing those parties of good will with a mind towards reforming the Congressional redistricting process to make it more equitable and workable, and can help us to flesh out perhaps some of the unresolved questions which remain in these proposals.

I consider it in a sense, Mr. Chairman, a victory of sorts that we're even here talking about this. But I also know what a substantial gap there is between talking about a proposal as substantive as this one and seeing it on the ballot in November of 1987. So, it is for that reason that I hope that we can identify the issues that still remain, resolve those issues in a bipartisan and cooperative manner, move this bill through the Assembly, and present it to the Senate in hopes that it will in fact have the opportunity to be certified and placed on the general election ballot in November of 1987.

So without any further delay, Mr. Chairman, I've noted that most of the people in the audience today are people who I've seen on this issue. It's a small but elite core of New Jerseyans who have taken an active interest over many years. So, I don't think we need to be redundant and make all kinds of flowery statements as to the need for reform. I think that's become increasingly apparent to all of us.

Let me identify, Mr. Chairman -- after discussion with my co-prime sponsor and a number of legislators on both sides of the aisle in both houses of the Legislature -- those issues that still remain. I would ask you, Mr. Chairman, to call upon the resources of your Committee and those persons present to perhaps help us to resolve some of those questions that still remain.

First off, Mr. Chairman, I guess is the threshold issue -- the issue of whether or not a new procedure, a new process ought to take under its jurisdiction the task of drawing both Congressional and legislative district boundaries. Initially, Mr. Chairman, for several years, my bill combined both of those tasks in a newly configured New Jersey Redistricting Commission. I know that you have a bill, Mr. Chairman, which does the same thing which would apply to both functions of legislative reapportionment as well as Congressional redistricting.

I have to tell you though, Mr. Chairman, that after conversations with members of both sides in both houses, as well as political leaders in both parties, that I have come to the conclusion that there does not exist a sufficient feeling on the part of political leaders, both elected and appointed, that the legislative reapportionment process is sufficiently in need of reform that it is likely that we can receive such a reform during this somewhat telescoped time frame with which we're working to try to get a ballot question in November of 1987.

The aphorism has been quoted to me more than once, that, "if it's not broke, don't fix it." I don't believe that the legislative apportionment process is identified as being efficiently weak or against the public interest; not to say that it's not in need of some additional criteria; not to say it could benefit from a newly reformed system; but I don't believe that the environment, the political climate, and the public opinion climate is such that there's a demand out there that legislative reapportionment is as high a priority as the reforming of the Congressional redistricting process.

Therefore, I have felt that the best opportunity to reform the Congressional districting process which is indeed, in my judgment, the greatest singular blot on the integrity of the electoral process in New Jersey. If we are going to change the system, we need to change it this year or I think we're doomed to live with it through the year 2000 Congressional redistricting process. That would be a terrible shame and we would miss a vitally important window of opportunity. We need to change Congressional redistricting now for both 1990 and the year 2000; and make that change permanent so we know that the public's interest will always prevail over any narrow partisan interest.

So, I have decided, Mr. Chairman, that it's wisest to segregate the two functions, and would hope, perhaps, that this Committee would see fit to, perhaps, release proposals which

will reconfigure both tasks but allow the Legislature to deal with them independently, because I'm not certain that enough members in both houses on both sides of the aisle, feel that there is an equally compelling need to change both the legislative and Congressional redistricting process.

Secondly, Mr. Chairman, the issue of the tie breaker: The bill that Mr. Pelly and I introduced -- going back several years now -- did not provide for a tie breaking mechanism. It was my thought that a committee, well educated on this particular issue, could debate the competing ideas relative to a tie breaking mechanism and choose the one most appropriate. I have been beat up in the vernacular for the absence of having provided for a tie breaking mechanism. When I said that I was leaving that, the Committee -- the process people -- felt that was not an adequate explanation and in fact they wanted to know from my point of view and from Mr. Pelly's and my initiative, how we saw the tie breaking mechanism working out.

I, in the last month and a half, have spent a great deal of time looking at a number of alternatives to provide for a tie breaking mechanism and have been guided by certain conclusions: Number one, that an 11th person was not the best available tie breaking mechanism. It raises two questions, number one, it raises the issues of the perspective and the outlook and the bias that that 11th person might bring to the deliberation. Secondly, the appointing authority of that 11th person: Who should that be or what group should appoint that 11th tie breaking person? In my judgment, those two questions have no adequate answer, no assurance that the public policy that is envisioned in the totality of this legislative initiative would be protected by an 11th person because of the two variables -- who the person is, and secondly, the appointing authority.

So, ultimately what I viewed to be the best mechanism-- And I know there are questions about it. There

are questions from Mr. Pelly, and I'm certain there are probably questions from other members of the panel. The mechanism that I arrived at after looking at the competing alternatives was to have the two maps, neither of which enjoined the seven which is required to pass a map from the Commission as it is constituted.

But those with votes over four and less than seven, the two maps with the highest number of votes, but neither of which is able to acquire the seven requisite to pass it, would be forwarded to the court. The court would look at the very specific criteria which the bill spells out, and the court would be a finder of fact in looking at the two competing maps. They would look at the criteria, and they would be required to choose from between the two maps, that map that best met the criteria and standards defined by the bill. We would not give the court a pen and allow them to draw a third map. They would be required to choose from among the two maps that the Commission made up of Republicans and Democrats and perhaps Independents would be forwarding to them.

So, we are limiting the jurisdiction of the court. But we are making them do what I think a court does best. A court is not in the business of appointing tie breakers to what is essentially a political process. I think it is a better more effective role for the court to review the standards set forth in the statute, review two competing plans and identify which plan best meets the criteria established in the statute. So that is the criteria for tie breaking that ultimately I would recommend to the Committee. I'm open to other discussions, but hit them with your best shot. That in my judgment in terms of tie breaking, was my best shot.

Questions were raised as to the need for a super majority of the Supreme Court to appoint the two Supreme Court appointed persons to the Commission. Mr. Pelly has pointed out

to me that that is an excessive requirement. There's no need to have a super majority of the court make those appointments. A simple majority is adequate. I absolutely agree and would urge the Committee to amend that provision to a simple majority to the Supreme Court.

The next issue, Mr. Chairman, is perhaps the most difficult and it goes to a question which I think you've been perhaps more articulate and more committed to than anyone else in this whole process. And that is that there are two features which will improve the redistricting process. One part of the equation is the who: the people themselves and who appoints them, who sits around the table and draws these maps. The second part of the equation, and the perhaps more important, is the how: what guidelines are given to the Commission members to guide their deliberations, what criteria are established, what standards are they held to meet. And that who combined with the how, hopefully, will equal a better process.

The how, on the issue of compactness, is becoming a mathematical challenge to all of us. We are trying to put forward a standard which will limit the ability of either party to gerrymander the map. Yet also, we're trying to make the standards efficiently comprehensible that everybody in this audience -- the people in the State of New Jersey, and the members of the State Legislature who we're asking to give up this power -- are going to understand what they're giving it up for and what standards will apply under this new mechanism.

This compactness standard, as defined in my bill, is something that I know we will spend some time on, and I'll participate in that discussion. I know Peter Palmer, who is more of an expert than I am on the issue of the compactness here, I would like to reserve that discussion. But clearly, Mr. Pelly and I both have questions about how to write into this statute the need to draw compact districts. I think we

all share that goal, but how to define that goal and translate that goal into the statute, is becoming a sticking point that this Committee is going to have resolve.

Fifth, I guess, on my list, is the issue of how can the public challenge a court adopted map? I guess secondarily, how can it challenge two maps, or one of two maps, or both maps that are forward from the Commission to the court in the eventuality of a deadlock? I don't think the bill as drafted delineates an answer to that question, and an answer needs to be provided.

The last issue, Mr. Chairman, the sixth on my list, is a key question. It relates to the ability of non-affiliated voters known in the political vocabulary as Independents to participate on this Commission. I have thought for many years, Mr. Chairman, that in the largest singular block of voters in this State are unaffiliated. They are neither Democrats nor Republicans. They are Independents.

We should not devise a redistricting scheme which precludes by law their participation. Moreover, I believe that a Commission made up partially of independent non-affiliated voters may well be able to be resolved internally within the deliberations of the Commission. They may be able to reach the decision of adopting a map more readily than five Democrats and five Republicans would be able to. If the objection of that non-affiliated perspective can be targeted into this process, it might serve a valuable policy goal.

My original bill provided for the appointment of Independents. The Assembly Committee Substitute does not. Mr. Pelly I know feels strongly that there is a need for a very substantive policy value to including Independents, and I share that. Absolutely. My challenge, Mr. Chairman, that you have run me ragged on, is how do I define them and who appoints them? I have been unsuccessful in answering your challenge adequately in my own mind. Although, Mr. Pelly and I feel the

need to go back to the drawing board to find out if there is a way that it can be done. I did, however, in reading ACR-105 which is the bill that Assemblyman Pelly and I have sponsored for several years now, found that we did not require, ever in bills we have sponsored, the appointment of Independents. We've always allowed for their appointment. That is a standard somewhat less rigorous than the affirmative requirement that Independents be appointed for the Commission.

I think what I said earlier is what I said along, that Independents or non-affiliated voters are not be precluded by matter of law from participating on this all important Commission. Our bill, ACR-105, would not have so precluded them and would have met that standard. It begs the question, Mr. Chairman, that you posed to, who are these people and who appoints them, but it does not, on the other hand, require the affirmative appointment of non-affiliated voters.

So, those six issues, Mr. Chairman, remain. On some of them, I think we can dispose of them very quickly. I think if we are of mind of good faith and we apply our intellectual energies to this exercise, I'm confident that we can reach an agreement on all six issues, realizing that there are going to be trade-offs on all six. I don't think anybody is going to be happy on every one of them. I already feel that the bill on ACR-105 was a compromise in a number of substantive regards which does not make it the ideal bill in my judgment.

But, I think we have to judge, Mr. Chairman, the clock on this issue. We have to understand that if we're going to have reform in the Congressional redistricting process, we need to achieve in 1987, we need to have it as a ballot question in November of this year, that we need to take action with a comprehensive proposal which will protect the public interest. I think ACR-105 does that. I think the Assembly Committee Substitute does that. I think the Zimmer bill does that. I think it's the challenge before this Committee to come up with

the best features of each one of these proposals and perhaps to consider letting the Assembly vote on a variety of proposals. But that, Mr. Chairman, is your call.

It's with those opening remarks in trying to frame some of the issues that I would ask you to allow Mr. Pelly to give some of his insights on the bill as well.

ASSEMBLYMAN ZIMMER: Okay. Assemblyman Pelly?

A S S E M B L Y M A N F R A N K M. P E L L Y: Thank you, Mr. Chairman and Committee members. I think we ought to apologize to the public having delayed the start of this meeting. There was some rather in-depth discussions going on prior to this meeting being convened and much of what Assemblyman Franks outlined to you were in fact the concerns that I had expressed to the Chairman and to the sponsor, Assemblyman Franks.

When I first entered the Legislature, one of my first tasks was to vote on a Congressional redistricting plan which ultimately became a disaster. From that day forward I decided, rather vigorously, that something had to be done to change manner in which we decide our legislative districts in the State of New Jersey. I looked at the redistricting plans that were being brought forward, and thought and considered Assemblyman Franks' bill to be the best one. That was probably five years ago.

I approached Assemblyman Franks and he permitted me to be one of many co-sponsors of that initiative. Through the process, I, once again this year as I did last term, asked Assemblyman Franks if I could be a co-sponsor once again, and he offered me the opportunity to be the co-prime sponsor of this bill. I was very excited over that opportunity and certainly appreciative of that opportunity also. The Committee needs to know from the outset that I continue to support ACR-105 and would certainly urge the Committee to move this bill out of Committee in an orderly fashion in its present form -- addressing the issue of both Congressional and legislative

redistricting. Assemblyman Franks makes a good argument for the need to move Congressional redistricting. As a practical, political matter, legislative redistricting may be something secondary to Congressional redistricting. I'm not prepared to concede that at the moment, although, the arguments that Bob Franks makes are very compelling. We entered in ACR-105 providing for both Congressional and legislative redistricting with a unity of purpose as well as a unity of standards the original bill provides.

Assemblyman Franks dealt with the issue of the fact that there is no provision in the Assembly Committee Substitute which was provided to us. I have to admit that I have not had an opportunity in the past 24 hours to deal with this Committee Substitute which was presented to us about 24 hours ago, in an in-depth fashion. But my review of the Committee Substitute tells me that there are a number of problems that ought to be resolved, much of which was discussed by Assemblyman Franks here this morning.

I continue to have problems with there not being any opportunity for any Independents being a part of the decision making. I had the problem with a super majority needed by the Supreme Court to appoint members. Assemblyman Franks has suggested that a basic majority will now-- He agrees that a basic majority would be needed.

I continue to have a substantial problem with the Committee Substitute when two plans are presented to the Supreme Court. I don't think the Supreme Court ought to be in the business of dealing directly with the issue of redistricting. I think there ought to be in the business of interpreting laws and dealing with issues that they were charged with dealing with. I don't think redistricting maps are things that New Jersey's Supreme Court should be dealing with.

The third area of concern to me is provided for in the Committee Substitute. It deals with the issue of challenging a decision made with respect to a map. If in fact the Supreme Court has two maps available to it for it to choose, I see no mechanism, whereby a qualified voter of the State may challenge the map established or interpreted by the Supreme Court. And on page seven, section b, it reads, "Any legally qualified voter of the State may challenge the districts established by the New Jersey Redistricting Commission," and it establishes a process for that. It establishes no process for challenging a map that has been endorsed or approved by the Supreme Court.

The Assembly Committee Substitute has a mechanism which will ultimately be cast in stone if adopted, whereby an elastic band concept is used or employed for deciding a Congressional or legislative district. Quite frankly, I have substantial difficulty in understanding that. I would suggest that we have to convey this to 78 eight other legislators in order to gain approval of a substantial majority of the 78. In doing so, we're going to have to have them understand that also. I would suggest that this may be a difficult chore -- in addition to which we're going to have to have the public understand this. That may also be a difficult charge. And then to have this mechanism cast in stone gives me some substantial degree of problems.

There are some of the problems that I see in the Committee Substitute that is about to be considered in place of the original ACR-105. I once again reiterate, Mr. Chairman and members of the Committee, my complete support for the original bill and my substantial concerns for the Committee Substitute. I thank you for the opportunity.

ASSEMBLYMAN ZIMMER: Bob, would you like to respond to any of the points raised?

ASSEMBLYMAN FRANKS: Mr. Chairman, all I would say is that there was in ACR-105 a standard for compactness or at least a standard which related to the issue of compactness, which was a limitation in the number of county fragments.

ASSEMBLYMAN ZIMMER: And in addition, it said in the original version, page four, section 2, line 109, "Districts shall be as compact as possible." That was a standard; there was no definition.

ASSEMBLYMAN FRANKS: Right, it was not clearly delineated, you understand. It was a goal.

ASSEMBLYMAN ZIMMER: I think and I'm aware of the fact that you haven't had a lot of time to review the legislation and come up with your analysis, not to mention coming up with any alternative language, but I would like to ask Assemblyman Pelly whether he has any suggestions or thoughts on how he would deal with these issues that have arisen -- that he has brought up? For instance, how would you define compactness? Or would you prefer to leave it undefined?

ASSEMBLYMAN PELLY: I would prefer to leave it undefined if it's to be incorporated into our State Constitution. But in response to your question, who would I react-- I think I've reacted by suggesting that rather than there be a Committee Substitute, that the original bill be considered. That was my initial suggestion.

ASSEMBLYMAN ZIMMER: I think it's clear from the testimony of both Assemblyman Franks and Assemblyman Pelly that we're really in the process of trying to seek a realistic workable bipartisan solution to the problem we've faced every 10 years. It's also clear that we're not going to be in a position today to report out of Committee legislation that satisfies both Assemblyman Franks and Assemblyman Pelly, and by extension those in both parties who have taken an active interest in this.

But I want to emphasize that we're not here to posture and we're not here to express some kind of aspiration. We're here to continue a process that I hope and expect will result in legislation that both the co-prime sponsors can sign off on and that will have a good chance of proceeding through the both houses with support from both parties.

ASSEMBLYMAN FRANKS: Mr. Chairman, if I may? Page four, section two, line 117, again, I would reiterate that in my judgment, compactness has a definition in ACR-105.

ASSEMBLYMAN ZIMMER: I beg your pardon?

ASSEMBLYMAN FRANKS: You asked Mr. Pelly would he rather leave it undefined, and he said yes, if it's going to appear in the Constitution. Well, the fact of the matter is that section two, line 117 provides an empirical standard in terms of a number of fragments into which New Jersey can be divided in a new Congressional district map. So, I guess my question to my co-prime sponsor is, Frank, do you still support that standard of compactness on 117?

ASSEMBLYMAN PELLY: The guidelines that are presented in that? Yes.

ASSEMBLYMAN FRANKS: I just wanted to make sure where we are, Mr. Chairman.

ASSEMBLYMAN ZIMMER: In the view of the Chair, that standard, although it's a desirable one, is not a compactness standard. It's a standard that requires the honoring of a county's boundaries. You can do that and end up with districts that are not compact.

Both of you should be aware that in our current Constitution, article four, section two, paragraph three, there's a compactness requirement for legislative districts, and we know how effective that's been.

ASSEMBLYMAN FRANKS: Mr. Chairman, this ACR-105 quantifies it empirically. We don't speak theoretically for the need to devise compact districts. We talk about the

maximum number of fragments and giving a window of 20% of excess in that, and that's it.

ASSEMBLYMAN ZIMMER: Perhaps the time has come to call some of the technical experts on this. I'd first like to call Peter Palmer, who is the Mayor of Bernardsville and is an expert on-- Byron, could you contribute to this? Would you like to have the opportunity?

ASSEMBLYMAN BYRON M. BAER: I have to go to a hearing. The Appropriations Committee is meeting at the same time.

ASSEMBLYMAN ZIMMER: If you were allowed to speak now, would you be able to give us five or ten minutes?

ASSEMBLYMAN BAER: Yes. First of all, I want to thank the Chairman for the invitation to appear at this hearing. You reached me quite a long time ago to request that I appear here. I appreciate the invitation very much. Also, since this is the first hearing on a bill that I've attended since recovering from my own illness, I'm doubly happy to be here and join you all.

The subject is one that is very dear to my heart, having sponsored a number of measures, and tried to focus in the area of government reform and measures that enhance the citizens' voice in government -- measures such as our Sunshine Act, the Fair Campaign Practices Act, legislation that reformed and eliminated a lot of abuses and absentee ballot fraud-- I have been a supporter of legislation to turn Congressional redistricting over to a Commission somewhat similar to that which we have for legislative redistricting, virtually as long as I've been in the Assembly -- since my first term.

I want to commend the Committee and the sponsors, Mr. Franks and Mr. Pelly, for their diligent effort to try to solve this very difficult technical and very difficult political problem, because the objective is very much in the public interest. I'm a little bit distressed that the problem with

the legislation before the Committee seems to be compounded by the latest version that's just been made public. I would urge the Committee to consider -- since this was released so recently, and we're not talking about just legislation and the change that encompasses many, many pages and many technical provisions -- that the Committee provide for a public hearing on these provisions with full advanced notice. I'm not trying to suggest that there was anything defective about the notice in terms of the rules of the Legislature, but I think a constitutional amendment with the sorts of things -- really deserves, the public deserves -- what was it? Three, four, or five days notice on a--

ASSEMBLYMAN ZIMMER: I believe it was 10 days notice.

ASSEMBLYMAN BAER: But, the Substitute, I understand, hasn't been available for that period of time. The Substitute has only been available at least to legislators themselves for far less time than that -- maybe, three or four days. Not that there is anything improper about that, but in terms of the importance of this, and the fact that constitutional change is not easily corrected, as legislation is, that it needs to be very, very carefully scrutinized.

At the initial hearing on this legislation, on page one at the very beginning of the hearing, I note that the Chairman drew attention to the primary criticism that we had to live with Congressional districts that were not drawn by elected officials, but were adopted by unelected judges. And that is the case. Judges have not drawn them, but have selected the maps that we've had for most of the last couple of decades.

The modified version of the bill -- the Substitute that has just been proposed, would in most cases in my opinion, turn that procedure, surely, over to judges again. Because it is a procedure that has an enhanced likelihood of deadlock and a deadlock that would explicitly turn the matter over to judges, not only as a result of the normal workings of the

judicial process as has happened before in due process, but automatically, it would provide that. I think that the Chairman was correct in the inference in his first statement -- that there is something inherently wrong with turning that process over to judges to the degree to which it could be avoided, always allowing for the fact that they have, under our system of justice, final appeal on any matter.

But we certainly don't want to have a procedure that is more likely to have deadlock, and which explicitly leaves them the choice in not only determining the law of the matter when we have a deadlock and whether one measure is in violation of the law, or the bodies that acted in violation of the law; but to just have them merely perform the function of picking a map, based on which map fits a criteria best. That, I would submit, is not a proper delegation of authority; it's not facing up to our responsibility.

Since the issue of Independents has been raised, I just want to comment that at the hearing this was given enormous importance. In the opening comments of the prime sponsor, Mr. Franks stated that the very first thing was for provision of the appointment of persons not affiliated with either political party, would thereby allow for representation of the largest voter block in New Jersey here to shut out the redistricting process.

Although it's true, Assemblyman Franks, that Independents are eligible to be appointed in the process, given that fact that the process has been a highly partisan one, I don't think one can find an example, where the Chairman of the Republican party or the Democratic party has appointed Independents in that sense ever to the process. It's not realistic to expect it.

Likewise, that ties in with the issue of deadlock. Because, now that we have before us a procedure that provides for an even number of members on the Redistricting Commission, and now that there is an even number of them, and according to this latest version they are chosen on a partisan basis, there

is no tie breaking procedure whatsoever. So since there is no tie breaker appointed, the likelihood that the Commission will not be able to resolve that and will be deadlocked is greater than ever before.

Instead of a tie breaker procedure, we have the matter turned over to the Supreme Court. And I might point out that in the testimony of Mr. Franks he pointed out that under the previous version he expected that because Independents were not a part of the political organization or machine and were unaffiliated voters, there would likely be tie breakers if there was a deadlock between the Republicans and the Democrats on the Commission.

So, I'm very concerned about having the situation with a deadlock. And the idea of having a tie breaker was certainly supported by Common Cause and the League of Women Voters in the testimony at the original hearing. I think that's the direction the Committee needs to go so that there is a tie break, and that the court is reserved for the function that they have served in the past; namely that if there's a dispute as to the legality of the procedure or the maps that will serve that. I think it's inappropriate to tie them up with such a procedure -- to say nothing of the questions that were raised earlier about if they are picking the map as a super Commission, then who hears the appeal if there's a dispute about it? It is violative of the basic concept in our Constitution of separation of powers which, of course, a constitutional amendment can change, but I think those are very sound provisions and should not be changed, and is very much in the public interest. There's no overriding reason to change.

The next issue that I'm concerned with-- By the way, finding a tie breaker is something that is used throughout our entire system with arbitration being involved more and more in many set-ups. It is not that difficult to find an impartial way to choose a tie breaker.

Now another major concern of mine has to do with the standards that are in this proposed constitutional amendment. The standards that are presented here are new and very much different from those that were in the legislation before. A great many technical questions can be raised about these standards -- a great many legal questions, a great many policy questions. I do not intend to take up the time of the Committee in going into all those questions, but I do think it is a mistake to embody those standards in a constitutional amendment, to freeze them in concrete after they have been exposed to the public for such a short period of time.

There are, maybe, two or three experts who think they know how these standards can work and how they can work out. There have been very few studies formed if any on some of these standards. Some of these standards are totally new and have never been applied in any state whatsoever. Some are new proposals that haven't even been floated around except just in the context of this Committee. I don't think those are the kinds of things you want to freeze in concrete in a constitutional amendment.

I think it's very much in the public interest that we have an effective means of ensuring compactness, minimizing splits of counties and municipalities, and assuring that minority representation is not divided. Assuring continuity, I think the way to do it is to have generalized language in the Constitution that requires that; and it goes one step further and provides that the Legislature must adopt enabling legislation implementing that.

Then instead of having an effective generalized statement in the Constitution as we have now, with nobody knowing what it means, and no means of implementing it, or freezing standards which have not been properly examined and which might do great damage, and which, by the way, are mainly based on a highly partisan presentation from a highly partisan

source, we will then avoid the danger of that excessive partisanship and avoid the pitfalls and standards that haven't been properly examined, but really insure that we will have effective standards in effect.

Let me give some examples of what I mean. We've got language in here on compactness that's mainly based on the number one Republican expert from the Washington. Those standards have not been adopted from any other state. Those standards are not the standards that have been floating around for decades by legislatures and legislative services groups and different states and other technical experts before the Legislature. There are a whole bunch of geometric standards that have been proposed for determining compactness. I will not attempt to enumerate them. Some of you know of many of them. They are measured by geometric measure -- the pros and cons and arguments that can be made.

This which attempts to determine compactness by account of population is a totally new concept. I won't take the time to develop very much in the way of specific criticism of it, but I think it's very unwieldy to work, and I might point out that a district that is enormously long shaped, let's say, like a long board, but which has no pockets nor concave boundaries in it, would meet the standard purpose. When you look at the standards on dividing municipalities, what we have here permits splitting municipalities more than the provisions that the Legislature has considered before. It permits, I think, 13 municipalities to be split for Congressional redistricting. I think that's a very drastic step when we've always tried to avoid splitting municipalities in the past.

We have no Congressional district that is smaller than a municipality. The present Constitution has provisions that are strongly worded against the concept of splitting municipalities. It is true that there may be certain case law that in limited situations overrides that based on the United

States Constitution. But why should we greatly expand that so that we can have, I think, some 13 municipalities split? I think that's a big mistake. I think many people will dispute the interpretation of the Federal case law that would require that many splits on the basis of reducing population deviation down to a minimum. Because many people are of the view that if a state has a legitimate purpose, let alone one enshrined in its Constitution to have a greater deviation such as preserving municipal boundaries, that it can do so.

And to enshrine in our Constitution, the ridiculous concept that many people think will not long survive about having a virtually zero population deviation that every expert and I know that the Chairman of this Committee recognized this absurdity when the statistics do not support that degree of accuracy in census count, let alone the fact that Congressional districts between different states are of a much greater deviation in size because of the procedure involved there to enshrine that in concrete in our Constitution. So that we have to split 13 municipalities, or at least it becomes very likely, and it's totally permissive to do so, I think, is an enormous mistake. Likewise, I think it is an enormous mistake, and this is the only thing I'll say about the other legislation -- the other measure on legislative redistricting-- It's an enormous mistake to carry that same concept into legislative redistricting where nobody would argue that there is case law that applies that type of pressure.

The language may not be identical, it may not go to the same extent, but it very much has the same effect of going far further than necessary. I see some puzzlement on your faces. I'm trying not to get into this minute technical level. One could also raise questions about the standards involved here, so far as minimizing splits of minority population which ignores several of the important standards which were proposed before this same Committee; and in the

record by the representative from the NAACP. Many of the specific standards that were suggested there were ignored. And even when it comes to continuity, the standards that were adopted were again the standards that were proposed by the Chairman of the Republican Congressional-- What is his name? I want to get that title right. Well, anyway, the Chairman of the group responsible for Republican redistricting out of Washington, he proposed some geometric standards which are pretty much adopted in here, not word for word, but standards that were suggested by the testimony of Mr. Reock and others relating to the problem with the water, bridges, and tunnels are totally ignored. The concept that you should not consider as contiguous -- areas that are connected only by water with no bridge or tunnel, and which are not totally isolated because they are islands and there is no connection whatsoever -- that's been totally ignored.

But my purpose is not to try to suggest that this Committee go back to redrawing those specific standards, but just to show that despite the best efforts of good will of the members of the Committee and sponsors and the best technical experts, the complexity of this matter is such that it should not be frozen into the Constitution. Things will be turning up a year from now or two years from now -- problems in term of technical standards that would not be recognized now, even with a hearing and the fullest public notice.

So, I urge the Committee to go slow, to give the public the fullest opportunity for input on these very new and very radical additions to this plant, as well as to add my own concern about a couple of other things. Mr. Reock spoke of the fragmentation occurring in appointment, because you have different people making appointments, and how that might adversely affect minority representation or having -- I think he referred to -- having a diversity of ethnic and geometric balance in a Commission. I think that should be considered.

At any rate, I've perhaps taken too much time. But I'm very eager to see the Committee succeed and the sponsor succeed in the fundamental purpose of improving our process. I think the best chance of doing that, is to avoid these pitfalls of either getting into technical details that are not fully understood, or wandering into supporting measures that come from a very highly partisan urging, and to keep it simple and to keep it strong, and to focus on the primary public interest purposes of having compactness, and turning this over to a bipartisan Commission. The fundamental purposes that I think-- All of us that are involved in the process, without going into more detail, know we're in agreement. Thank you. Do you have any questions?

ASSEMBLYMAN ZIMMER: Yes, I do. And I know you're obligated to be someplace else. So, I'll try to be as concise as possible. There's no question that Mr. Hoffler (phonetic spelling), and I don't remember his exact position either -- he came from a partisan organization-- He represented and spoke as an employee of the Republican National Committee. We did invite to our hearings representatives from the Democratic National Committee, who, unfortunately, did not attend. What I want to ask you, Assemblyman is, granted that the source of these proposals, specifically, the definition of compactness is a partisan source, could you explain to me how the adoption by the State of the criteria suggested by Mr. Hoffler would have a partisan effect?

ASSEMBLYMAN BAER: Well, let me first of all say that I'm not at all faulting the Chairman for inviting him. I think it's appropriate to hear from all sources. I'm questioning that not only with the definition of compactness, but the definition of continuity, largely with the definition of minority representation, and a couple of other points that elude me. But down the line, the standards suggested were adopted.

ASSEMBLYMAN ZIMMER: Could -- tell me how the Republicans--

ASSEMBLYMAN BAER: I'm going to answer you. This is a very technical matter that very few people understand at a technical level. But most people do understand if one team gets to set the rules, the other team isn't as likely to win. When you plug those rules into a procedure or into a computer or into an elaborate process, it's very hard to know. But many people are very weary of turning over the rule-making procedure so fully when it comes to these standards of the recommendations made by the captain of one team when these are so little understood by the Legislature, by experts in general, and certainly, by the public. The procedure I've suggested would be a far more public one -- with fuller input and also safer. Because if something turned out to be a problem, it could be corrected through the Legislature.

ASSEMBLYMAN ZIMMER: But, Assemblyman, isn't the Legislature comprised of highly partisan members, particularly in subjects like this? And if one party dominates the Legislature, won't your definitions be undoubtedly partisan? I mean, what I'd like to know--

ASSEMBLYMAN BAER: First of all, the Legislature-- I don't mean to interrupt the Chairman, but first of all, whatever Legislature you're talking about is no different from the Legislature today that's sitting on this. The main different is that it's frozen, and it's become far less flexible.

Secondly, there's no reason why if you wanted to consider it, you couldn't have a procedure that would prevent the Legislature from modifying those standards the year the Redistricting Commission is sitting. So, if they came up with a map and said, "Hey, help us out, because our party would be benefited. If you bend a little bit on this standard, you could do that." But I'm fairly confident that if these

standards were adopted as I've suggested, first of all, they would be better to begin with, and secondly, if it turned out that one party was getting an edge, you would have a far easier chance of correcting it than having to go through a constitutional amendment.

ASSEMBLYMAN ZIMMER: Are you proposing that there'd be no definition of compactness in the Constitution?

ASSEMBLYMAN BAER: I'm certainly proposing that you not get into obscure technical matters. Either there should be no definition, or there should be common sense definitions. I hesitate to say too much, because I don't have particular wording in mind. But, I don't think we should spell out specific methods. I mean, as Ernie Reock said, when it comes to contiguity, he thinks courts generally know what that means. He doubts whether there's even a need for a definition. When it comes to compactness, I think there's a general understanding of what compactness means, and there isn't much of a gray area between actually choosing from a technical method, and getting into some generalized understanding of what compactness is. My offhand impression, maybe you can correct me, is either you provide a method or you don't. Most know compactness as a concept.

ASSEMBLYMAN ZIMMER: Well, just like pornography, I think I know it when I see it, too. But since 1967, the State Constitution -- or at least until 1967 -- the State Constitution has required compactness as a standard for legislative districts. And when I see a district, like the 14th or some predecessor district that snakes from one municipality to another for partisan purposes, most of the time being no wider than no one municipality, I would tell you that in my subjective opinion, that is not a compact district, despite the fact, that compactness is required for legislative districts under the State Constitution.

ASSEMBLYMAN BAER: First of all, you're talking about legislative districts and you're giving an example of Congressional districts. Secondly, nobody would argue that those Congressional districts were compact. They were not.

ASSEMBLYMAN ZIMMER: The 14th legislative district was the one that I was talking about.

ASSEMBLYMAN BAER: Oh. All right. In any case, I've already addressed that, because I've indicated that the existing Constitution is deficient, because it does not provide that the Legislature must adopt enabling legislation to provide specific standards to deal with that. Had the Legislature done that, then that would have been thrown out. I don't have a picture of the 14th in mind.

ASSEMBLYMAN ZIMMER: That's the one that runs from Manville to Hamilton.

ASSEMBLYMAN BAER: Okay. At any rate, had that been done, it would have been brought into court, and if that was in conflict with the standards that had been adopted by the Legislature, I'm sure the State Supreme Court would have thrown that out. It merely remains for the State Legislature to adopt those standards. I'm suggesting, not that we continue with what we have not, but I'm suggesting that we have the Constitution require as it does in many other objectives that are stated in the Constitution, that the Legislature must enact legislation to carry it out. That's the normal way that most of the objectives in the Constitution are made practical.

ASSEMBLYMAN ZIMMER: On Monday, former Chief Justice Hughes was here as were other folks. There was a quotation. Although Governor Hughes didn't make it, it's one of his favorites. It's from Thomas Jefferson or Madison, who said, "Let me hear no more about the goodness of men, but tie them down from mischief with the chains of the Constitution." The problem that brings us here, is the fact that the Legislature has not acted in the likely manner that you predict they will.

The Legislature acted in the most partisan manner -- both parties have, when given the opportunity. The most partisan manner for the most short-term objectives, one puts provisions in the Constitution to restrict the possibility of partisan monkeyshines.

ASSEMBLYMAN BAER: Right. And you're certainly not avoiding partisanship by adopting the technical standards that have been brought to you by the chief spokesman at the national level for one party. Nor are you moving away from partisanship when you abandon any practical likelihood of a role for Independents. It seems to that the Supreme Court has the power and has exercised it in the past, in various ways where the Legislature has failed to carry out constitutionally mandated responsibilities.

But I have no doubt that the Legislature would adopt standards for redistricting for compactness and contiguity and minority representation, and these other things, and population deviation, most important of all, minimizing municipal splits if they were given that task. Because, where they've been given that task when it came to requiring that they adopt enabling legislation for changes in our taxes, and in other areas that some of us remember within our own memory when constitutional amendments were adopted, those were carried out.

I think you would find that they would be good standards. But if they were deficient, anyway, whatever problem would occur would be no more likely to have deficiencies than what you have now, but would be far less likely to ever be corrected.

ASSEMBLYMAN ZIMMER: I'll drop this. I would just invite you to consult with whatever expert you'd like to on the Democratic National Committee, or wherever, and provide this Committee with examples of how the criteria suggested by the gentleman of the Republican National Committee would disadvantage Democrats per se -- how they would be, other than

objective. Certainly, he was a partisan source, but to my understanding after studying his proposals, I can't see how his proposals would yield a partisan advantage. I know you're not in the position to do this now. I would invite you to do this before the Committee takes final action, because we--

ASSEMBLYMAN BAER: I don't know what he has up his sleeve. I know that the public wasn't permitted in the meeting that was held at the National Conference of State Legislators for just Republican state legislators to deal with this problem. At the last national meeting they had like that, it was just Republicans; and they had all the technical experts in there. Folks like me or Independents couldn't get in there. I don't know what they have up there sleeves, but I would say to you, Mr. Chairman, that respected experts like Ernie Reock that nobody would ever consider as partisan, and respected professional groups, like Mathematica, that have been on call to the Office of Legislative Services or its predecessor group serving the Legislature have come up with all kinds of geometric proposals for determining compactness. That seems very adequate. It's just a question of picking one, and weighting their pros and cons. Other nonpartisan experts have presented proposals. These types of proposals and ideals have been before other state legislatures and have been examined for years. This one that came from the Republican top gun came out of the blue. I don't know why it was so quickly embraced and is about to be adopted?

ASSEMBLYMAN ZIMMER: Let me share with you what transpired at that meeting from which you were excluded. I attended the meeting in New Orleans of Republican legislators. I was told by the experts in the Republican party that because most state legislatures are controlled by the Democrats, that any criteria that give both parties an equal shot and both parties a fair shake, will improve the electoral outlooks for Republicans, because the Democrats have been at the controls.

ASSEMBLYMAN BAER: Fine, then there's no problem.

ASSEMBLYMAN ZIMMER: So, the discussion at hand was not how to perfect means to gerrymander for Republican advantage, but rather, how to devise means to redistrict fairly so that Republicans would be able to play on a level playing field. That's what happened at that meeting.

ASSEMBLYMAN BAER: Well, I'm delighted to hear it. But then I'm puzzled why since they feel any criteria that are fair would benefit them, they had to go and invent a totally new criteria. At any rate, that would suggest that there's no problem with the Committee adopting one of the more conventional criteria or perhaps going further, as I suggest, in allowing the Legislature to adopt one of the more conventional criteria which are basically, geometric criteria.

ASSEMBLYMAN ZIMMER: Peter S. Palmer, who I had started to invited to speak before, is I believe prepared to addresss that specific point. Now, depending on the time that you have, maybe I should ask Mr. Palmer to present his justification for this criteria, or if you prefer, I can ask you the other questions that I had about some other parts of your testimony.

ASSEMBLYMAN BAER: Well, why don't you go into the other questions? But in any case, I think this all illustrates why this shouldn't be in the Constitution, because one could get into this and get more and more involved technically, and it's just not the kind of thing that ought to be frozen in concrete.

ASSEMBLYMAN ZIMMER: Okay, I'll move on to the other provisions. How do you propose having a tie breaking mechanism?

ASSEMBLYMAN BAER: I think the one that's been tried and tested is a pretty good one. Ernie Reock didn't seem to think there was anything broken that needed to be fixed there.

ASSEMBLYMAN ZIMMER: But you had said before that you didn't want the Supreme Court to have any role except as the

adjudicator of the law, and this process allows the Chief Justice to appoint the tie breaker, who in both decades has ultimately chosen the map under which legislators have been elected. Doesn't that involve the intrusion of the Supreme Court, beyond what you would like to see?

ASSEMBLYMAN BAER: You're stretching my words and I'm sure unintentionally misquoting me a little bit there. I didn't say any role. In any case, it wouldn't be the Supreme Court as a whole, it's the Chief Justice. There has never been any problem in terms of the Supreme Court being tied up from its regular functioning because the Chief Justice picked someone, nor has there been any problem in the Supreme Court reviewing maps that are later adopted by a Redistricting Commission. Even though one of the members of the Commission was appointed by the Chief Justice, there's never been any problem about that.

Over the decades, there's never been any consistent criticism of the appointment by the Chief Justice, although I know that in the most recent instance there was an effort to make something of that. But, looking over it from a historical perspective since 1947 when the Constitution was adopted, there hasn't been any general feeling that the Chief Justices have not carried that out with integrity. No, I see no problem in that.

If you have a better tie breaking mechanism, I've got an open mind on it, but I don't think there's anything there that's needs to be fixed. I don't see why you need to involve five chief justices in picking a person. Certainly that would be subjected to more criticism of the philosophy that you're raising now than just one as some of the other measures do. Or four justices to pick a person. Certainly, to have a justice-- I don't want to go off on a tangent.

ASSEMBLYMAN ZIMMER: One point-- Could you tell me in what respect our criteria for minority representation or given

minority rights is deficient according to the standards proposed by the NAACP?

ASSEMBLYMAN BAER: Well, I think you get that most accurately by just looking at the record of the first hearing transcript. I would rather you rely on that than my testimony. But, there was reference to situations where one could overconcentrate minority voters so that you would pack so many minority voters into an already predominately minority district that an adjacent district would lose the potential to have minority voters have strong influence in that adjacent district. There was reference to-- And there were other standards set forth. Perhaps, I could refer you to a page number-- I'm not sure. I'm going to try to paraphrase it. Starting on page 59 to 61, there are further references in there to matters that are not dealt with here. (the Assemblyman is referring to the transcript of testimony before the Assembly State Government Committee given on August 21, 1986)

ASSEMBLYMAN ZIMMER: Okay. I'll review that and I'll recommend that to the sponsors. I thought we had covered it. One final point. And this isn't a question. I agree with you entirely on the undesirability of splitting municipalities. Unfortunately, in my estimation, the U.S. Supreme Court has required that we have virtually zero deviation population in Congressional districts which has made necessary, and until they come to their senses continues to make necessary, a splitting of municipalities.

Frank Pelly's proposal does not require the splitting of municipalities. I do believe that mine, which relates to the legislative districts, does not invite the splitting of municipalities, because the Supreme Court has been much more permissive in the standards there. I think it's one of the unfortunate by-products of the Supreme Court's decision on redistricting. I would agree with you entirely on that. I think that we just have no choice if we're going to have

something that will stand the Federal constitutional muster under current Supreme Court guidelines.

ASSEMBLYMAN BAER: Well, I would-- So far as the legislative redistricting, I won't comment at this point. I'll take another look at the bill. But so far as the Congressional redistricting, I would dispute that with you. Mr. Wells in his testimony before the Committee and many other people indicated quite clearly that they felt that the Supreme Court does not compel zero deviation, but requires any variation from zero deviation to be justified.

In any case, there has never been a case brought where a state defended -- let's say, maintaining a deviation such as we have now, which is ridiculously low. What is it, 27 -- or something like that?-- people as opposed to zero which this would virtually compel on the basis that the State Constitution required, avoiding wherever possible, splitting municipalities. That case has never been heard. I think that we should give New Jersey a break and give them a chance, and not have something that permissively invites split municipalities.

Furthermore, in terms of gerrymandering, if we are permissive on the splitting of municipalities, we are inviting gerrymandering. The gerrymandered districts would not be as irregularly shaped as some we have seen, assuming that some reasonable compactness standard was adopted. But if all that has to be done to bring a district down to a low deviation, is to put together whatever combination of reasonably compact districts-- Excuse me; whatever combination of municipalities you want to that is reasonably compact, putting together politically whatever towns you want to for whatever arbitrary political purposes, and then make your deviation perfect by slicing a part of the municipality off to top it off and get your population deviation down to zero.

Then it gives great license and liberty to a redistricting entity to be very political and very arbitrary in

their redistricting. The burden that presently exists in terms of having to have reasonably low deviation -- a burden on redistricting bodies, be it a legislature or Redistricting Commission -- the burden that they have now of achieving low deviation without splitting municipalities, results in their now having such total control over the process that they can craft whatever political result that they want that results in a product that's a little bit more in the public's interest and a little bit less designed and gerrymandered to fit the political whims of those that are drawing.

ASSEMBLYMAN ZIMMER: As I recall, the court decision that adopted our current Congressional districts, the court decided in favor of the current map, because it had the lowest deviation, even though it was the map submitted that split municipalities. So, I think that's wrong, and you think it's wrong, but I'm concerned. I am convinced that the U.S. Supreme Court and the inferior Federal courts will continue, not only to permit, but essentially to require municipalities to be split when that's necessary to reduce population deviation.

ASSEMBLYMAN BAER: There is one important fact that you're omitting in terms of that particular example: And that is that the map that the court chose was superior in terms of not splitting concentration of minority voters. That alone, is sufficient to explain their selection. So, I don't think it provides a clear reading at all of what you suggested.

ASSEMBLYMAN ZIMMER: Well, I hope I'm wrong. Thank you very much for giving us your time. If you can stay-- If you can't, I'll understand. But if you could stay while Peter Palmer makes his presentation, I'll appreciate your response to what he has to say.

ASSEMBLYMAN BAER: Unfortunately, I can't. I have to go to my other meeting.

ASSEMBLYMAN ZIMMER: Thank you for the testimony that you did give.

ASSEMBLYMAN BAER: But, I'll be glad to continue to try to help you and the sponsors if I can, because I share with you your objectives and goals. They are goals that I've supported for years and I think would very much be in the public interest. I appreciate your statement that you hope that the meaning of the court decision is not that also, because you would like to minimize, I assume inferentially, because you would like to minimize the number of municipalities that are split. I hope that that indicates an inclination to take a fresh look at the degree that this is permissive in allowing municipal splits. Because, if in fact the U.S. Supreme Court does compel the splitting, as you would argue, we would have to do it anyway, even if we didn't provide for it in our Constitution because that would override it. But we would not have to invite it. Thank you.

ASSEMBLYMAN ZIMMER: Thank you. Peter Palmer.

M A Y O R P E T E R S. P A L M E R: Thank you, Mr. Chairman. My name is Peter Palmer. I happen to be the Mayor of Bernardsville. I served in a technical capacity for the Republicans both in the legislative redistricting in '81 and whatever efforts the Republicans were able to do with respect to Congressional districting. There does not now exist the certification of a licensed redistricting technician. Maybe by the time 1991 comes around, there will be such a designation and maybe giving courses in it at Rutgers, or whatever. But I have participated in the process. As you suggested, I will spend some time on the compactness questions.

Before I get into that, I wanted to offer one other comment. And I'd certainly be happy to help the Committee and Assemblyman Pelly, who is very much involved in this process, in any way I can. There's one comment that I would like to offer before we get into compactness. This is the tie breaking the procedure. Without dealing with a question of who makes a decision, whether it's an 11th appointed member, I'll leave

that up to your collective political judgment. One thing that I think would be helpful in a technical way is regardless of who is making the decision, I think it would be good that the decision be based on two maps, one versus the other, obviously prepared by the two parties.

Because if you come with one map, a Republican may and a Democrat map, and try to negotiate changes of it -- the practicality of moving towns, or pieces of towns around to reshape the district -- I think, would render the thing almost hopeless. Whereas if the Republicans came up with their map which in their definition is the fairest, and the Democrats came up with theirs which is the fairest, and somebody had to pick between the two of them, I think that would work out better than trying to basically work from these two maps and redraw everything, because this is really what you have to do. I think it would really be an impractical situation. Whether it's an 11th appointee or the Supreme Court itself-- I won't even comment on that.

On the compactness questions, I would think that what I would do, is work with existing Congressional districts. That gives some drawbacks to this because you get into what you are doing to which town and to which congressperson. I hope we can get by that problem. Bear in mind, of course, we have no idea what the population is going to be in 1990. We don't even know if New Jersey will end up with 14 congressmen or with 13. I don't think it's unlikely-- Or not in the cards that we would go to 15. At any rate, the districts would be totally reshaped.

Let me go up here. (uses chart) Let's talk about the 5th Congressional District, which is currently represented by Mrs. Roukema. One of the best descriptions of the polygon method, for lack of a better word, was the description of using a rubber band. The 5th District, as you can see is across the top of the State. If you were to do a wooden cutout of the State and put a rubberband around it, the rubberband would

follow the New York boundary, it would cut part of Pennsylvania, but that's not relevant, because there is no New Jerseyites who live in Pennsylvania. It would follow this line, the rubberband would then stretch to here, and then it would cut virtually right to the far corner of the 5th Congressional District on the Hudson River. Congressional districts each have 526,072 people.

The rubberband would encompass an area which had much more than 572,000 people. It would be 7800 people in these two towns in Sussex County. Another 9000 or so in this part of Sussex County, and probably more like another 400,000 people in here, because that would include the city of Paterson, plus all of these areas in Morris County. That's the rubberband approach, or I guess you could describe it from the suggested legislation, the polygon approach.

Now one of the things -- suggestions -- that I had come up with, was a modification of this approach, where you use the polygon, except that where the district boundaries coincided with county lines, that you would use the county line. What this ends up being is kind of, I hope, a positive compromise between the strict polygon approach and the limitation of the fragmentation of counties, which has been generally agreed on as a desirable goal. By this plan, instead of using a strict rubberband as I suggested before, you do this again. You would come straight across here, because this is not-- (coughs) The President is known for using laryngitis as an excuse to not answer questions, I know. Mine, believe me, is legitimate.

This is not a county line, so you would come straight across here. Again, this boundary is not a county line, so you would come straight across here. At this point, however, the border between the 5th and 11th district follows the Sussex/Morris County line and the Passaic/Morris County line, then the Passaic/Bergen County line. So then the test would then become the district as it is versus this area, then would

jump to there, to here, to here, and then the polygon approach, since this is cutting through Bergen County. It does not represent a county line.

So, that is the suggestion for the compactness criteria which I made. It turns out you can pick a number which is, of course, arbitrary. The number which was mentioned was 80%. And that is whatever the definition of your polygon, or modified polygon that you have, that the ratio of the population of the district itself, 526,072, divided by the total population within the polygon, has got to exceed 80%. Obviously 80 is arbitrary, but it sounds like a reasonable number.

In this particular case, the 5th District would not meet that criteria, because as it cuts across Bergen County in this rather irregular line, it leaves a lot of people within this bay -- or concavity is the term Assemblyman Baer used. If you cut across here, you've got an awful lot of people in Teaneck, Hackensack, Englewood, River Edge, and Milford in here -- I think about 75,000 people. And another 40,000 in Fair Lawn and Saddle Brook in here. So that 526,000 over about 600,000 would be about 80%. But this area would contain more than the 600,000.

It would be very easy to redraw this district in such a way that it met the criteria without doing much violence to its shape or to political realities or anything by simply straightening this line across Bergen County out a little bit, and getting rid of some of these blips. I suggest that this can be done by splitting up at most one municipality. I agree with Senator Zimmer and Assemblyman Baer statistically; I'm an actuary by profession. This is utter nonsense that a process that is with luck, at best within 2% accuracy, should be refined down to 1000th of 1% or something. It just doesn't make any technical sense at all. But that is where the Supreme Court--

Let me stop and try to answer questions that any one has.

ASSEMBLYMAN ZIMMER: Could you discuss the merits of this compactness task versus others that have been proposed and give your judgment as to which is the best?

MAYOR PALMER: The only practice other than the polygon one is the matter of trying to get one with the minimum area whose best definition would be a circle, where it's mathematically the most compact area. As you know, if you lay circles over everything, they either intersect or leave areas out. I think the problem with trying to define a rectangle or close to a circle, is that would work fine in Kansas, where every county and every town is a square. I don't think it would work very well anyplace in the east, certainly not in New Jersey.

If you lay down something of that nature, you'd be picking up one or two towns in several counties and having entire counties except for one or two towns someplace else. I don't really think that that's in the public interest. Because the fact of life in New Jersey is that political organizations exist on a county level. There's a very strong affiliation regardless of party with the county in which you live. I think that a compactness standard that has some relationship or emphasis on county boundaries would be more in the public interest and lead to better representation and I think, would cut down the opportunities for gerrymandering by whoever is in power.

ASSEMBLYMAN ZIMMER: Do you see this standard somehow working in favor of Republicans and against Democrats as Assemblyman Baer appeared it might?

MAYOR PALMER: I don't see how it can. I don't see how it can at all. The reality of the New Jersey Congressional delegation is that you have eight Democrats and six Republicans. It's fairly evenly balanced. I don't see how this kind of thing would have any impact on them on that

overall balance. Assemblyman Baer mentioned minority representation. I think that the bill -- even if the bill didn't -- but the bill does recognized the U.S. constitutional requirement for minority representation. It's interesting that he quoted the remark about-- Apparently, the NAACP said something about not overconcentrating minorities. I understand what they are saying. It seems to me that it would be rather difficult to quantify. I mean, you can quantify the fact that you should basically encourage minority representation to get a minority member in Congress. I don't know how you would quantify the undesirable overconcentration. I think it would be very difficult to do.

ASSEMBLYMAN ZIMMER: I have no more questions. It seems that our technical discussion has driven away, all but one member of the press and all the other legislators. (laughter) Do you have anything to add either in response to the prior testimony or on your own?

MAYOR PALMER: I think most of us don't like the idea of splitting municipalities. I certainly don't. I know that I did a lot of work in the Congressional redistricting. I avoided it. I think that from a practical standpoint, that even if the splitting of municipalities were either encouraged or permitted or whatever, I don't think that there would be that many that would be split. I think that in this area of the State where you have few small towns and many very large towns, you would probably end up having to split maybe three or four municipalities in the entire State.

But I don't think that it would be necessary to do that statewide. For instance, a best example is the 2nd District currently represented by Mr. Hughes. You have so many towns down there that you could play around with, that you can get within a deviation of one or two without even having to consider splitting a town. So, I don't think you end up with 13 towns split -- maybe just three or four.

ASSEMBLYMAN ZIMMER: Just to clarify your point and your proposed modification of the polygon standard, do you believe that that modified polygon standard would obviate the need for a standard relating to fragmentation of counties and municipalities, or would you keep the fragmentation while adopting also the modified polygon standard?

MAYOR PALMER: I think I'd keep the county fragmentation standard, because I think it's helpful. I think that when I went through these proposed standards which emphasized not splitting counties most important and then not splitting municipalities, second, I thought it was backwards. But the more I thought about it, I finally became convinced that it's probably better that way, because I think, given the fact that New Jersey is made up of counties, the smallest of which is about a sixth of a district, and the fact that the counties are where the political organizations exist, it's probably better and probably provides for better representation that way by emphasizing not splitting counties, over not splitting municipalities. But again, I don't think that many municipalities would be split.

ASSEMBLYMAN ZIMMER: Thank you. Do you have anything else to add?

MAYOR PALMER: I think that's all.

ASSEMBLYMAN ZIMMER: Thank you very much. I'd like to now invite Marie Curtis from the League of Women Voters to testify.

M A R I E C U R T I S: I'm not going to go through all of this. I think a lot of it, I'm sure Chairman Zimmer, you and the other members of the Committee have heard from us before. We've appeared before you before on ACR-105 and we're still in support of ACR-105. However, we do see great merit in ACR-140 which was also on today's agenda.

As you know the League seeks to encourage informed and active participation of all citizens in government. As a

nonpartisan force within the electoral process, we're uniquely qualified to testify as to the importance of identification and perception on citizen participation in government. Voter apathy doesn't just happen. It feeds on confusion, such as frequently changing districts lines and rotating representation, which we saw the last time around. Apathy also feeds on the belief that nobody cares and no one will listen. Single member districts in the Assembly with a smaller area covered, would bring representation much closer to some of our citizenry and could go a long way toward overcoming some of these misconceptions.

The single member district approach for the Assembly is expanded in ACR-140 has been a strong advocacy point with LWVNJ since the early 1970s. With a specific Assemblyperson representing each district, rather than two at-large representatives from a Senate district, we believe voters would more easily identify with their representatives. In addition, in larger geographic districts, voters might indeed have a representative closer to home than at present.

Currently, two Assemblypersons from a single municipality can represent a district composed of several municipalities. In such instances, voters can feel neglected if there is a perception of hometown favoritism, regardless of whether such perception is true or false.

Most importantly, of course, ACR-140 and ACR-105 take the process out of the Legislature where it now resides. There is a normal give-and-take within the legislative process itself with partisan concerns and legislative initiatives all influencing the outlook of individual members. Removing the redistricting process from that arena makes it possible to concentrate more fully on representational issues, rather than partisan pressures.

The ten-member Commission, with the major parties equally represented and the court determining the best plan in

the event of a tie or simple majority, seems eminently sensible to us. The appointment process and time schedule in both bills would allow for timely reapportionment. We strongly urge the Committee to release either or both of these proposals now.

That is our formal statement. However, I have a couple of notes from this morning. I'd like to mention that we really believe that Assemblyman Franks is being realistic when he said that ACR-105 may have a chance. But at this point, to come up with a new Commission for both Legislative and Congressional districts in 140, I think the legislature would block at this point. So, as far as we're concerned, we would be very happy to take whatever we can get. New Jersey's been lacking in this area for far too long and I think the time to change that is now before we hit the 1990 census.

We also like the idea of public input and public hearings that we find in the bills that, of course, are and have been a primary concern of the League. One suggestion: Would it be possible for the Committee to report both ACR-105 and ACR-140 out of Committee with the Committee Substitute possibly being embodied in a series of amendments that could be handled as a package on the floor? Just a procedural idea.

ASSEMBLYMAN ZIMMER: To amend a proposed constitutional amendment on the floor means putting it back to a second reading, having another--

MS. CURTIS: Having another hearing on it.

ASSEMBLYMAN ZIMMER: Having another hearing, having it lay over for 20 more days. So, I think we'd better get it straight before we report it out.

MS. CURTIS: Right now, I think really, our concern is that something should take place. At this point, the broad language that Mr. Baer suggested for the amendment with the specifics being placed in enabling legislation seems to me to be possibly a sensible proposal that might have a chance of

moving if we, in the constitutional amendment, required that such enabling legislation be enacted. If there was some time frame, because I agree-- I think what we've been looking at is that there are any number of criteria and any number of wordings of various criteria that can be considered when you're looking at the entire process. I think if the criteria could be written to insure that all the goals of-- Let's see, I wrote down compactness, contiguous, minority representation, and so forth. If all of that could be written in such a way that there was no question or no possibility of human error in the interpretation then we could just feed the information into a computer and we wouldn't have to have a Commission in the first place.

I think what we're talking about is almost an impossibility here. We're looking for perfection in the wording and in the criteria that we set up. I think we have to respect the fact that we're all human beings and we're never going to achieve perfection in any of this wording. What we really need is improvement in the process. We are not going to get perfection. let's move along and at least change it so that it's better than what we've got now.

ASSEMBLYMAN ZIMMER: Do you have specific criticisms or suggestions for improvement on any of the criteria in the way they are currently presented?

MS. CURTIS: When the League did its census in this area, we considered criteria, but we did not look at specific criteria. We considered things like compactness, contiguous, etc. We did not go into specifics on the criteria involved. What we were concerned with was getting it out of the Legislature and into a separate Commission. We were more concerned with who and the process rather than the actual criteria involved. I really feel that I sit here before you with my hands tied because I've got some ideas of my own, but I don't think--

ASSEMBLYMAN ZIMMER: Well, perhaps, and I understand how your hands are tied by the League procedures, but I would ask you and I would also ask Common Cause to scrutinize the criteria that are in the resolutions that are before this Committee, and to determine specifically whether you feel there's any partisan tilt to these criteria, because there's a healthy suspicion of Assembly criteria based on the source from whence they came.

MS. CURTIS: No, I understand what Mr. Baer was saying. I think what I said earlier about perception is actually at fault here. It's not so much whether the criteria are biased in some bipartisan manner, but the perception in the minds of some legislators, perhaps.

ASSEMBLYMAN ZIMMER: Well, perhaps we could rectify that perception if you and Common Cause could, as unchallenged nonpartisan organizations, objectively analyze these criteria; not here and now, but in the next week or two or three. If you feel that there is any partisan advantage to be derived from here, please let the Committee know. I'm inviting you to do that if you feel that it could be improved. I understand the point that you're making that maybe we ought to abandon some of these specific definitions. I'm resistant to that, but I won't be making the ultimate decision -- in this body at least.

So, let me just ask you to please take a look at these to see whether you think there's a hidden agenda at work, or whether it's a fair group of standards.

MS. CURTIS: From my personal reading of it, and I have not gone into it in-depth, especially the Committee Substitute which I just saw today, but it seems to me to be fair and not a biased representation either way. However, you're saying that giving us two to three weeks to look this over--

ASSEMBLYMAN ZIMMER: We're talking about-- May 18th is the next scheduled meeting of this Committee. I would very much hope that by then the sponsors and the other interested

parties would be able to have worked out their differences and to report out, I hope, two resolutions, because we're talking about a mandatory 20-day layover period, the public hearing, and passage through both houses before August.

MS. CURTIS: Before the first week in August.

ASSEMBLYMAN ZIMMER: That is a very very challenging schedule. So that's why I'm setting up that time.

MS. CURTIS: Yeah, that's my concern too, that we get something moving now. Whether or not it's the perfect form that everybody would like, is at this point, I think, maybe we should look at a half a loaf rather, you know, than seeking perfection at this point. That's why I suggest that enabling legislation dealing with the specific -- the individual criteria might be the way to go. You can always seek to fine tune later. But right now, in order to get something on the books before we have an election in November -- and we have a new Legislature and we have to start from-- And at that point we're facing the 1990 census-- I think realistically, we've really got to do something now. You're absolutely right. Anyway that we can help, fine. But I think possibly the enabling legislation idea and 105 which is more limited than 140, even though we're for 140, I think that might be a consideration.

ASSEMBLYMAN ZIMMER: Thank you. Yes, Peter?

MAYOR PALMER: (no mike, speaks from audience) Just one question. You spoke very early in your testimony about the need to get more identification between the voters and their representators (sic).

MS. CURTIS: Yeah. We had confusion in some districts or in some small portions where people underwent three different Congressmen over the period of three elections.

MR. PALMER: Yeah, I know. Along those lines, I wanted to ask you, do you feel that is some recognition of county lines would help in this identification (indiscernible)?

MS. CURTIS: I think it well might, because people, when they think these terms, they think in terms of political identification: "Oh, your Congressman is Mr. So-and-so; your Freeholder is Mr. So-and-so." I think probably, that we have found that we have a telephone information service here in New Jersey -- an 800 number -- and we've had repeated calls, and we continue to get calls. The people are concerned, "At one time Mr. So-and-so was my representative. Why is he no longer, or why is she no longer--" It really is a problem. People do get turned off to the system when they find that they'd gone to the wrong source for aid, and it happens all too frequently.

MR. PALMER: Thank you.

ASSEMBLYMAN ZIMMER: Thank you. Marla Karchmar from the New Jersey Common Cause.

M A R L A K A R C H M A R: I'll be brief since it's getting so late.

Common Cause has been involved in reapportionment for a number of years and we continue to support the establishment of an independent Congressional Redistricting Commission. It's only been recently that we've taken a position on either of the two bills here. What our board has decided is that Congressional redistricting is the largest problem and probably the most pressing problem. So, we've endorsed ACR-105 as it's been amended and we would work for that in the Legislature.

We've avoided taking a position on the other legislation. I don't know if we would or wouldn't, but we agree with Assemblyman Franks that to limit the bill to one form of reapportionment would increase its chances in the Legislature and thus we've taken that position.

ASSEMBLYMAN ZIMMER: Thank you. Just to clarify my own position on this, I agree with the judgment that's been made by Assemblyman Franks and concurred by you and the League of ~~Women~~ Voters that the best chance is for a Congressional

measure. I introduced ACR-140 only to keep legislative redistricting on the table. It's my intention to put Bob Franks' bill on the fast track. The ultimate aspiration would be to have both processes reformed. So, it is not my intention to have ACR-140 set up as an alternative or a substitute for ACR-105. Rather it meant to be a supplement.

With that, I hope Common Cause can endorse it. And I would only invite you to do what I've invited the League to do, namely scrutinize the criteria that are in these bills, and tell us whether you see any partisan advantage that could be derived from it. Thank you very much.

Is there anyone else who wishes to address this Committee? (negative response) In that case, the meeting is adjourned.

(HEARING CONCLUDED)



