

REDISTRICTING IN RHODE ISLAND:

Its Problems, Practice and Promise

September 1986

A report of the Rhode Island Advisory Committee to the U.S. Commission on Civil Rights, prepared for the information and consideration of the Commission and the people of Rhode Island.

THE UNITED STATES COMMISSION ON CIVIL RIGHTS

The U. S. Commission on Civil Rights is an independent, bipartisan, factfinding agency of the executive branch, first established under the Civil Rights Act of 1957. On November 30, 1983, a new Commission was established under the Civil Rights Act of 1983 (P. L. 98-183). The Commission is authorized with the following duties pertaining to denials of the equal protection of the laws based on race, color, sex, age, handicap, religion, or national origin, or in the administration of justice: investigation of individual discriminatory denials of the right to vote; study of legal developments with respect to denials of equal protection of the law; appraisal of the laws and policies of the United States with respect to denials of equal protection of the law; and investigation of patterns or practices of fraud or discrimination in the conduct of Federal elections. The Commission is also required to submit reports to the President and the Congress at such times as the Commission, the Congress, or the President shall deem desirable.

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An Advisory Committee to the United States Commission on Civil Rights was originally established in each of the 50 states and the District of Columbia pursuant to section 105 (c) of the Civil Rights Act of 1957 as amended. The Advisory Committees are made up of responsible persons who serve without compensation. Their functions under their mandate from the Commission are to: advise the Commission of all relevant information concerning their respective states on matters within the jurisdiction of the Commission; advise the Commission on matters of mutual concern in the preparation of reports of the Commission to the President and the Congress; receive reports, suggestions, and recommendations from individuals, public and private organizations, and public officials upon matters pertinent to inquiries conducted by the State Advisory Committee; initiate and forward advice and recommendations to the Commission upon matters which the Advisory Committee has studied; and attend, as observers, any open hearing or conference which the Commission may hold within the state.

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RIGHT OF RESPONSE:

Prior to the publication of a report, the State Advisory Committee affords to all individuals or organizations that may be defamed, degraded, or incriminated by any material contained in the report an opportunity to respond in writing to such material. All responses have been incorporated, appended, or otherwise reflected in the publication.

LETTER OF TRANSMITTAL

Rhode Island Advisory Committee to the
U.S. Commission on Civil Rights
August 1986

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J. Al Latham, Jr., Staff Director

Dear Commissioners:

Pursuant to its responsibility to inform the Commission about civil rights developments in Rhode Island and about matters of mutual concern, the Rhode Island Advisory Committee submits this report on redistricting in Rhode Island. The study grew out of the Committee's concern that limited minority political participation may result in limited representation.

We wish to call to the Commissioners' attention that the Committee was told by the Assistant General Counsel for Advisory Committee Affairs that this report would receive the Staff Director's recommendation for publication, only if we adopted recommended changes in Chapters VI and VII. We believe that these changes resulted in eliminating the SAC's conclusions and recommendations based on its independent factfinding. The Committee believes its role is both to summarize a wide spectrum of community views and to set forth its independent conclusions.

The Assistant General Counsel insisted that the Committee's factfinding was unduly influenced by outside groups and therefore was not in compliance with the Federal Advisory Committee Act (FACA). He also claimed that the co-sponsors of the forum held in October, 1981 shaped the parameters of the report's methodology. The SAC's Political Participation Sub-Committee was formed in June 1982, eight months after the forum. The Committee is emphatic in its belief that during its three and a half years of independent research, it never participated in any joint factfinding or any compromising act that would "taint" this report.

In view of the threatened shutdown of the Agency, and the Assistant General Counsel's assurance that this report, in the form submitted herewith, together with this Letter of Transmittal, would be recommended for publication, the Rhode Island Advisory Committee by a vote of 6 to 3 with 1 abstention, voted to submit this report for your approval at your September 11, 1986 meeting.

In preparing this report, the Advisory Committee interviewed 22 persons involved in or knowledgeable about the redistricting

process. Interviewees included members of citizens' groups and the Reapportionment Commission and its staff. The interviews focused on the respondents' assessments of the strengths and weaknesses of the process, as well as suggestions for change in the future. As part of the study, the committee also reviewed minutes of Commission meetings and transcripts of public hearings.

During the study, the Advisory Committee found that it was often difficult to separate limitations on minority group participation from general weaknesses in the redistricting process. Although the 1981-1982 redistricting process allowed for greater public participation than in the past, our interviews do not suggest that the Reapportionment Commission heeded the concerns of citizens expressed during public hearings. On the contrary, these interviews suggest that the actual redistricting took place "behind closed doors," often without full knowledge of some Commission members, and to the detriment of minority voters.

Although the Reapportionment Commission left several predominantly minority South Providence house and senate districts intact, the plan proposed by the Commission and passed by the legislature placed a bloc of black East Side Providence voters in a Pawtucket district. This action occurred despite protests from these black residents and senate members whose districts were affected that it would unnecessarily separate these voters from legitimate and recognized "communities of interest." The treatment of these districts is cited as an example of the Commission's failure to incorporate public input. Supporters of the Reapportionment Commission, however, emphasized during interviews that the controversy surrounding the East Side unfairly overshadowed the "least change" approach used to maintain house and senate districts in South Providence.

The Advisory Committee believes that any dilution of minority voting strength is impermissible, particularly when it can be readily avoided. A process which infringes on the rights of some diminishes the rights of all. This view is supported by the Supreme Court of Rhode Island, which upheld a Superior Court verdict that the movement of these black voters violated their constitutional rights. Rhode Island became the only state in the nation to postpone its senatorial elections while the legislature created a constitutionally acceptable plan.

Based on its study, as well as increasing public awareness of the importance of redistricting, the Advisory Committee is convinced that improvements are possible, and that this report, in addition to informing the Commission, will contribute to informed debate.

Respectfully,

DAVID H. SHOLES, Chairperson
Rhode Island Advisory Committee

LESTER E. HILTON, Chairperson
Political Participation
Sub-Committee

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The Rhode Island Advisory Committee wishes to thank the staff of the Commission's New England Regional Office for its help in the preparation of this report.

The report was the principal assignment of David Harris, with the assistance of Joseph R. Ferri, Lawrence Reidman and Mary Lee Walsh and support from Sylvia Cooper and Deloris Capehart. The project was undertaken under the overall supervision of Jacob Schlitt, Director, New England Regional Office.

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INTRODUCTION

Throughout its history, the U.S. Commission on Civil Rights has taken a special interest in the protection of voting rights. This interest reflects the Commission's mandate to "investigate allegations...that certain citizens of the United States are being deprived of their right to vote and have that vote counted by reason of their color, race, religion, sex, age, handicap, or national origin."¹ The Commission's interest has been manifested by a number of studies over the years, including its 1981 publication, The Voting Rights Act: Unfulfilled Goals.² The Rhode Island and other Advisory Committees to the U.S. Commission on Civil Rights have shared this concern and in 1980, the Rhode Island Advisory Committee informed the Commission of allegations that a Rhode Island redistricting bill passed by the general assembly could have the effect of diluting the voting strength of Providence's black citizens.³

The 1980 "gerrymander," as it was commonly known, would have changed the lines in three South Providence districts containing the bulk of the city's minority population. Although the attempt ultimately failed, it created enough concern that the Rhode Island Advisory Committee co-sponsored a forum, "Voting Rights and Reapportionment," in October 1981. The forum was designed to provide the public with an understanding of the Voting Rights Act of

1965⁴ and to prepare the public for participation in the redistricting of the state's legislature following the 1980 census.

The sponsors of the forum solicited opinions concerning the possibility that changes made in the 100 house and 50 senate districts would dilute the voting strength of the state's minority population. The forum was timed to focus attention on the need for an informed and open process. Following the forum, the Advisory Committee decided to monitor the activities of the legislature's Reapportionment Commission, the group responsible for developing a redistricting plan, with a focus on the attention paid to minority group voting rights.

This report presents the results of the Advisory Committee's monitoring effort and includes a review of Rhode Island Reapportionment Commission documents as well as interviews with some 22 persons either involved in or knowledgeable about the reapportionment process. While the sample of persons interviewed is not exhaustive, it is representative of three major groups: citizens' groups and persons who participated in the public forums; the Reapportionment Commission and its staff; and persons involved in the debate surrounding the redistricting plans.

The discussions covered four major areas: The respondents' involvement in and understanding of the redistricting process; the

strengths and weaknesses of the process as it unfolded; what changes, if any, respondents recommend for future redistricting; and the attention given to the needs and interests of minority voters. As is apparent from these topics, it should be clear that the report evaluates the process and not the plan finally enacted and implemented.

Historically, minority group voters have had limited access to a political process which has provided them with only limited voice and representation. The Advisory Committee's decision to study the process of redistricting is based on its concern for increasing the political participation of minority residents. The concern is not with actual election results, but proceeds from a recognition that representative democracy requires total access to several levels of political activity. Redistricting, the process of determining the actual configurations of political jurisdictions, is clearly of signal importance in this regard.

As will become clear in the following pages, the Advisory Committee's effort to monitor the redistricting process was complicated by certain practices of the Reapportionment Commission. During its monitoring, it also became clear that it is difficult to separate the general problems of the redistricting effort from the specific problem of minority group participation in that effort.

As it unfolded, the redistricting process in Rhode Island presented a mixture of promise and problems. Our interviews, for the most part, suggest that while the promise was for an open process and one especially fine-tuned to avoid the dilution of minority voting rights, problems resulted from the retention of certain practices from the past which served to exclude the public, and as such, diminish promised sensitivity to minority group interests.

The report is divided into seven sections. The first chapter provides a historical overview of redistricting in Rhode Island. The second chapter outlines important national and legal developments affecting redistricting in the past twenty years. A summary of the redistricting process as it unfolded in Rhode Island in 1982 is contained in the third chapter. The fourth chapter reports the assessments of the process by the interviewees. In the fifth chapter the views of interviewees on the prospects for change in the future are provided, while the sixth chapter places Rhode Island's 1982 experience in a national perspective. The final chapter provides a summary of our research and suggestions for continued dialogue.

NOTES TO INTRODUCTION

1. 42 U.S.C.A. Sec. 1975c (a)(1)(Supp. 1986).
2. See, e.g., U.S. Commission on Civil Rights: Political Participation (1968); The Voting Rights Act: Ten Years After (1975).
3. New England Regional Office to the U.S. Commission on Civil Rights "Briefing Memorandum -- Redistricting in Rhode Island," August 12, 1980.
4. 42 U.S.C.A. Secs. 1971, 1973-1973bb-1 (1981 & Supp. 1986).

Chapter I

Background and Overview

Rhode Island's polity has been characterized by voting restrictions dating back to the colonial era. It was not until a threatened rebellion known as Dorr's War in 1842 that property requirements were lifted and not until 1888 that immigrants were granted the franchise (in Providence, non-propertied persons could not vote for city councilors until 1928).

The history of Rhode Island state government is colorful indeed. As one historian has noted:

A certain amount of bitterness in the politics of any of our states can be anticipated, but bitterness backed up with nearly or actually rebellious force is hardly customary. Yet such extremes are endemic in Rhode Island [politics]. True, there has been only one armed attempt at a coup d'etat -- and that unsuccessful -- but near coups and violent rangling have characterized the state's politics. Riots, exile, legislative fistfights, stolen elections, disregard for the spirit and letter of the constitution -- all these and more have been features of Rhode Island's political history.¹

Another historian characterized Rhode Island's early political system, in which Protestant Yankees attempted to maintain power in the face of a huge influx of foreign immigrants, as the "most restrictive voting system outside the old South, a rotten borough system...so egregious that in 1900, 28 of the smallest towns and cities, representing a scant 18 percent of the state's population, elected 28 state senators, a majority of nine."²

Apportionment in Rhode Island

Reform began with the passage of two amendments to the state constitution. Article XIII, passed in 1909, established the size of the house of representatives at 100 members "constituted on the basis of population," with each town and city "entitled to at least one member;" and no such jurisdiction "shall have more than one-fourth of the whole number of members." The amendment provides that the general assembly "may...reapportion the representation" following "any new census" conducted by the United States and requires the legislature to "divide each town and city into as many districts as it is entitled to representatives." The amendment granted authority for the general assembly to re-draw districts "as occasion may require." Finally, the amendment stipulates that the "districts shall be as nearly equal in population and as compact in territory as possible."³

Article XIX of the Rhode Island Constitution was passed in 1928 and ushered in similar reforms for the senate. This amendment stipulates that the senate consist of one senator from each city and town, "provided, however, that any town or city having more than twenty-five thousand electors shall be entitled to an additional senator for each additional twenty-five thousand qualified electors." This amendment originally placed a limit of six senators on any single city or town and required multi-member cities to divide into districts. Unlike the house, however, redistricting of the senate is permitted "after any presidential election." The

same population equality and territorial compactness requirements apply to senate districts.⁴ In both cases, the amendments call for immediate action by the general assembly but the redistricting took 21 and 12 years for the house and senate, respectively.

Prior to 1962, Rhode Island's legislative districts were among the Nation's oldest and the state was one of only five with no formal requirement for regularly scheduled reapportionment. The last full reapportionment for the house occurred in 1930 and for the senate in 1940. In 1962 it was calculated that to elect a majority in the Rhode Island Senate required only 18.1 percent of the vote. At the time only eight other states had upper chambers requiring smaller percentages to gain control.⁵ The Rhode Island General Assembly had not been completely redistricted for three decades and senate districts in 1962 ranged in population from 486 to 47,080 persons, while house districts ranged from 486 to 18,977.

Neal Peirce proclaimed that by 1976 "well over half the present-day inhabitants of Rhode Island were not even born when the state last elected a Republican to Congress (in 1938)."⁶ Duane Lockard's earlier study of politics in New England had found that despite definite control of the legislature by the Democratic Party, "thanks to the warped reapportionment of the Rhode Island General Assembly, the Republicans are rarely left out of the policy-formation process...[and] both the legislature and campaigns reflect an atmosphere of competition between the parties that is

utterly unlike the processes of the one-party state."⁷

To be sure, recent events underscored Lockard's observation. Not only is the state's Washington delegation evenly split between the two parties (with one senator and representative for each party), but the 1983 special senate election saw the Republican Party make considerable gains. The Republicans gained 14 seats in that election and their continued strength in local elections also discounts claims that Rhode Island is a one-party state. Although the party experienced some losses in the 1984 senate, Republicans elected the Governor (with a Democratic Lieutenant Governor) and attorney general, and re-elected the secretary of state.

Historical Context: Ethnicity and Race

Rhode Island, the smallest state in the Union, is also the third most densely populated and second most urbanized state. It ranks among the most Catholic and ethnic, as well. Although it may be an oversimplification to identify the state's Democratic Party with its considerable "ethnic" population, the party's ascendancy was facilitated largely by its ability to attract successive waves of Irish, French-Canadian, Italian, Polish, Portuguese and, eventually, black voters. Indeed, ethnicity appears to remain a critical element in the distribution of political power in Rhode Island.

Although much attention is focussed on partisan differences, a candidate's ethnicity may be as critical in determining chances as party affiliation. As Peirce notes, "[t]he Democrats' secret of success has been a careful balancing of their statewide tickets...among Irish, Italian, French-Canadian and Yankee [candidates]."⁸ Such a balanced approach seems like a reasonable tactic given the 1980 census data on Rhode Island's ethnic self-identification (See Table I)

Table I
1980 Ancestry Group Self-Identification

	<u>At Least One Ancestry Group(%)</u>	<u>Single Ancestry Group(%)</u>
TOTAL	858,187*	547,984
Irish	210,950(24.6)	71,816 (13.1)
English	194,386(22.7)	72,365 (13.2)
French/Fr. Can.	206,540(24.1)	99,186 (18.1)
Italian	185,080(21.6)	118,966 (21.7)
Portuguese	90,046(10.5)	61,756 (11.3)
German	62,435(7.3)	14,011 (2.6)
Polish	42,713(5.0)	18,294 (3.3)
Scottish	37,997(4.4)	6,670 (1.2)
Swedish	21,276(2.5)	6,530 (1.2)
Afro-American	19,064(2.2)	16,978 (3.1)
Spanish**	13,938(2.0)	10,514 (2.0)
Native American	10,845(1.3)	2,918 (0.5)

*The total figure includes all those who responded with either a single or multiple ancestry. Many respondents included more than one group and therefore these figures add to more than the total shown here.

**"Spanish" includes those persons reporting specific Spanish-speaking countries and those who responded "Spanish" or "Hispanic."

SOURCE: U.S., Department of Commerce, Bureau of the Census,
Ancestry of the Population by State: 1980.

Although the waves of immigrants and their offspring contributed to the growth of Providence's population and the Democratic Party's success, recent population trends have been characterized by the growth of the state's racial minority population. This population is anchored in a black citizenry which dates to the colonial origins of the state. The census of 1790 recorded 4,000 Negroes in Rhode Island. The black population of the state hovered around 4,000 until 1870 when it grew to 5,000. It grew by about a thousand each decade until it reached 9,052 in 1900. Unlike other migrant groups, this population did not grow much during the early decades of the century and by 1920 it had reached only 10,036.

Table II
Black Population of Rhode Island
1920-1980

	<u>Population (%)</u>	<u>% Change</u>
1920	10,036 (1.7)	
1930	9,913 (1.4)	-1.3
1940	11,024 (1.5)	11.2
1950	13,903 (1.8)	26.1
1960	18,332 (2.1)	31.9
1970	25,338 (2.7)	38.2
1980	27,584 (2.9)	8.9
1920-1980	+ 17,548	175.0

SOURCE: U.S., Department of Commerce, Bureau of the Census, General Population Characteristics: 1980.

As Table II shows, the state's black population did not show much growth until the decade of the 1930s. Since 1940, however, the state's black population growth has far surpassed the

state's overall growth rate. While Rhode Island's population increased by 57 percent between 1920 and 1980, its black population has grown by 175 percent over the same 60 years.

The black population of Providence is also growing in both relative and absolute terms. Though the number of blacks declined from 1920 to 1930, it has increased every decade since then. (See Table III)

Table III

Blacks in Providence 1920-1980

	<u>Population (% change)</u>	<u>% of Providence</u>	<u>% of State's Blacks</u>
1920	5,655 --	2.4	56.3
1930	5,473(-3.2)	2.2	55.2
1940	5,388(16.7)	2.5	57.9
1950	8,304(30.0)	3.3	59.7
1960	11,153(34.3)	5.4	60.8
1970	15,875(42.3)	8.9	62.7
1980	18,546(16.8)	11.8	67.2
1920-1980	+12,891		

SOURCE: , U.S., Department of Commerce, Bureau of the Census,
General Population Characteristics: 1980.

From 1940 to 1970 the rate of growth itself increased each decade (from 16.7 percent increase between 1930 and 1940 to 42.3 percent increase between 1960 and 1970). While the city's total population declined between 1970 and 1980, the black population grew at a rate of 16.8 percent and continued to grow as a proportion of

the total. Perhaps more significant is the continued rise in the percentage of the state's black population which resides in Providence: over two thirds (67.2 percent) of the state's blacks now live in the capital.

As Brown University professor Ben Clough wrote in the foreword to Irving Bartlett's From Slave to Citizen: The Story of the Negro in Rhode Island: "In some ways the history of the Negro in Rhode Island is an epitome of the history of the Negro in America; in others, it is a story apart."⁹ Bartlett has captured the ambiguity and irony of this history: "It is significant that Roger Williams, more devoted to the cause of freedom than any other New Englander of his time, should have seen fit to sanction the selling of human beings into slavery."¹⁰

Indeed, as Bartlett reports, "by 1723 participation in the slave trade accounted for such an important part of Rhode Island's commercial life that she was able to remit forty thousand pounds sterling annually to Britain in taxes."¹¹ Although the trade was initially centered in Newport, James Brown's first such venture in 1736 expanded the traffic to include Providence and "many of the colony's first families began to draw their wealth from it."¹² By 1730 there were 1,648 Negroes in the state and "by 1755 there were 4,697 Negroes in Rhode Island, amounting to more than eleven percent of the total population of the colony."¹³ This percentage far surpassed any of the other New England colonies.

Although slavery flourished in early Rhode Island, several prominent colonists experienced the conflict between the practice of slavery and their religious beliefs. Thomas Hazard, the son of one of the state's largest slave owners, rebuked slave ownership in 1742. Some twenty years later, Moses Brown, a one time participant and significant beneficiary of the slave trade, reported a vision which instructed him to free his remaining human holdings.

Both men became avid abolitionists along with many Quaker colonists, whose leaders frequently reminded followers of the inconsistency of slavery with their beliefs. While abolitionists presented arguments of inalienable rights, not until enough slaves to form a separate regiment joined Rhode Island's contingent of revolutionary forces did Rhode Islanders pass a bill which freed any children born after March 1, 1784.¹⁴

In 1787 another bill was passed prohibiting the slave trade itself in the new state.¹⁵ Bartlett reports that in the ensuing decades blacks established a set of institutions and a community which "revealed that they were prepared to take an active role in community affairs [and] by 1841 the colored community represented a force for which rival politicians were forced to compete."¹⁶ The competition arose amidst the state's most famous 19th century event, the controversy over the extension of the franchise which culminated in Dorr's Rebellion.

The controversy arose when the "suffragist" party called a constitutional convention and drafted a proposed document which extended the franchise to white adult males. The debate at the convention included a plea to strike the word "white," thereby effectively enfranchising blacks, as well as non-propertied white males. The plea was not heeded, and the "white" constitution was approved by the voters.

Shortly after approval, the "legalists," still in control of the government, refused to recognize the suffragists' document but called a convention of their own and drafted a similar "white" constitution. The voters rejected this proposal and the suffragists proceeded to conduct an election of officers under their previously approved constitution. The legalists called out the militia and quickly smothered the "rebellion" known as Dorr's War. Many blacks sided with the legalists and it was estimated that "over two hundred Negroes in Providence alone enlisted in the militia."¹⁷

The legalists conducted new elections and shortly thereafter introduced a measure which extended the franchise to blacks. Although the measure was approved, as Bartlett reports, "[t]he constitution was eagerly accepted by the colored citizens who voted for it in great numbers. A less happy result for the Negroes was the increased hostility of the members of the defeated party."¹⁸

The extension of the franchise to blacks suggests the "footnote" status of blacks in Rhode Island. It also indicates the pragmatism

and political expedience with which their interests have been treated. The failure of the suffragists to include blacks was based on a fear that to do so would cost votes, a fear which took precedence over the more consistent stand to include a demand for total male enfranchisement (extending the franchise to women received even less consideration and would wait many more years). After the struggle between two competing groups of whites had been settled, the franchise was extended to blacks. It was a reward for loyalty at best and an afterthought at worst.

The growth of the black population in the 1930s coincided with the ascendancy of the Democratic Party. The importance of black voters in the newly defined Providence representative districts took on a new light. Prior to reforms, when legislative elections were held "at-large," the relatively small number of black votes did not have much effect. With individual districts, however, blacks became a factor in legislative politics.

Long-time black political activist B. Albert Ford provides a glimpse of the '30s:

Almost all of our people had to leave town in order to get a job. They couldn't work here [in Providence] except as a janitor or an elevator operator. But during this period of time, the Democrats, they came first to Dixie [Matthews] and asked him if he would be willing to work with the Democratic Party and if they got in, they would see that he got a job. So, he came talking to me about whether we should or shouldn't, so we went and we decided that we would and what would be our first key votes.

We came home and told our parents and he almost got put out of his house and I almost got put out of mine. They could not conceive of any black wanting to be a Democrat...[W]e started block by block, house to house to go in to try to talk to black people to get them to try to see the Democratic Party, the Democratic vote. We had doors slammed in our faces and were told to get out, were called "young whippersnappers," that we didn't know what we were doing, that we ought to be ashamed of ourselves out there talking to the Democrats.¹⁹

However, Ford, Matthews, and others succeeded in generating considerable support for Democratic candidates among Providence's black voters and, according to Ford, the party kept its promise. Blacks began to receive jobs. This successful patronage system, coupled with a nationwide shift among black voters to the New Deal coalitions built by the Democrats, served to solidify black support of the party. Today, black Rhode Islanders appear to be among the Democratic Party's most faithful supporters. In fact, in the special 1983 senate election when Republicans gained 14 new seats, blacks in South Providence elected the first black, a Democrat, to the Rhode Island Senate. Although Democratic Party tickets show a remarkable tendency toward ethnic balance, there has been only one black candidate for statewide office, an unsuccessful Republican candidate for state treasurer in 1974.²⁰

1980 "Gerrymander"

On the last day of its 1980 session the general assembly passed a bill which changed the district lines of three Providence senate and one Cranston house districts. Three of the districts affected

contained a substantial number of black voters in South Providence. Most observers familiar with the legislation agree that it was intended largely as a matter of political expediency; that it was a classic "gerrymander" designed to "protect the turf" of certain incumbent legislators.²¹ After pressure from black residents of Providence, the Governor reconvened the general assembly to reconsider the legislation, but without satisfactory results. The entire measure was repealed only when the Governor reconvened the general assembly a second time after black community leaders had rejected a modified version of the bill.

Despite the political nature of the change, it was justified by some in terms of population shifts. Some blacks, including Ford, believed that given these population trends, the gerrymander would have been beneficial to blacks in the long run. The argument was that although the change was designed for the benefit of incumbent office holders, the new districts would become increasingly dominated by minority populations in the decade of the 1980s.

Other concerned groups were distressed by the procedural deficiencies surrounding the 1980 episode. There had been no public debate on the matter and residents were not advised of the change. The bill was passed without committee hearings or debate. The changes were made without concrete supporting data. The 1980 census had just been conducted and it was not yet possible to verify the claimed population shifts.

The transfer of a large bloc of black voters under this special redistricting simply went unnoticed by the legislators and the Governor. This action repeated the pattern: the political fate of black Rhode Islanders was again treated as an afterthought, despite several decades of loyalty to the party in power.

1981 Forum on Voting Rights and Redistricting

In January of 1981, the Rhode Island Advisory Committee participated in a meeting with several organizations to discuss the upcoming redistricting. Participants were concerned that there would again be limited public participation in the process, particularly by minority voters, and planned a forum for the fall. The Advisory Committee sought to ensure that minority voters did not suffer "unintentional" negative effects from the statewide redistricting. The Committee and other forum sponsors believed that providing an open forum as early in the process as possible might both forewarn the Reapportionment Commission that its activities were being followed and establish the basis for open discussion.

The forum drew over 100 persons and began with a keynote address by Mary Frances Berry, then Vice Chair of the U.S. Commission on Civil Rights, and presentations by John Holmes, Chairman of the state's Republican Party; Rep. Victoria Lederberg (D.-Providence), Vice Chair of the state's Democratic Party; and Representative Joseph DeAngelis (D-Smithfield), a member of the Reapportionment Commission.

Their remarks served to underscore a point repeated throughout the Advisory Committee study: redistricting is a political process, though all expressed the hope that it would be a fair and open process. Rep. DeAngelis provided background on reapportionment and the process which the Commission intended to follow. He reported that the Reapportionment Commission had met only once, but observed that:

I don't think there's anybody in political life in 1981 who is going to argue that many games can be played in the old boiler room scenes and smoke-filled rooms [or that] the closed conferences will decide what's going to happen to the political apportionment process. [However] meetings of constituted bodies of commissions of the general assembly in the state are governed by the Open Meetings Law and I expect they will continue to be.²²

DeAngelis also indicated that the Reapportionment Commission would conduct public hearings over the following month in five locations across the state and expressed his belief that this would provide the most open redistricting process in Rhode Island history.

During the question period, several members of the audience referred to the 1980 gerrymander. Rep. DeAngelis responded:

I personally don't believe...there was any intent on the part of any elected official or on the part of the leadership of either branch of the general assembly to disenfranchise black or minority voters. That was strictly, pure and simply a political decision; it was made to disenfranchise, frankly, a dissident Democrat -- but without intent to disenfranchise minorities.

I can't give you any assurances that it's not going to happen some time in the future; I'm going to do everything I can possibly do to make certain that it

doesn't happen in 1982. It certainly was a lesson well-learned and hopefully it will be avoided not only in 1982 but in '92.²³

When asked later whether particular efforts were being made to avoid any future "unintentional" dilution of minority voting strength or political participation, DeAngelis replied:

I can assure you that we intend to reach out to the various minority groups to seek their input; not only because we feel it is the right thing to do, but because we want to avoid any problems as we had last year [1980] with respect to those issues. Many times sitting as a Reapportionment Commission[,],...coming from an area you're not familiar with...you might make a decision involving streets or blocks which could tend to disenfranchise certain areas. I can assure you that we have been advised by professionals that we have sought assistance from, to reach out to those groups who are active in those areas and to seek their input whether through the public hearing process or otherwise.²⁴

Questions were raised about the commission's ability and desire to consider input from the public. Many were surprised to learn that the commission had met only once and audience members doubted that it would be able to complete its work by its legal deadline, January 15, 1982.

As events would bear out, both concerns -- input and the Commission's timetable -- would become major areas of controversy for the 1982 reapportionment plan.

Notes to Chapter I

1. Duane Lockard, New England State Politics, (Princeton: Princeton University Press, 1979), p. 190.
2. Neal R. Peirce, "Rhode Island: 'City State' and Ethnic Laboratory" in The New England States, (New York : W.W. Norton & Co., 1976), p. 147.
3. R.I. Const., Art. XIII (1909).
4. R.I. Const., Art. XIX (1928).
5. National Municipal League. "Compendium on Legislative Apportionment," January, 1962 (second edition), p. 1.
6. Peirce, p. 149.
7. Lockard, pp. 177-178.
8. Peirce, p. 152.
9. Ben Clough, "Forward" in From Slave to Citizen: The Story of the Negro in Rhode Island, (Providence, R.I.: The Urban League, 1954), p. i.
10. Irving Bartlett, From Slave to Citizen: The Story of the Negro in Rhode Island, (Providence, R.I.: The Urban League, 1954), p. 2.
11. Ibid., p. 5.
12. Ibid., p. 7.
13. Ibid., p. 9.
14. Ibid., p. 21.
15. Ibid., p. 21.
16. Ibid., p. 21.
17. Ibid., p. 42.
18. Ibid., p. 42.
19. B. Albert Ford, interview in Providence, Rhode Island, June 15, 1983.
20. There have been two blacks in the house for the past decade since Peter Coelho became the first elected in 1967.

21. Brian C. Jones, "'Gerrymandering' was Meant to Help," Providence Journal, June 2, 1980, p. 1.
22. Joseph DeAngelis, comments to the forum on "Voting Rights and Redistricting," October 5, 1981, Providence, R.I. (cited hereafter as DeAngelis Comments).
23. Ibid.
24. Ibid.

Chapter II

REAPPORTIONMENT AND THE ART OF DRAWING DISTRICTS

Apportionment is the process by which representative districts are distributed among jurisdictions, and reapportionment refers to the redistribution of these districts in light of population shifts. This process takes place on the national level for the 435 members of the House of Representatives every ten years. Redistricting, on the other hand, means the redrawing of the lines to reflect internal shifts in population after the total number of seats has been apportioned. While the two terms are often used interchangeably, the focus of this report is on the Rhode Island General Assembly, with a fixed number of seats, and is most properly understood as redistricting.

The "Reapportionment Revolution"

Although the periodic apportionment of U.S. Congressional districts among the States is mandated by the U.S. Constitution¹ and is the original purpose of the Nation's decennial census of population, the process by which districts are formed has only recently become a prominent and regular feature of political activity. This change, dubbed the "Reapportionment Revolution," was ushered in by a series of U.S. Supreme Court decisions in the 1960s which established the principle of "one person, one vote" as the

constitutional imperative for Federal, state and local representative bodies.²

Put simply, the Court ruled that all citizens are constitutionally entitled to equal representation by elected officials. Legislative districts containing substantially different numbers of voters have the effect of giving differential weight to individual votes cast. For instance, if legislative districts A and B contain 10 and 20 voters respectively, while legislators A and B both have one vote each in the legislative body, a voter in district A would have twice as much voice as a voter in district B. Looked at another way, each ballot cast in district A would represent one-tenth of a legislative vote while a ballot cast in district B would represent one-twentieth of a legislative vote. The defect in such an instance, known as malapportionment, is that voters are unequally represented, not totally unrepresented.

Although today the logic of "one person, one vote" and its consistency with basic principles of American democracy are taken for granted, the Court's landmark decisions of the early 1960s reversed a longstanding policy of refusing to enter the "political thicket" of redistricting issues. As recently as 1946, Supreme Court Justice Felix Frankfurter had written that such Court involvement in "the politics of the people" was "hostile to the democratic system."³

Citing the equal protection clause of the Fourteenth Amendment,

and over the strenuous dissent of Justice Frankfurter, the Court ruled in Baker v. Carr⁴ in 1962 that legislative and congressional malapportionment were justiciable. The Baker decision involved a case brought against the State of Tennessee, whose legislature at the time contained districts which ranged in size from 2,340 to 42,298 and had not been adjusted since 1901 despite a state constitutional requirement for decennial redistricting.

Writing for the majority in Baker, Justice William Brennan noted that "the mere fact that the suit seeks protection of a political right does not mean that it presents a political question" to be avoided by the judiciary.⁵ In his dissenting opinion, Justice Frankfurter warned that the decision "catapults the lower courts... [toward a] mathematical quagmire" and he repeated his earlier admonition that relief for "political mischief" should be sought from "an informed, civically militant electorate."⁶

In 1963 the Court ruled that a county-unit basis for Georgia state office nominations was unconstitutional because residents in smaller, rural counties wielded relatively more influence than residents in more densely populated urban based counties.⁷ By 1964 when the Court ruled in Wesberry v. Sanders, Justice Black's opinion noted that "while it may not be possible to draw Congressional districts with mathematical precision, that is no excuse for ignoring our Constitution's plain objective of making equal representation for equal numbers of people the fundamental goal for the House of Representatives."⁸

As noted in the preceding chapter, blatant malapportionment characterized the Rhode Island General Assembly well into the twentieth century. Although malapportionment characterized the legislatures in many states through the middle of the twentieth century, overcoming its pervasive and intentional use in the South has linked the reapportionment revolution of the Sixties with the civil rights movement begun in the Fifties.

This linkage became most apparent with the passage of the Voting Rights Act of 1965.⁹ Its special provisions require certain jurisdictions which meet conditions spelled out in the act to submit any proposed changes in laws, practices or procedures affecting districting plans to the Justice Department for approval before making any such changes. Although the majority of jurisdictions covered by the special provisions of the Voting Rights Act are in the South, there were also covered jurisdictions in other states. Section 4 of the Act provides that the "trigger" for coverage by the Act's special provisions is the combination of tests and devices employed as prerequisites to voting and relatively low percentages of registration or voting in presidential elections.¹⁰

Although no jurisdiction in Rhode Island is covered by the special provisions, it, like all other states, is required to comply with general provisions prohibiting the imposition of any voting qualification or establishing any standard, practice or procedure which results in the abridgement of the right of any citizen to vote on account of race or color.¹¹ Rhode Island is also subject to the Fifteenth Amendment, which guarantees to citizens of all states that

the right to vote shall not be abridged or denied because of race, color, or "previous condition of servitude."¹² Thus, it is incumbent on redistricting authorities to be particularly attentive to the voting rights of minority citizens.

According to one scholar, while the problem of blatant malapportionment addressed by the Supreme Court in the 1960s was "corrected" in less than three years and the courts did not sink into Frankfurter's feared quagmire, the "reapportionment-redistricting revolution quickly transcended its origin."¹³ Though the consensus among political scientists and jurists is that both lower courts and the Supreme Court are moving toward more stringent population equality requirements, these requirements are not inflexible. Hence:

In applying the "one man, one vote" principle during the 1960's, the Court concentrated most of its energies on elucidating the exact degree of population equality which it would require for districts at the various jurisdictional levels. It applied the most rigid standards of equality to congressional districts (Kirkpatrick v. Preisler) and more lenient standards for state and local districts (Mahan v. Howell, Abate v. Mundt). By concentrating on these questions of numerical equality, however, the Court virtually ignored the many knotty questions which were raised by its decisions. . . [T]he Court assumed that equal population was synonymous with "fair and effective representation" (a phrase articulated by Chief Justice Warren in Reynolds). Apart from numerical equality, the only criteria for representation schemes considered by the Court were the preservation of political subdivisions and the compactness and contiguity of territory. These criteria, however, were overshadowed in importance by the court's stress on exact population equality.¹⁴

By the 1970s when the "good government" organization, Common Cause, published its study, "Toward a System of 'Fair and Effective Representation,'" the national situation had shifted dramatically. All fifty states had redistricted their legislatures following the 1970 census. Rhode Island was one of 11 states at the time which had state senate districts with deviations greater than 10 percent (the combined percentage above and below the average of the largest and smallest districts), and was one of seven states with house districts exhibiting this level of deviation.¹⁵

By 1981, the "one person, one vote" principle was so widely accepted that it "had become something of a moral platitude...[and] the Court tentatively began to acknowledge that fair and effective representation for minority groups (Blacks and Hispanics) might not automatically be realized simply through the formula of equal population districts."¹⁶ Aside from specific concerns about minority political participation, the courts also began to ponder how "the goal of fair and effective representation might be tied to the way that political parties are represented."¹⁷

Although the courts have confronted questions concerning "fair and effective representation," the decisions on this issue -- as on the exact level of deviation allowable in legislative apportionments -- have not been definitive. The resulting uncertainty led to a prediction that:

[I]n the 1980s questions of interest to jurists and scholars alike will be much more complex than those raised in previous periods. They will include both normative and empirical questions relating to minority representation, political party representation as a function of type of election system and of sophisticated political gerrymandering, structural issues such as choice of an appropriate group to design reapportionment schemes, the appropriate role of the courts, and data-based issues concerning the accuracy of census statistics.¹⁸

The Art of "Gerrymandering:"

In 1812, Massachusetts Governor Elbridge Gerry presided over the creation of districts for the state's legislature. These districts were so strangely shaped and convoluted that a political cartoonist discerned in the shape of one district the figure of a salamander. The artist's caricature and Governor Gerry's name have been permanently joined as "gerrymander," to denote the drawing of lines according to political interests.

1. Forms of Gerrymandering

Ironically, increased opportunity for "political mischief" such as gerrymandering has accompanied the movement toward population equality as the yardstick for measuring apportionment plans. Three basic gerrymandering strategies have been identified: partisan, bipartisan and targeted. Although there are surely "pure" examples of these types, most state redistricting efforts exhibit a mixture of these tendencies. Observers of Rhode Island, for example, might have discerned any of the three at work in 1982.

The original 1812 gerrymander is the best example of a partisan redistricting type. The primary purpose of such plans is to assure that a majority of districts each contain a majority of voters belonging to or believed sympathetic to the party in power. Partisan gerrymandering is based on the age-old adage that "to the victors belong the spoils," with winners shifting lines as needed to preserve their political interests. This characterized the legislative districts of most states, including Rhode Island, prior to Baker v. Carr.

According to observers, purely partisan gerrymandering is being replaced by bipartisan gerrymanders, in which "[s]ometimes the majority party will cut a deal with the minority to protect incumbents of both parties. Bipartisan gerrymandering seeks to increase the strength of the incumbent or majority party in each district."¹⁹

Common Cause also noted that "political gerrymandering is often a weapon in intraparty disputes," yielding a third type of gerrymandering known as "targetting." Targetted gerrymanders share some characteristics with the bipartisan form, but in this third strategy there is "an attempt to insure the defeat at the polls of a particular legislator or group of legislators, or the attempt to insure that a specific racial, ethnic, social or partisan group will go unrepresented or underrepresented in the legislature or Congress."²⁰

Minority rights to meaningful participation in the political process can conflict with the political interests or agendas of political parties or particular incumbents, with the result that minority rights may be harmed as a side effect of political strife and maneuvering associated with various forms of gerrymandering. Consequently, in extending the Voting Rights Act of 1965,²¹ Congress amended Section 2²² to establish a "results test," applicable nationwide, independent of "trigger" provisions of Section 4. By this, a violation of voting rights could be shown by the discriminatory effects of a plan, without the requirement of showing discriminatory intent. In many instances, the effects of various plans on minorities are very subtle.

2. Gerrymandering as a Racial Problem and its Remedy

The racial gerrymander represents an additional form of "political mischief." Such occurrences generally take one of two forms: either "packing" minority voters in a few districts or spreading minority populations across many districts and hence "diluting" their strength. In discussing legal issues associated with redistricting, Harvard University law professor Laurence Tribe has noted that "[t]he most fundamental inquiry...is whether drawing district lines with an eye to the characteristics of the voters they embrace is objectionable."²³ According to Tribe, "[t]he answer seems to be that sometimes it is and sometimes it is not."²⁴ Judging from the Supreme Court's performance to date, consideration of the racial composition of districts appears to be an acceptable

means of assessing redistricting schemes.

The Supreme Court's most important decision regarding the effects of redistricting on minority voters was rendered in the case of United Jewish Organizations of Williamsburg v. Carey in 1977.²⁵ Williamsburg arose from a Justice Department review, conducted under Section 5 of the Voting Rights Act, which concluded that the lines as drawn had unintentionally but impermissibly concentrated blacks and Hispanics in certain Brooklyn and Manhattan districts. The fact that minority representatives were likely to be elected from certain districts could not save an overall arrangement where such minority strength was confined to the smallest number of districts possible. Minority voting strength in an adjoining district, including Williamsburg, had been diluted. The Justice Department ordered the lines redrawn, effectively establishing minority "control" of the district.²⁶

In a claim that was the mirror image of the objection raised by blacks and Hispanics, Jewish residents of Williamsburg argued in a suit that the edict created illegal district lines because the explicit attempt to create two predominantly minority districts of over 65 percent effectively destroyed the political integrity of a Chasidic community. The Court majority ruled against the claim:

[N]either the Fourteenth nor the Fifteenth Amendment mandates any per se rule against using racial factors in districting and apportionment. . . .

Moreover, in the process of drawing black majority districts in order to comply with Section 5 [of the Voting Rights Act], the state must decide how substantial those majorities must be. . . .

. . .Because. . ., the inquiry under Section 5 focuses ultimately on 'the position of racial minorities with respect to their effective exercise of the electoral franchise'. . .the percentage of eligible voters by district is of great importance to that inquiry.²⁷

One critic of Williamsburg claims, however, that the decision means that "in effect, the legislature was told that it must not merely avoid efforts to minimize minority representation, but that it was required to take positive actions to maximize the number of minority representatives."²⁸

Supreme Court Chief Justice Warren Burger disagreed with the Court's findings in Williamsburg, and in a dissenting opinion argued that the Court's earlier decision in Gomillion v. Lightfoot²⁹ had taught that:

[D]rawing of political boundary lines with the sole, explicit objective of reaching a predetermined racial result cannot ordinarily be squared with the Constitution. . . .

. . . .

If districts have been drawn in a racially biased manner in the past (which the record does not show to have been the case here), the proper remedy is to reapportion along neutral lines. Manipulating the racial composition of electoral districts to assure one minority or another its 'deserved' representation will not promote the goal of a racially neutral legislature.³⁰

When Congress last amended the Voting Rights Act, it included language which prohibits interpretations of Section 2(b) as establishing a right to proportional representation.³¹

3. Neutral Principles and their Limits

Unfortunately, racial neutrality seems to depend heavily on

political neutrality, which is a rare and fragile condition. Armand Derfner writes that recent efforts to "neutralize" the process "come up against the reality that reapportionment is an inherently political process, and even though there have been some encouraging experiences with reapportionment commissions, it is still undoubtedly wishful to think that the process can be squeezed dry of politics and prejudice."³²

The Williamsburg case arose as the result of a Justice Department review mandated under terms of the special provisions of the Voting Rights Act.³³ Rhode Island is not covered by these provisions and thus alterations in its voting processes and procedures are not subject to preclearance by the Justice Department. The Advisory Committee believes, however, that the criteria for such reviews articulated by former Assistant Attorney General for Civil Rights Drew Days provide a useful framework for considering minority participation in the electoral process. According to Days, "[w]e find that the consideration given to minorities and the role played by minorities in shaping a redistricting or reapportionment plan goes further than any other single factor in assisting us in determining whether minorities have a fair opportunity for an effective vote under the plan."³⁴

Days adds that other factors used in department reviews include:

--stated reasons for the shape and location of proposed districts;

--situation of minorities in the district and commonality with other residents;

--past ability of minorities to elect candidates and influence the legislature under past plans;

--the historical discrimination of electoral or legislative policies;

--solicitation and inclusion of minority group input into the plan adopted.

The Justice Department gathers this information from interviews with "people who contributed to fashioning the plan and those who did not; statisticians and theorists, politicians and voters. In essence, the information we get is the same as the information that is available to a legislature if it is sought."³⁵

This complex of factors considered by the Justice Department during its reviews suggests that a specific result is not necessary. Rather, the remedies may focus on measures to include minorities in the process. It requires a conscious effort to explore and assess the effects of a plan on political participation by minority group members.

Some believe, however, that equitable results are less contingent on participation than on specific standards used in the process:

Perhaps the best way to make sure that whoever draws the district lines cannot do so in a manner calculated to bestow special advantages on any ethnic group or political party or partisan faction or favored candidates or geographic area, is to establish first explicit, enforceable, politically and ethnically neutral districting guidelines or groundrules. Such rules would eliminate the discretion held by those who drew the lines, and it is precisely that discretion -- that power to decide where district boundaries shall

be placed -- which is the very essence of gerrymandering.³⁶

According to Derfner, a remedy which respects only neutral factors such as contiguity, compactness and population equality is inadequate because such guidelines cannot overcome entrenched minority isolation from the political process. Isolation is the crucial indicator of a problem requiring special attention during redistricting. Among the factors which provide evidence of isolation are the following:

a pattern of racial divisiveness and bloc voting in the electorate; a fairly recent history of racial discrimination, public or private; instances of racial appeals by candidates; a showing that minority votes have little effect on the election results; the absence or weakness of a white opposition party or faction (which might compete for minority votes); a sharp rise in white turnout when minority candidates run; a relative paucity of minority candidates; and a showing that in elections involving clear racial choices the wishes of the minority voters are generally opposed and overborne by the wishes of the overall (white) electorate.³⁷

Here, as in the Justice Department procedures described by Days, isolation is a relative phenomenon. It can be evidenced by one factor alone or in varying degree by several factors. The extent of action necessary as a remedy reflects the relative isolation of the group.³⁸

The Revolution Continues

As noted earlier, the "reapportionment revolution" has effectively eliminated malapportioned state houses which pervaded

the American political landscape in the first half of the twentieth century. The idea and technical meaning of "one person, one vote" has been absorbed and implemented by the various bodies responsible for maintaining population equality as a basis of "fair and effective representation." In discussing the Commission's 1981 study, Unfulfilled Goals, Commissioner Berry noted in her remarks at the forum that "in terms of both racial and political gerrymandering, the reapportionment revolution...is an unfinished one."³⁹

Reapportionment scholar Robert Dixon, acknowledging only partial success for the "revolution," identified several "key facts" which remain troublesome: there are no neutral legislative plans; there exist an almost infinite array of plans for any population standards; and strict adherence to population standards does not necessarily produce fair and equitable results.⁴⁰

One of the unfortunate ironies of the one person, one vote principle has been that "a single-minded quest for mathematical equality of districts at the expense of some adherence to local governmental subunits carries with it the potential for extensive gerrymandering."⁴¹ This danger has been recognized by the Supreme Court and is the basis of judicial reluctance to fix a specific standard against which to measure deviations from an ideal. So long as geographical segregation of racial groups remains prevalent, any search for population equality will raise the spectre of deliberate racial line-drawing.

In the congressional districts drawn following the 1970 census, the average total deviation from the ideal was 1.61 percent. The comparable average for the states with more than one U. S. Representative following the 1980 census has been reduced to 0.66 percent. In 1980, only ten States had deviations of more than one percent while nine states, including Rhode Island, had deviations of less than 0.01 percent.⁴²

A quite different picture emerges for state legislatures. In 1970, the average deviation from the ideal for state senates was 7.20 percent and for state houses it was 8.16 percent. Not only were these deviations considerably higher than those of congressional districts, but by 1980 they had actually risen slightly to 9.09 percent and 8.33 percent for state senates and houses, respectively.⁴³

The greater deviation in state legislative districts has been explicitly tolerated by the Supreme Court:

A state may legitimately desire to maintain the integrity of various political subdivisions, insofar as possible, and provide for compact districts of contiguous territory in designing a legislative apportionment scheme. Valid considerations may underlie such aims. Indiscriminate districting, without any regard for political subdivisions or natural or historical boundary lines, may be little more than an open invitation to partisan gerrymandering.

[D]ivergences from a strict population standard...based on legitimate considerations incident to the effectuation of a rational state policy...are constitutionally permissible with respect to the apportionment of seats in either or both of the two houses of a bicameral state legislature.⁴⁴

The 1980 publication of the National Conference of State Legislatures, distributed to members at the first meeting of the Rhode Island Reapportionment Commission, includes an extensive discussion of this issue. The report notes that the Supreme Court has failed to specify what constitutes "legitimate considerations" or "rational state policy," but also notes that since 1980, "a sort of three-tiered standard seems to have evolved."⁴⁵

The courts seem disinclined to rule against plans with total deviations of under ten percent (+ or - 5 percent) "unless the challenger succeeds in raising a suspicion that the plan was not a good faith effort overall or that there is something suspect about the districts involved."⁴⁶ Plans with deviations between 10 and 16.5 percent are more likely to be scrutinized, while plans with greater deviation would be unlikely to gain court approval, barring absolute necessity.

The Court has noted the importance of "insuring some voice to political subdivisions, as political subdivisions." This is justified because

[l]ocal governmental entities are frequently charged with various responsibilities incident to the operation of state government. In many states much of the legislature's activity involves the enactment of so-called local legislation, directed only to the concerns of particular political subdivisions. And a state may legitimately desire to construct districts along political subdivision lines to deter the possibilities of gerrymandering.⁴⁷

This perception led to the ruling in Mahan v. Howell⁴⁸ allowing a Virginia General Assembly plan with a total deviation of over 16

percent. Because the plan could "reasonably be said to advance the rational state policy of respecting boundaries of political subdivisions,"⁴⁹ it satisfied the Equal Protection Clause of the Fourteenth Amendment.

Proposed Reforms

Throughout the Reapportionment Commission hearings and Advisory Committee interviews, people called for several changes in the composition of the redistricting body and for the promulgation of more specific guidelines, standards and methods. Common Cause has been at the forefront of a growing drive for redistricting reform, and its three-pronged model is one of the most frequently invoked alternatives: "strict anti-gerrymandering standards; an independent, non-partisan reapportionment commission; and prompt judicial review."⁵⁰

Underlying the proposal is a recognition that the "purpose of political gerrymandering is to shut people out of the political process." The organization's call for reform is "designed to benefit the public by broadening political participation and increasing electoral competition...to strengthen the political process by providing an incentive for political parties to bring new ideas and new people into the process."⁵¹

Common Cause believes that compactness and contiguity, among

other redistricting standards, "can eliminate the potential to manipulate district lines for political or partisan advantage."⁵² The organization calls for population equality, respect for boundaries of political subdivisions, "convenient" contiguity, and compactness; and has developed a model state constitutional amendment.

The population provisions proposed by Common Cause are designed specifically to conform to Supreme Court decisions by institutionalizing the rather stringent congressional standard of deviation and the more flexible state legislative standard. The latter allows a five percent deviation (range of 10 percent between largest and smallest districts).

Common Cause would have district lines "drawn to coincide with the boundaries of local political subdivisions" to the extent possible within the population requirements. Districts would be "composed of convenient contiguous territory," i.e., those consistent with normal established "trade and communication" patterns.⁵³

As a "compactness" standard, the proposal requires that the "aggregate length of all district boundaries shall be as short as practicable" consistent with standards of population, political subdivision, and contiguity provisions.⁵⁴ Although political scientists and statisticians have developed more specific mathematical definitions for compactness, the Common Cause model

eschews what Chief Justice Warren called "mathematical exactness"⁵⁵ in favor of a comparative approach.

The Common Cause proposal includes two more specific anti-gerrymandering provisions: (1) "No district shall be drawn for the purpose of favoring any political party, incumbent legislator or group"; (2) "the commission shall not take into account the addresses of incumbent legislators...the political affiliations of registered voters, previous election results, or demographic information other than population head counts for the purpose of favoring any political party, incumbent legislator, or other person or group".⁵⁶

The last of the technical constraints is, "[n]o district shall be drawn for the purpose of diluting the voting strength of any language or minority group."⁵⁷ While Common Cause acknowledges that "all plans favor some person or group,"⁵⁸ the sanction here is against purposeful favoritism. This provision is derived from four state statutes which "protect socio-economic communities of interest."⁵⁹ Common Cause notes, however, that such communities are ubiquitous, rendering the provision so broad that any plan drawn would likely be subject to challenge. Furthermore, "it is possible that under the broad provision those communities of interest that have been the traditional victims of discrimination will gain no additional protection and may even be victimized by the very provision intended to benefit them."⁶⁰ In light of this possibility, Common Cause limits its specific protections to groups

which have traditionally been victimized, namely, minority groups such as blacks and Hispanics.

The final section of the model constitutional amendment provides the state supreme court with "original jurisdiction over any apportionment matter." Any registered voter could challenge a plan of the commission within forty-five days of its adoption. The court would have to grant all petitions concerning districting precedence over other matters and reach its decision within sixty days of a petition's filing.⁶¹ Where a challenged plan is found to violate Federal or state requirements, "the court shall declare the plan invalid in whole or in part and shall order the commission to prepare a new plan within sixty days."⁶²

The entire proposal is based on the formation of a reapportionment commission, the element most commonly associated with the model and invoked so often during Rhode Island's 1982 redistricting hearings. The proposal stipulates that:

The commission shall consist of five members, none of whom may be public officials. The president of the senate, the speaker of the house, the minority leader of the senate, and the minority leader of the house shall each select one member. The four members so selected shall select, by a vote of at least three members, a fifth member who shall serve as chair. The legislature shall establish by law qualifications of commissioners and procedures for their selection and filling of vacancies. The legislature shall establish by law the duties and powers of the commission and shall appropriate funds to enable the commission to carry out its duties.⁶³

The Common Cause model constitutional amendment is accompanied by specific model legislation limiting persons eligible to serve on the commission (prohibiting party or elected officials, their relatives, registered lobbyists and non-registered voters); and restricting activities of commission members (cannot hold or campaign for public office, participate or contribute to political campaigns, hold state house, senate or congressional office for four years, or lobby Congress or the state legislature for one year).⁶⁴

In addition, the model legislation includes provisions for staff (executive director, general counsel, and others deemed necessary -- including "experts and consultants"); reimbursement of expenses, and appropriation of funds. The "duties of the commission" are defined as follows: publication of rules used; public availability of all records filed with or developed by the commission; notification of meetings; open meetings; preparation and public access to written transcripts of meetings; maintenance of records of written and oral communications relating to commission activities; and publication of reports for all preliminary and final plans. Finally, the model grants subpoena and oath-giving powers to the commissioners and mandates public hearings on plans prior to adoption by the commission.⁶⁵

Redistricting in the 1980s

In the fall of 1981, a member of the Reapportionment Commission remarked that many other States had not yet completed their

redistricting and claimed that Rhode Island was "in good company." By May of 1982, Common Cause reported that of the 44 states which had completed legislative redistricting plans: ten states (including Rhode Island) awaited the outcome of litigation, three awaited Justice Department approval, two had been vetoed by governors, one had been rejected by the Justice Department and one awaited the outcome of voting on a repeal referendum.⁶⁶

By July of 1983, the Reapportionment Information Update, published by the National Conference of State Legislatures, reported that only ten states had encountered no litigation. The remaining 40 states had generated some 71 cases. Of these, there were 48 cases involving legislative plans and 32 concerning congressional plans (some cases involved both). Of the 23 plans affirmed or upheld, several included provisos for changes agreed upon by the litigants; and of the nine cases dismissed, several were declared as moot because of changes which had occurred prior to or during trials. The courts declared eight plans unconstitutional (including one of Rhode Island's senate plans) and in another eight cases, court plans were ordered drawn. Furthermore, some 13 pieces of litigation remained to be tried or decided.⁶⁷

While many states encountered court challenges to redistricting plans, Rhode Island was one of only two states in which the courts ordered the state to redraw plans.⁶⁸ More important than any judgments made on the performance of Rhode Island or the large

number of cases dismissed by the courts is the fact that the cases were brought with such regularity. It is the common perception that the process is not providing "fair and effective representation" which has precipitated the alarming number of court challenges.

Aside from constitutionally mandated population equality, compactness and contiguity are the most common state-imposed requirements for legislative redistricting. Some 22 states had provisions in either their constitutions or statutes which called for compactness. There were also 27 states with provisions demanding contiguity.⁶⁹ Although contiguity is somewhat easier to define and operationalize, it, too, can be subject to broad interpretation. Few states had language specifying the meaning of either term.⁷⁰

The "reapportionment revolution" of the sixties, coterminous with the civil rights revolution, continues into the eighties. In these two decades, certain lessons have been learned and important questions left unanswered. The one person, one vote edict has been established as a primary principle of political participation, though there has also been an emerging recognition that its application must be balanced against "common sense" factors such as compactness and contiguity. Too rigid an application of the one person, one vote principle can obscure various "political" manipulations, including blatant racial gerrymanders. Hence questions have also emerged regarding the need to preserve historic boundaries and communities of interest.

The recognition of communities of interest is the legacy of the voting rights struggle and requires careful consideration of the racial ramifications of otherwise apparently "neutral" plans. In many instances, short-term political goals are most easily attained at the expense of minorities and other communities of interest. Public participation in an open redistricting process is one important means of placing departures from both technical and common sense districting principles under public scrutiny. This compensates for the tendency in many areas to treat racial considerations as afterthoughts which can be addressed after basic political objectives have been achieved. All citizens are served by the application of common sense considerations because technicians limited to the one person, one vote principle may overlook or be unaware of important local issues.

Notes to Chapter II

1. U.S. Const., Art. I, Sec. 2, cl.3.
2. The constitutional basis for the equal population requirement differs for representation in congressional districts and state legislative districts. The Supreme Court ruled in Reynolds v. Sims, 377 U.S. 474 (1964), that the Equal Protection Clause of the Fourteenth Amendment requires state legislative districts of substantially equal population. Whereas the constitutional basis for the requirement of equal population in congressional districts is Article I, Section 2 of the Constitution as enunciated in the case of Wesberry v. Sanders, 376 U.S. 1 (1964).
3. Colegrove v. Green, 328 U.S. 549, 553-554 (1946).
4. 369 U.S. 186 (1962).
5. *Id.* at 209.
6. *Id.* at 268, 270.
7. Wesberry v. Sanders, 376 U.S. 1 (1964).
8. *Id.* at 18.
9. 42 U.S.C.A. Secs. 1971, 1973-1973bb-1 (1981 & Supp. 1986).
10. 42 U.S.C.A. Sec. 1973 b(b) (Supp. 1986).
11. 42 U.S.C.A. Sec. 1973 (a).
12. U.S. Const., Amend. XV, Sec. 1.
13. Robert C. Dixon, "Fair Criteria and Procedures for Establishing Legislative Districts" in Symposium of Reapportionment, B. Grofman, ed. (Urbana, Ill.: Policy Studies Organization, 1981) p. 844. [hereinafter Dixon, "Fair Criteria"]
14. Bernard Grofman, "Introduction" to Symposium on Reapportionment, B. Grofman, ed. (Urbana, Ill.: Policy Studies Organization, 1981) p. 819 (footnotes omitted).
15. Common Cause Toward a System of 'Fair and Effective Representation', (Washington, D.C.: Common Cause, (1977) pp. 13-14.
16. Grofman, p. 819.
17. *Ibid.*, p. 820.
18. *Ibid.*, p. 821.

19. Common Cause, p. 18.
20. Ibid., p. 19.
21. 42 U.S.C.A. Secs. 1971, 1973-1973 bb-1 (1981 & Supp. 1986).
22. 42 U.S.C.A. Sec. 1973 (Supp. 1985).
23. Laurence Tribe, American Constitutional Law, (Minneola, NY: Foundation Press, 1978) p. 756.
24. Ibid.
25. United Jewish Organizations of Williamsburg v. Carey, 430 U.S. 144 (1977)
26. Id. at 161-162, 164.
27. Id. at 161, 162, 164 (citation omitted).
28. David Wells "Con Affirmative Gerrymandering" in Symposium on Reapportionment ed. B. Grofman, (Urbana, Ill.: Policy Studies Organization, 1981), p. 864 (footnote omitted).
29. Gomillion v. Lightfoot, 364 U.S. 339 (1960).
30. United Jewish Organizations of Williamsburg v. Carey, 430 U.S. at 181, 187 (1977) (emphasis added).
31. 42 U.S.C.A. Sec. 1973 (b) (Supp. 1986). Consistent with this provision and in view of the Rhode Island Advisory Committee's emphasis on the redistricting process rather than electoral results, the committee makes no claim, implicit or otherwise, that redistricting efforts must or should result in proportional representation of minorities in elected bodies.
32. Armand Derfner, "Pro Affirmative Action in Districting" in Symposium on Reapportionment, B. Grofman, ed. (Urbana, Ill.: Policy Studies Organization, 1981), p. 851.
33. 42 U.S.C.A. Secs. 1971, 1973-1973bb-1 (1981 & Supp. 1986).
34. Drew Days "The Voting Rights Act and Reapportionment" Address before the National Conference of State Legislatures' Assembly on the Legislature, Denver, Colorado, February 15, 1980, p. 18-19.
35. Ibid., pp. 19-20.
36. Wells, "Con Affirmative Gerrymandering," p. 872 (emphasis in original).
37. Derfner, "Pro Affirmative Gerrymandering," p. 858.

38. In its publication, Affirmative Action in the 1980s: Dismantling the Process of Discrimination, the U.S. Commission on Civil Rights emphasized the need for such a "problem-remedy" approach, similar to the more recent "totality of circumstances" as the basis for determining the range of permissible actions to correct past and current discrimination.
39. Mary Frances Berry, "Voting Rights and Reapportionment: Goals for the 1980's" (remarks before the Rhode Island forum on "Voting Rights and Reapportionment," October 5, 1981).
40. Dixon, "Fair Criteria," pp. 839-840.
41. Gordon Baker, "An Historical Tour Through the Political Thicket: Tracing the Steps of the Late Robert G. Dixon" in Symposium on Reapportionment, ed. Bernard Grofman, et. al, (Urbana, Ill: Policy studies organization, 1981), p. 830.
42. Common Cause "Toward a System," p. 14 and Reapportionment Information Update, vol. 1, no. 9, (November, 1982), pp. 6-7.
43. Common Cause "Toward a System," p. 14 and Reapportionment Information Update, vol. 1, no. 9, (November, 1982), pp. 6-7.
44. Reynolds v. Sims, 377 U.S. 533, 578-579 (1964) (emphasis added).
45. Andrea J. Wollock, ed., Reapportionment Law and Technology (Denver: National Conference of State Legislature, 1980). p. 15.
46. Ibid., p. 19.
47. Reynolds v. Sims, supra. 377 U.S. at 580-581.
48. 410 U.S. 315 (1973).
49. Id. at 328.
50. Common Cause, "Toward a System", p. 27.
51. Ibid., p. 26.
52. Ibid., p. 28.
53. Ibid., p. 54.
54. Ibid., p. 54.
55. Reynolds v. Sims, supra. 377 U.S. at 577.
56. Common Cause, "Toward a System," p. 55 (emphasis added).
57. Ibid., p. 56.
58. Ibid., p. 55.

59. Ibid., p. 56. The four states are Alaska, Colorado, Oklahoma, and Hawaii.
60. Ibid., p. 56.
61. Ibid., p. 57.
62. Ibid., p. 57.
63. Ibid., p. 47.
64. Ibid., pp. 65-67.
65. Ibid., pp. 66-68.
66. Common Cause, "Common Cause Report on Congressional and state Redistricting," (Washington, D.C.: Common Cause, 1982), pp. 33-34.
67. Candace Romiz, ed. "Summary of Litigation on Congressional Redistricting and Legislative Reapportionment," Reapportionment Information Update, vol. 2, no. 2 (July 28, 1983), pp. 1-7.
68. In June of 1983 the State of Hawaii was also directed to draw a new plan, according to the Reapportionment Information Update.
69. Common Cause, "Toward a System," p. 9.
70. Ibid., p. 9.

Chapter III

Redistricting in Rhode Island: 1982

The formal process of redistricting in Rhode Island after the 1980 census began with the creation of the Reapportionment Commission by the general assembly in April 1980¹ (see appendix for text). Not more than two-thirds of the nine house or six senate members of the commission can be from the same party, assuring a bipartisan commission.² The minority party is thus assured information and participation in the process. However, the body must report a bill of redistricting to the entire legislature,³ a clearly partisan body in which the minority party comprised less than one-third.⁴

In accord with the legislation, the commission's members were appointed by the Speaker of the House and Majority Leader of the Senate by June 1981. Neither of the two minority group members of the general assembly was included in the Reapportionment Commission. The commission's vice chairman noted that the legislative leaders "tried to balance the commission on a geographical basis rather than on an ethnical basis."⁵

The commission was convened in late June and elected Rep. Andrew McConnell and Sen. William Castro as Chairman and Vice Chairman, respectively.* Although the full body did not have any more formal meetings until early in 1982, a consultant was hired in August 1981. During the fall, additional staff were assigned by the leaders of both houses as needed. Five informal hearings were conducted across the state to provide citizens with an opportunity to share concerns and knowledge with the commission prior to the creation of a plan.

The staff submitted its first proposals for redrawing congressional and state senate districts to the commission on January 27, 1982. Three additional public hearings were held in Providence, allowing citizens to comment on the proposed plans.

On March 3, 1982, the commission members voted to adopt a set of congressional, house and senate lines and submitted them to the House Corporations Committee to begin legislative action. After the plan was debated and amended, it was approved by votes of 71 to 20,

* Commission members included: Representatives Andrew McConnell (D-Pawtucket), Joseph DeAngelis (D-Smithfield), Aldo Freda (D-Providence), Zygmunt Friedemann (D-Warwick), Joseph Quatrucci (D-East Providence), Charles Ted Wright (D-Narragansett), Frederick Lippitt (R-Providence), Bradford Gorham (R-Foster), and Arthur Read (R-Barrington); and Senators William Castro (D-East Providence), Joseph Chaves (D-Middletown), John McBurney (D-Pawtucket), Walter Mruk (D-Coventry), John Romano (R-East Greenwich), and Lila Sapinsley (R-Providence). Representative Antonio SaoBento (D-East Providence) joined the commission in January, 1982, after Representative McConnell resigned. Representative Friedemann became the chairman at that time.

and 35 to 12, in the house and senate, respectively. The Governor failed to sign or veto the bill within the prescribed time and, by Rhode Island law, the plan became law on April 9, 1982. Thus ended the formal process, although the regularly scheduled senate election was delayed pending changes in the senate plan mandated by the courts.⁶

As the Advisory Committee sought to trace the emergence of racial factors in this process, it found significant gaps in the sequence and nature of events. For example, "minutes" of the Reapportionment Commission meetings did not describe the content of discussion or identify speakers, but merely recorded actions. The summary of the June 18, 1981, meeting, for instance, reports a "general discussion. . .on the subject of general assembly redistricting;"⁷ one apparent outcome of which, the minutes report, was that "staff" was directed to "compile all the information possible on the subject of 'deviation from the ideal.'"⁸ However, the minutes do not indicate whether any time for completion was specified or whether any additional supervision or instruction for the staff would be forthcoming for this. At the same meeting, a report, Reapportionment: Law and Technology, was distributed to the Commission members.⁹

Staff

Redistricting problems, including threats to minority rights, may be minimized by an experienced, professional staff. The

staff-commission relationship was one of the more confusing and controversial aspects of the 1982 Rhode Island process. The Commission was only mandated to "engage such clerical, technical and other assistance as it may deem necessary."¹⁰ The legislation included no direction in terms of recruitment, qualifications, function, power, salary, or means of evaluation. Moreover, documenting the staff's activity was virtually impossible, for there is no record of communication between commission members and the staff.

At the time of the late June organizational meeting, Albert Henry, Executive Secretary for the Joint Committee on Legislative Affairs and the staff member responsible for the technical assistance on the 1966 and 1974 plans, was the only "staff" member present. According to Henry, his primary technical responsibility was limited to the creation of a plan for the state's two Congressional districts.¹¹

Within two months of the first meeting Anthony Coelho was hired as a consultant to the Reapportionment Commission, but there was no announcement for another eight months, at which time there were strong objections from Rep. Frederick Lippitt (R-Prov.) and other minority party members.¹² As Lippitt recalled, "We didn't know anything about it. We didn't know why he had been hired."¹³ The objections were both procedural and substantive, for Coelho's appointment was viewed by minority party members as representative

of a general practice of post-hoc ratification by the full commission of actions taken.

Aspects of the record suggest that the commission members' role was largely formal and ceremonial, while the staff had considerable autonomy and operated to a large extent without the knowledge and approval of minority-party members of the commission. During the seven months between the first two meetings of the commission, the staff organized and double-checked census data and drafted preliminary district maps.¹⁴ For Lippitt, Sapinsley, and other minority party members, this was not only procedurally unacceptable but also represented a form of exclusion.¹⁵

Interviews with Coelho suggested that communication existed between the leaders of the two houses of the assembly and the staff.¹⁶ This would be consistent with fears that staff were pursuing a particular political agenda rather than directives of the nominally bipartisan commission. It is not clear, however, whether these communications were direct or how frequently they occurred.

Reapportionment Commission Vice Chair William Castro provided some insight into interactions involving some commission members and staff. Referring to a December 17, 1981 meeting of the Providence Democratic Party senate delegation at which a controversial configuration for Pawtucket and Providence districts was proposed, Castro said, "I never asked anyone why it was proposed. I could only conclude that in the judgment of the staff, that was necessary

under the guide[line]s of the plans they were trying to recommend."¹⁷ Castro, the ranking Senator on the Reapportionment Commission, went on to say that he "always operated under the assumption that the staff was doing the best they could with the numbers," and that he referred questions from other senators about their districts to the staff, which "generally gave them an explanation as to why certain lines were drawn."¹⁸

It is oversimple to characterize the commission as deferential to staff. Rather, there is a rapport arising from common purposes, as in Castro's description of a proposal for changes to make a district more palatable to Sen. Richard Licht (D-Prov.):

There was really no instructions given. I mean, Al Henry and Dr. Coelho are grown men. They were there. I asked a question as to whether there was any objection and, you know, you don't have to tell them like little boys, 'Well, now, you heard what went on, go and do it' They were there. They were paying attention. They knew the sense of the direction that the Providence senators wanted the thing to do.¹⁹

The legislature was not in session during the fall of 1981 while the staff was at work. This may in some measure explain why relationships took the form they did. Nevertheless, whether or not Lippitt, Sapinsley and others knew of Coelho's hiring, it seems that Coelho, Henry and other staff were carrying out instructions without the official knowledge and approval of the commission as a group.

Statewide Hearings

Although the commission did not conduct any formal meetings

between June 1981 and January 1982, the group did come together at least five times to conduct business. The occasions were the five hearings held in Warwick, Narragansett, Newport, Providence and Woonsocket (conducted on October 20, 22, 27, and 28, and November 5, 1981, respectively).

1. Public Participation

The hearings were introduced by the chair, who stated that the Reapportionment Commission was looking for suggestions and input, and told those present that the proceedings would be transcribed "because any input that we receive,... we want to go back to the transcript to pull out, after the five meetings, all of the information that we can use in drawing the district lines."²⁰

The Woonsocket meeting concluded with the following request by Ms. Smith of Common Cause:

I would hope that the deliberations of this Committee [sic] would culminate in some kind of report that will be available to the public, that the process that is used to come up with the plan also be open and available to anyone who wants to look at it, not that I might be able to interpret it, but someone might.²¹

On the other hand, citizens also wanted immediate information, as when a speaker in Newport called for the display of "a map of Rhode Island which shows the present division of the districts so we [the public] can have some idea of what our present situation looks like."²² The chairman responded, "redistricting has never really

been a public procedure, but I agree with you 100 percent."²³

The format of the hearings was informal, with an open invitation to any in the audience to make comments or submit statements. The discussion only occasionally included direct exchanges between speakers and commission members or among members. Several themes which emerged across the state were expressed in the first comment made by a member of the public at the Warwick hearing:

There is no more important task to be carried out than this, and I'm pleased that you...are giving the people of the towns and cities a chance to speak out and be heard.

...[m]ost of the citizens are operating in a vacuum. It is my hope that you will find time to return here and to other cities and towns for further hearings after the [preliminary] lines are drawn for new house and senate districts.

New districts should reflect as closely as possible the 'one man, one vote' concept, and this should be done without regard to its effect on political fortune. The standard should be to give each voter an equal voice in choosing members of the general assembly....There should be no consideration of the impact that reapportionment might have on the reelection prospects of present General Assembly Members. Third, this committee [sic] should work to eliminate districts which overlap city and town lines....The districts should be as regular in shape as possible. I urge the committee [sic] to reject any efforts to define districts to meet special interests and desires. House and senate district lines should be made as compatible as possible...I also would urge a high degree of coordination with the city council...attempt to align ward boundaries with general assembly districts. It's just as important that the city council members be elected by the one man, one vote concept.²⁴

A theme underlying this list of suggestions was sounded by another speaker at Warwick who commented, "Citizens' participation should stand out ahead of other protections....[T]he Reapportionment Commission, as a body, is an entity that will draw the lines, but it's the people of Warwick and the people of all the towns and communities who [should] draw the lines."²⁵ The chairman responded that the speaker's "statements reflect the commission to this point."²⁶

Public participation was also in the mind of a Narragansett resident who requested that after the senatorial and representative districts were drawn, the Commission return to "give us a chance to come back and let you know how we feel about what you have drawn up."²⁷ The chairman responded there would be public hearings, although the fact that the legislature would then be in session might cause changes in location.²⁸

In Providence, the acting chairman pledged, "at the conclusion of the public hearings the transcript will be made available to the entire commission, and we'll be looking at all of the suggestions that are made at the five public hearings,"²⁹ and he indicated that the commission would be "meeting regularly" after the transcript became available.³⁰ The Newport audience was told, "there will be public hearings after a plan is proposed and after the lines have been at least brought about."³¹ The Providence meeting closed with a description of the redistricting process by Representative Freda:

The commission gathers the data and draws the lines... a bill must be prepared and presented to the full legislature, and then legislation will be available to the public at that time, and there will be a hearing on that legislation, too. So, there will be an opportunity for people who are requesting that they be heard at all of those hearings and meetings. They will be publicized throughout the news media. Any committee at the State House is open -- holds open hearings and meetings for the public, and in addition to that, it will also be posted on the bulletin board at the State House, so, when it's finally drawn up, it will be available to everyone.³²

2. Time Constraints

As to when the public might expect the commission to announce its tentative plan for public comment, staff member Al Henry told the Narragansett audience:

January 15 is the date to report, and, of course, the legislation will be adopted by the end of the legislative year [1982]....I would assume between those points in time, from the beginning of...the legislative session through March, when the plan will be debated, and I'm sure, amended, or whatever takes place in any other type of legislation.³³

By November 5, there was concern that the commission was "running into a problem whereby it's going to be scarce on the time."³⁴ Representative Wright commented: "We're not that late...there's about 18 to 20 states in the Union which have completed reapportionment thus far. So we're in a pretty good group."³⁵

Although the chairman thought this was "a good point,"³⁶ commission member Read stated: "We're late."³⁷ The director of Common Cause of Rhode Island, Marlene Smith, also lamented the commission's "late start."³⁸

3. Criteria for Districting

As noted in Chapter II, one person, one vote is but one factor to be borne in mind in setting district lines. During the Providence hearing a resident urged the commission to "establish the criteria for the lines that you're going to draw; criteria such as observing natural boundaries, town and city lines, and within city neighborhoods."³⁹

Ms. Smith recommended that the commission draw from the Common Cause's model "list of standards":

--no district should have more than 5 percent over or under the standard, which is 9,450;

--political subdistricting [respecting political boundaries];

--contiguous territories within the districts;

--exactness...the aggregate length of all districts should not exceed by 5 percent the shortest possible length of all districts within a plan.⁴⁰

She also requested assurances that "no party, legislator, or person, or group be favored by any of the lines."⁴¹

Regarding the commission's "ground rules" and opportunity for the public to "comment on the guidelines...[the commission would] be operating under,"⁴² the chairman responded that "Marlene Smith just about outlined them. She really took a synopsis of all the Supreme Court [rulings], and that has to be our position."⁴³

A Providence resident raised an even more specific technical question concerning what is known as "embedding" districts: "I'm concerned that for every representative that I choose, I have a different district line...from the congressional lines right down. It seems to me that any district that is drawn for a valid reason would be used in drawing the lines for the next smaller district."⁴⁴ Rep. Gorham (R-Foster) replied, "If you don't have the lines that are exactly [co-terminus]...it is possible to serve different interests with different legislative districts....Is it possible to have the senate serving one set of interests and the house serving another?"⁴⁵ The resident indicated that such representation would be "possible" but added that "then you get weird shapes to your districts."⁴⁶

4. Minority Political Rights

A considerable part of the Providence hearing was devoted to a discussion of the effects of the commission's work on Providence's minority population. A lengthy exchange concerned several old districts with large minority populations. One speaker was particularly concerned that attention be given to "whether there's a concentration of certain ethnical groups, and if so, to have some kind of power to protect that particular area."⁴⁷ Rep. Freda of the commission replied that this consideration had to be balanced against one man, one vote restrictions and pointed out that one affected representative district would have to lose population while

two others would have to gain.⁴⁸ The chairman added that there was some leeway. "There's a low and high that you can work with, but as I see it here, these [two] districts are going to be needing some [added population], and they have to come from somewhere."⁴⁹

Sen. Michael Flynn (R-Smithfield) remarked from the audience that he hoped that "with the redistricting that the minority and ethnical constituents will have a clear voice in the new make-up of the general assembly. If the redistricting plan does not meet some...guidelines, I'm sure you'll see numerous cases of litigation in the courts."⁵⁰

Another citizen asserted that questions raised by the 1980 gerrymander remained to be "addressed adequately" and noted:

You have no minority members on your panel....I want to know what guarantees we have as citizens that the minority population will not be disfranchised. I also was rather alarmed when the issue was brought up, and the answer was that actually, there were many more important things to think about than redistricting. I think for many of the voters in this state, at this particular point, there is little that is more important than the redistricting because it matters who people can elect to represent them.⁵¹

The speaker was thanked for the "testimony" but there was no specific response from the commission to her questions. The Woonsocket meeting included another reference to the October forum and admonition to respect the concerns of minorities.⁵²

5. Significance of Hearings

The five hearings conducted during the fall of 1981 fulfilled

the pledge made by Rep. DeAngelis during the October forum to provide the public with the opportunity to comment on redistricting. It is less clear, however, whether the suggestions conveyed during the hearings were considered during the course of drawing plans or during commission meetings. The only reference to the hearings in official documents was a notation in the minutes of the January 27, 1982, meeting that the chairman had "distributed copies of the transcripts of the five public hearings to the majority and minority party leaders and stated that a copy would be placed in the State Library."⁵³

Advisory Committee interviews indicate that the hearings were perceived narrowly by commission members. To Sen. Castro:

[T]hose hearings amounted to people in the areas coming and they wanted to be sure that they had resident people in their areas in districts that their cities and towns had control....Everybody wanted you to start in their community and give them the best benefit of having population control of the greatest number of districts they could have.⁵⁴

Rep. Lippitt wondered whether "the average guy is that interested or cares whether his street is in which district." He found little that was of practical value, claiming that "every school teacher would come in and say, 'You must have honest districts.' They have no way of knowing how to design it. In fairness, what they said is what the League of Women Voters would say and everybody said it, whether Republican or Democrat."⁵⁵

Coelho, who described the staff's role as recording input at the meetings, observed that "attendance at the hearings was very small

and the people who were there had real interests" in the process.⁵⁶ Coelho judged the Providence session useful "in recognizing minority [group] goals." He also indicated that although the staff did not discuss the input from the public hearings with the commission, the comments were useful in guiding the staff's work.⁵⁷

As noted earlier, minority party members felt that Coelho's appointment was itself political, and that his technical work was tainted by politics.⁵⁸ However, the hearings appear to have been considered by all to be part of the politics of redistricting and thus the province of the legislators. They did not generate input about which the commission members felt compelled to guide the staff.

Drawing the Lines

While the commission, in one member's words, put the "show on the road" during the fall hearings,⁵⁹ Coelho and legislative staff members assigned to work on redistricting were carrying out technical tasks. Coelho reported that the staff established five points which guided the effort from the outset:

1. "To draw districts as nearly equal as possible" as instructed by the Commission-creating legislation;
2. "Not to dilute minority voting strength...[we were] thinking of this in terms of maintaining or improving minority voting strength in terms of population;"
3. "To preserve municipal boundaries wherever possible. . .noting that the nearer you get to zero deviation among districts, the more boundaries are crossed;"

4. To keep "districts compact and contiguous;" and
5. "Wherever possible, to preserve neighborhoods on input from legislators."⁶⁰

Coelho was not certain these guidelines existed in written form,⁶¹ although during a January meeting a resolution was passed by the commission which suggested some of these principles (see "Commission Guidelines," below).

1. Reliable Data

The staff's first task was to determine the "ideal" size of the State's 50 senate and 100 house districts based on 1980 census data.⁶² Given the state's population of 947,154, these ideals were calculated as 9,472 per house district and 18,943 per senate district. After making this simple calculation, however, Coelho confronted more cumbersome mechanical tasks relating to census data.

Under provisions of a 1975 Federal law, states are allowed to request census data for "statistical areas" for the purposes of redistricting.⁶³ In 1978, Rhode Island entered a contract with the Census Bureau to obtain population data for "blocks."⁶⁴ Blocks are defined simply as units "generally bounded by streets or other physical features."⁶⁵

As Coelho reported later to the commission, even some "blocks," so defined, contained as many as 800 to 1,000 inhabitants.⁶⁶

According to Coelho, however, the block data themselves had to be checked against more accurate tract data. This checking revealed a number of inconsistencies which had to be clarified through continued communication with the Census Bureau before the staff could begin its actual work of drawing tentative district lines.⁶⁷

2. Permissible Variance

Coelho reported that after completing this process of "cleaning" the census data, the staff sought to "determine what parameters to use for population variation." While he was aware the districts would not "come out exactly" equal, the staff felt it needed to determine "how far from zero" the districts could deviate. According to Coelho, "after much discussion," it was decided that variation greater than "plus or minus 2.5 percent from the ideal" would not be tolerated in the eventual plan (five percent total range of deviation).⁶⁸

It is not clear when or with whom this matter was discussed or why this particular deviation was set as the acceptable limit. Although the figure falls below the ten percent total deviation often allowed by courts, it is not clear that setting any prior, targetted limit fulfills the state's constitutional mandate to draw the districts as "near equal as possible."⁶⁹ Later in the interview Coelho recalled that "discussions took place between the commission and leadership from August to November" on how to conduct redistricting, though no record of this exists.⁷⁰

3. "Pockets" vs. "Embedded Districts"

The next phase of the staff's work involved drafting preliminary senate district lines. Coelho and his assistants started with the senate because the districts were larger. As Coelho said, "the advantage of doing senate lines first [is that] you have a better chance of preventing pockets."⁷¹ "Pockets" are areas in which voters may have the same representatives and city officials but different senators. Such areas often occur when districts are not "embedded" within larger jurisdictions or are not "terminal." By beginning with the senate, Coelho seemed to foreclose the presumption that a common sense method of redistricting would have been to create senate districts by combining two house districts. When asked about such a procedure, Coelho responded that he believed New Jersey and Illinois had used such procedures but added that there had been "no real consideration for doing 'two-for-one.'"⁷²

The staff began in Providence, which, as the largest population center in the state, would contain the largest number of complete districts. The second reason was that "Providence had to lose a district" because of the decline in its population.⁷³

Politicizing the Process

Although Coelho's work can be characterized as technical, each of the steps taken -- the determination of allowable deviation, the decision not to have terminal districts, the decision to start in

Providence -- represented implicit policy-making. Indeed, these technical decisions occurred amid important political developments.

After the staff had completed reviewing the census data, Vice Chairman Castro announced in a press release Friday, December 18, 1981, that he had held a meeting of Democratic senators from Providence "so that they might more fully understand the problem faced by the staff in preparing a suitable map." The meeting provided the opportunity to hear "the sentiments of the elected senators so that the staff might be more properly aware of demographic problems indigenous to the several districts."⁷⁴

The press release followed meetings held on December 11 and December 17.⁷⁵ Five tentative plans were shown to the senators at the December 18 meeting. Castro noted that "inasmuch as nothing was cast in stone, the Technical Staff was then directed to prepare a draft for review by the senate members of the Commission and they are working at it at the present time."⁷⁶ Stressing an open process, Castro said:

It is my intention to call meetings of senators from other areas of the state in the same fashion and for the same reason that the Providence meeting was called. In fact in a conversation I had with Sen. John Romano, a Republican member of the commission, I suggested that a meeting be called of the minority [party] so that their concerns and questions might receive the same review, in order to have this redistricting plan as fair, open and equitable as possible.⁷⁷

However, Republican commissioners were excluded from these meetings, though Castro appears to have acted throughout in his capacity as commission vice chair. Five additional meetings were held with Democrats -- some of which included the members of the "State Committee" -- before the Republicans had access to the staff on December 29, 1981. Castro's press release does not mention any earlier meetings, though it seems plausible that the technical staff informed the Democratic senators on the commission of the need to eliminate a Providence district during the first meeting. Sapinsley's status as a Providence senator, Senate Minority Leader, and as a member of the Commission, did not avail to put her on an equal footing with Democratic senators.

The December meetings demonstrate that there were two separate redistricting processes. As Castro told the Advisory Committee, "The senate reapportioned the senate and the house reapportioned the house."⁷⁸ Commission members from each chamber met with their peers to discuss the plan as it was being developed and Lippitt noted that "we don't argue about each others' reapportionments."⁷⁹

Lippitt recalled that "the procedure was to get people [legislators] in and say: 'Well, here's what it's going to be and do you have any comments.'" According to Lippitt, the process was fairly flexible in that "neighbors" could negotiate small changes in their lines.⁸⁰ Castro noted that "many, many important changes were made on the basis of these meetings." He also noted, "some of the

people that would go and pontificate later on wouldn't be entirely candid with you in front of the press when they were trying to protect turf."⁸¹

Although Lippitt was critical of the process, both he and Castro -- members of different houses of the assembly as well as different parties -- concur in describing how it unfolded. The process that emerged emphasized redistricting as a legislative matter. The initial concern appears to have been its effect on incumbents. Both Lippitt and Castro noted that any plan developed required acceptance by the legislature which would ultimately decide its fate.

Minority Political Rights

The decision to begin in Providence, which had lost population, was justified in part as an effort to preserve minority interests. Coelho argued that "[i]f we were going to reward areas that had gained, we would have diminished minority voting strength [because] the areas of Providence that experienced the most population decline were minority areas."⁸² To support this, Coelho observed that under the 1974 plan the "second smallest house seat in the state represented the inner city...and the second smallest senate district in the state had a substantial minority population."⁸³

The Providence portion of the plan received the most attention during the December meetings, with controversy centering on the

proposal to consolidate two East Side senatorial seats within a single district. This quickly erupted into a major political battle which continued throughout the remainder of the process.

Sen. Castro asserted that during the December 17 meeting with the Providence senators he "also asked them to try, to the best of their ability, to point out to us the characteristics of their districts as they related to minorities and minority groups so we wouldn't dilute any minority."⁸⁴

Castro indicated that the senators were preoccupied with the maps and he received no reply at the meeting, although later "Senator Sapinsley did point out a couple of problems as they related to minority groups."⁸⁵ The following exchange occurred during a deposition taken for the senate case. Senator Castro was asked, "[o]ther than Senator Lyle and his requests, were there ever any changes that were made after the lines were initially drawn that did not result from the agreement of two adjoining Senators? Castro responded:

I would have to say that any changes that were made, other than a change that I requested after a meeting with some minority people from the old District 37, new District 3 [East Side of Providence], where they sort of convinced us that the line should be moved down to Olney Street, I don't think there was any acquiescence with senators in that particular move. It seemed to make sense.⁸⁶

Aside from input provided by legislators during the December caucuses, the Reapportionment Commission received a letter dated

January 18, 1982 from Rhode Island ACLU Executive Director Steven Brown (see appendix for text). The letter stressed the need to maintain the Mt. Hope section of the East Side and noted that "dividing the neighborhood unnecessarily diluted minority voting strength."⁸⁷

Brown's letter urged the commission to work toward the goal of maintaining minority voting strength "in one, and probably two, [senate] seats in South Providence," and added, "[w]e do not propose this specific plan; rather we offer it just as an example to show that equal and just representation can easily be provided to minorities by the commission, to correct the current severely discriminatory problem of minority underrepresentation in the South Providence area."⁸⁸

Commission Guidelines

After the last of the December caucuses, the Reapportionment Commission was convened for its second full formal meeting on January 22, 1982. Senator Sapinsley introduced the following set of guidelines for adoption by the Commission:

1. The criteria of all Federal and state laws shall be followed.
2. District lines shall be drawn to coincide with the boundaries of local political subdivisions, and natural boundaries, wherever possible.
3. Districts shall be composed of convenient, contiguous territory.
4. Districts shall be compact in form, to the extent possible, in accord with the above guidelines.

5. No plan shall be drawn for the purpose of favoring any political party.
6. No plan shall be drawn for the purpose of diluting the voting strength of any ethnic, religious, political or racial group.
7. This commission shall follow any standards which are established by the general assembly.
8. No districts shall be drawn by any standards, except those which are approved by this commission.⁸⁹

Although Sapinsley's motion for adoption was seconded, she withdrew it "so that the members could have time to look at the proposal" which would be "placed at the beginning of the agenda of the next meeting."⁹⁰

At the January 27 meeting, after discussion "by several members and staff," a motion to adopt Sen. Sapinsley's guidelines was tabled "on a recorded vote" (9-3). Sen. Castro moved to adopt the following set of "guidelines."

WHEREAS, In the last twenty years, the United States Supreme Court and Congress have enunciated the principles upon which reapportionment should be premised -- that is, one-man, one-vote -- a premise respecting the Voting Rights Act and redistricting according to population variances, and the General Assembly was guided by those principles of law; and

WHEREAS, The General Assembly, in recognition of its constitutional duty, in the 1980 January Session enacted Chapter 146 of the Public Laws, which provided for the creation of a special commission consisting of 15 members to draft and report an act to reapportion the General Assembly into 100 Representative Districts and 50 Senatorial Districts as nearly equal as possible; and

WHEREAS, The Reapportionment Commission staff was instructed to attempt to draw tentative district lines under the guidance of applicable Federal and state

case and statutory law, as well as Federal and state constitutions, whose ultimate goal was to achieve a one-man, one-vote representation, a standard which has been determined essential by all applicable Federal guidelines and state and Federal cases; and

WHEREAS, Proposals, tentative plans and maps have been drawn so as not to divide along racial lines, either geographically or proportionately, prepared in good faith utilizing rational criteria so as to provide compact, contiguous districts as nearly as equal in population and as compact in territory as possible; now, therefore, be it

RESOLVED, That the Reapportionment Commission draft General Assembly district lines whose goal is to achieve one-man, one-vote representation in districts which are compact, contiguous and not racially discriminatory; and be it further

RESOLVED, That this Commission and its staff shall not attempt to adopt any undefined standard of reapportionment which will inevitably result in invidious discrimination.⁹¹

Though there was a second, this motion, too, was withdrawn to allow consideration by members, and the Castro guidelines were "placed on the agenda" as the "first order of business at the next meeting of the commission."⁹² At the January 28 meeting, Sen. Castro moved for the adoption of guidelines introduced during the January 27 meeting. The motion was "seconded and voted," though there is no record of the content of this discussion nor report of the vote.⁹³

Commission Decision-Making

After Coelho submitted a "report on the method of redistricting" at the January 22 meeting [see appendix], Henry distributed three alternative proposals for the state's two congressional districts. The commission decided that the staff should make maps depicting

tentative legislative districts available to members of the general assembly on January 26 and 27. In addition, public hearings were set for February 3 and 5 "where the maps depicting the proposed districts will be available to the public."⁹⁴ The Chairman introduced a request by Senator Richard Licht "to address the commission and Dr. Coelho on the proposed redistricting," and, according to the minutes, indicated that "he would rule on Senator Licht's request at the next meeting."⁹⁵

The January 27 meeting included a discussion of proposed senate districts by Dr. Coelho. Rep. Gorham moved "to allow any member of this commission to have the staff draw maps on the basis of any member's submitted data." Although the motion was tabled by a vote of seven to two, "the consensus of the members was that if Rep. Gorham or any other member of the commission brought maps of various districts to the reapportionment staff, staff would place this information on acetate overlays." Following this discussion of access to the staff, "the Chairman ruled that the meeting will continue so that the explanation of all senate districts is on the record."⁹⁶

At the January 28 meeting, according to the minutes, Sen. Licht "asked numerous questions of Dr. Coelho" and Sen. Lyle "presented his proposal of a redistricting plan for Lincoln and the surrounding area."⁹⁷ There was also a display and explanation of "several maps depicting house districts," but there is no record of discussion of these proposals.⁹⁸

The February 24 meeting included "a report by Dr. Coelho on the status of redistricting. A list of the population of each district was distributed to those present followed by a general discussion on what had been accomplished to date and the voting 'pockets' that had to be checked."⁹⁹

The February 26 meeting of the commission, devoted to "minority representation," was attended by representatives of the organizations which sponsored the October 1981 forum and had written to Rep. Friedemann expressing concern about the commission's procedures (see appendix). At this two-hour meeting:

The chairman stated that he was very disturbed to have received such a letter because there had been absolutely no attempt made to dilute the voting strength of any minority group and in fact, every effort had been made right from the start to insure that minority strength was not diluted.

Several of those who were invited gave their views on the redistricting plan and the work of the Reapportionment Commission. Representatives Walker, Castro, and Morancy spoke in favor of the redistricting plan.¹⁰⁰

The final meeting of the Reapportionment Commission took place on March 3. After two hours, Congressional, and state house and senate redistricting plans were approved by the votes shown below. The house plan was considered in sections, with the northern part of the state and the area east of Narragansett Bay the only sections not passed unanimously.

Despite the two votes against the senate plan, the final act of the commission was the unanimous passage (11-0) of a motion

TABLE IV

Commission Votes on Congressional,
House and Senate Districts

Congressional	10-0
House*	
Western	12-0
Northern	9-3
East	8-3
Metropolitan I	11-0
Metropolitan II	10-0(1)**
Metropolitan III	10-0
Senate	9-2

*The specific areas of the state are included in the appendix.

**One abstention

"to draft one bill to include the Congressional, senate, and house redistricting" for submission to the general assembly.¹⁰¹ With this vote, after having met six times for a total of ten and one half hours over a period of nine months, the Reapportionment Commission completed its work.

Although the summaries of meetings used to compile this record of the Reapportionment Commission lack specificity, the record does indicate important aspects of the process. For instance, the January 27, 1982 entry that the meeting continued "so that the explanation of all senate districts is on the record," underscores the role of the commission as a means of recording and ratifying actions which took place without commission involvement. Though the purpose of "continuing" was for the sake of the record, the minutes

do not include any explanation of the senate districts. Attempts by individual members to question procedures or make formal policy decisions at commission meetings appear to have been unsuccessful (e.g., Gorham's request for access to maps, Coelho's hiring, Sapinsley's proposed guidelines).

Furthermore, regarding the commission's attention to public input, there is no record of commission discussion of the fall hearings (though transcripts were distributed and the action duly recorded in commission minutes). Neither is there any indication that the ACLU proposals regarding minority voting strength were considered by the commission.

The Providence Hearings

Although proposals were continually described as preliminary, there is little indication that the extensive testimony given at the February 3 and February 8 hearings in Providence resulted in any changes in the plan.

1. Historical Boundaries vs. "Pockets"

During the first hearing, Providence Senator Richard Licht noted that in addition to U.S. Supreme Court decisions on redistricting, the state was bound as well by the Rhode Island Constitution and by Rhode Island law, unless in conflict with the

mandates of Federal law. He suggested that the commission had not complied with the Rhode Island Constitution's requirement that "there shall be one senator for every city and town, and then there were extras for certain cities that were larger, in particular, Providence and Pawtucket."¹⁰² He concluded: "municipal boundaries, natural boundaries, historical boundaries, and political boundaries have been ignored in devising this plan."¹⁰³

Senator Castro told the February 8 hearing that during the five fall hearings "most people wanted their city or town to be confined to a senatorial or representative district that didn't cross city and town lines" and he assured the public that "we've tried very, very hard to accommodate that wish."¹⁰⁴ Nevertheless, as one observer noted, "34 house districts are extended beyond city and town lines," and cited several examples of non-compact, non-contiguous, and unnecessarily complicated districts in both houses of the general assembly. She concluded that "except on the issue of one man, one vote, I feel that the plan itself is certainly indefensible."¹⁰⁵

Rep. Tucker (R-Lincoln) believed respecting political boundaries was a more important criterion than strict adherence to a specific range of population deviation. Tucker also repeated a call to embed districts, claiming that "a representative district should be half the population of what a senate district is." Tucker suggested that the 2.5 percent deviation used by the commission "might be very, very valuable to a state of ten million" but suggested that for a

state the size of Rhode Island, a "valid case could be made for expanding to plus or minus 5 percent, which is within the guidelines set by the [U.S.] Supreme Court."¹⁰⁶ A Common Cause representative added that "there are court cases that have allowed a much higher deviation...when other guidelines have been followed."¹⁰⁷

Licht argued that diluting the "effect of political subdivision...violates the law of the state of Rhode Island,"¹⁰⁸ and assessed the commission's Providence plan:

[I]n the existing ten senatorial districts, we have enough [population] for nine Senators. Why isn't that plan [i.e., for nine districts] at least offered? No, instead the proposed plan doesn't follow that...this proposal moves over 17,000 people -- over 17,000 people to districts outside their own municipality for what? For a net gain in population to Providence senatorial districts of 1,400 people. That is protecting turf, that is gerrymandering; that is not fair reapportionment.¹⁰⁹

Former Governor Frank Licht characterized the proposal as overkill.¹¹⁰ Senator Licht had observed that "towns like Lincoln and Smithfield," each with approximately 17,000 people, were divided into two and three districts, respectively; and Scituate, with "5,000 or 6,000 people is divided into more than one senatorial district."¹¹¹

Senator Lyle argued that there were not only failures to "embed" districts so as to observe historic boundaries, but under the proposed plan, "traditionally accepted political and community boundaries of the villages of Lonsdale and Saylesville continue to be violated."¹¹²

Representative Stephen Erickson (R-Middletown) claimed that Middletown and Portsmouth were being victimized to the advantage of Newport. The towns should be entitled to two representatives but had only one, creating a situation "where a number of people are going to be disenfranchised." Newport, with a population of 27,000 was being given four representative districts though entitled to only three. "This plan has...taken 4,000 people from Jamestown, and 4,000 people from my town, including the people living across the street from me, and brought them into three separate Newport districts."¹¹³

Erickson's speculation that the combination was designed to assure Newport of four districts was echoed later by Representative Norma Willis (R-Jamestown), who gave a historical account of the relationship between her community and Newport and claimed that to combine them was unfair.¹¹⁴ Another citizen asserted:

[G]ood politics does not make good Government. The East Side of Providence does not belong in northern Fairlawn or at the Fairlawn/Lincoln border. That is not [contiguity], and that is not maintaining neighborhoods. Fox Point residents were happy with their geographic representation whether by Republican or Democrat, and are not content with their new borders.¹¹⁵

Geographical boundaries can be of practical as well as historic importance, and their destruction can impinge on access to representation:

I live in an eleven block section that used to be in one district and was flip-flopped into another district....[It is] on the eastern side of the Brown

Athletic Complex [in Providence], which has a great high stone wall around it, and to get from my block to the district that I am now in, I have to walk at least two blocks to another district to get there.¹¹⁶

A member of the Woonsocket Canvassing Authority expressed pragmatic concerns about implementation:

[T]he Reapportionment Commission seems to have fallen into the same sort of trap, so to speak, as that occurred in 1974. It's obvious that the senate lines and the house lines were drawn independent of each other. Now, when we receive your reapportionment map, we have to impose those senate lines and those representative lines, and it's very obvious to me that in looking at the lines, specifically in Woonsocket, and that area, you'll be developing a number of voting pockets throughout the state. For your information, a pocket area will be a small area tied in as a result of your overlapped lines of senatorial and representative [districts]. These small pocket areas will require special handling. It would seem to me if the lines were closely aligned with each other that these lines could be used as common boundaries for both representative and senatorial districts.¹¹⁷

When another speaker asked Dr. Coelho to explain "why it is that it would not be practical to take two representative districts and make it one senatorial district,"¹¹⁶ Coelho responded simply, "This was one of the guidelines provided by the commission."¹¹⁷

2. Protection of Incumbents and Party Interests

Many comments traced objectionable aspects of the proposed plan to politics. Senator Lyle declared that "[t]he basis for the success of our democratic representative form of government is the faith that the people place in it. This Commission can [have] a role in restoring some of that faith that has been lost over petty political interests."¹²⁰

A resident of the East Side of Providence commented his "primary interest is to see that the people are represented, and this is my main objection to the politics involved in reapportionment...you should start with definable neighborhoods, equal populations, and then let it fall wherever the representative lives [rather than start with his residence]."121 Another person questioned: "Do we put petty politics ahead of the total interest of residents of the State?"122 A similar point was made by a participant who remarked: "Our senators must be interested in representing people's common interest rather than their own self-interest."123

3. Communities of Interest

In addition to charges that the frequent municipal boundary-crossings violated state law and were politically motivated, many participants emphasized the disruption of "communities of interest" which would result from the proposed plan. Senator Castro observed:

Senator Sapinsley doesn't like the so-called 37th District going into Pawtucket, but to go from the East Side along East Avenue, not the Oak Hill section, that's all right because it is a commonality of interest, is that the terminology that's used?

But, you know, I might point out that in addition to the 1,200 people in the Oak Hill plat, you also plan to take 1,800 tenement [sic] dwellers into the East Side district, and I don't know where the so-called commonality of interest occurs there.124

Senator Licht, in contrast, defined the concept very broadly:

I represent an area that has one of the richest and one of the poorest census tracts in the State of Rhode Island, and yet, I submit that those who may live in mansions and also may live in tenements [sic] have some commonality of interest...they shop in the same places, their children may go to the same schools... and, therefore, there is a commonality.¹²⁵

A resident of North Kingston argued that "Jamestown has no business being with Newport."¹²⁶ Another resident from the "heart of Fox Point" in Providence complained about the plan to combine that area with Federal Hill because they represent "two different communities." He concluded: "[W]hy not help self-determination for people in Rhode Island."¹²⁷ Motley districts raised the spectre of ineffective representation:

[W]hat are the dangers? I think the first danger in this first plan and the second plan is that you are breaking up the ethnicity, you were breaking up the Jewish folks, you were breaking up the black folk, and I say why? In democracy our strength is our differences.¹²⁸

This speaker also expressed a fear that the plan would "take away the possibility of a serious black candidate."

Still another speaker stressed that sensitivity to the characteristics of the area was compatible with common sense:

[T]he Oak Hill plat is practically connected with the East Side of Providence. You find people living there who come to the synagogues on the East Side and that [shift] would be the natural thing to do. I don't care if some other politician is hurt by it, you have to do the sensible thing, and what's natural, not this type of complicated [gerrymander].¹²⁹

The most frequently cited community of interest was the minority population of Providence's East Side. According to a member of the minority community:

The Lincoln area is no longer in our particular district. However, we are still in the Pawtucket district....I understand that Senator Sapinsley had to point out where the minority community was. First off, I think historically those people that are familiar with Providence should know that the minority community has always been very strong in the Olney Street area, Lippitt Hill area, where now it's University Heights, White Street...toward the Pawtucket line...up to...the armory which would be Edge Hill Road. We have a very large and growing minority population in this particular area...That particular situation has been remedied. We met today with Senator Castro, Senator Quattrocchi, and Dr. Coelho, in reference to expressing our dissatisfaction with the existing barriers, and it still seems to be a problem...[where] the minority community is. Again, everyone talks about -- we all know the terms and the terms are "contiguous," "compact contiguous boundaries," "natural boundaries," and so forth.

What I feel, and this is not taking anything away from the good people of Pawtucket, I personally, and I think that the people in my area do not want to be represented by someone in Pawtucket. Now, we have to make the decision somewhere. I'm aware of this fact, due to the population shifts and so forth, and the census...the new census tracts, or the new census figures, state that we have to lose representation in the Providence area....We are very much concerned with the fact that the minority community does not stop on Doyle Avenue, it does not stop on Forest Street, it goes traditionally over to Olney Street...¹³⁰

One speaker raised the question of the staff's authority:

Who authorized the lines to be drawn by the staff? Who is authorizing changes? There's no evidence of this in the minutes....[I]f, indeed, senate members worked on senate lines, and house members on house lines, why weren't working subcommittees established? What should be the commission's power -- policy for public hearings, copies of maps, display, etc?¹³¹

The speaker emphasized, " All this should be determined by the commission itself and not by the staff."

Chairman Friedemann told the February 8 hearing: "It's not the staff which makes the policy decision what lines will be accepted, it's this Commission, nobody else but this Commission which will either drop or adopt whatever it sees fit to do on the basis of the hearings, and the basis of the testimony."¹³²

This assurance was challenged by a representative of the Providence League of Women Voters who expressed serious reservation about the process in use by the Reapportionment Commission:

[A]re the directions of the commission being followed? On what criteria do Dr. Coelho and his nine senators judge the lines that they're moving? Whose suggestions are being followed or ignored? Our rating of the commission's members indicate that at no time was a specific vote taken to adopt any of Dr. Coelho's tentative plans as the commission's tentative plans, and that at no time has the commission approved or disapproved changes in these tentative plans. Isn't the staff and the Democratic caucus assuming the prerogatives of the commission? The reapportionment process should be conducted by the commission itself in an open manner.¹³³

Another speaker seemed puzzled by the Chairman's claim that the commission decided policy when in fact the plan had been drafted before the commission's second meeting.¹³⁴

Finally, a participant cited the Providence Journal report that staff had been hired "without even informing old members" and decried the fact that "no commission meetings were scheduled as redistricting plans were being drawn up, and...full-blown plans were

being shaped probably with other legislators before all members of the commission were even informed of the contents of the proposal."¹³⁵

Notes to Chapter III

1. Chapter 146 PL-1980.
2. Chapter 146 PL-1980 Article VIII.
3. Ibid.
4. According to the roll of the 1981-1982 Session of the Rhode Island General Assembly, it consisted of: Senate, 43 Democrats and 7 Republicans; House 82 Democrats and 18 Republicans.
5. William Castro, comments to the Rhode Island Reapportionment Commission, Providence, Rhode Island, October 28, 1981, p. 9. (hereafter cited as Providence Hearing Transcript, Oct. 28, 1981)
6. Licht v. Quattrocchi, 454 A.2d 1210 (R.I. 1982); Holmes v. Farmer, 475 A.2d 976 (R.I. 1984).
7. Minutes of the Reapportionment Commission, June 18, 1981.
8. Ibid.
9. Andrea J. Wollock, ed. Reapportionment Law and Technology (Denver Colo.: National Conference of State Legislators, 1980). The publication includes an extensive and detailed discussion of Federal case law on state and congressional districting, as well as definitions of terms and concepts commonly encountered in the process.
10. Chapter 146 PL-1980
11. Albert Henry, interview in Providence, R.I., June 14, 1983 (hereafter cited as Henry Interview).
12. Frederick Lippitt, interview in Providence, R.I. April 20, 1983 (hereafter cited as Lippitt Interview).
13. Lippitt, interview, April 20, 1983.
14. Anthony Coelho, interview in Providence, R.I. June 28, 1983 [hereafter cited as Coelho Interview].
15. Lippitt, interview. Sapinsley interview in Providence, R.I., October 20, 1982.
16. Coelho, interview, April 27, 1983.
17. Licht v. Quattrocchi, no. 82-1495, R.I. Superior Court, deposition of William Castro, May 3, 1982, p. 45 (hereafter cited as Castro Deposition).

18. Ibid., pp. 45-46.
19. Ibid., pp. 57-58
20. Andrew McConnell, comments before the Reapportionment Commission, Warwick, Rhode Island, October 20, 1981, p. 2 (hereafter cited as Warwick Hearing Transcript).
21. Marlene Smith, testimony before the Reapportionment Commission, Woonsocket, Rhode Island, November 5, 1981, pp. 41-42 (hereafter cited as Woonsocket Hearing Transcript).
22. Philip Burnet, testimony before the Reapportionment Commission, Newport, Rhode Island, October 27, 1981, p. 5 (hereafter cited as Newport Hearing Transcript).
23. McConnell, comments, Ibid., p. 5.
24. Charles Moran, testimony, Warwick Hearing Transcript, pp. 8-10.
25. John Caruthero, testimony, Ibid., pp. 20,22.
26. McConnell, comments, Ibid., p. 23.
27. Andrew Polushi, testimony before the Reapportionment Commission, Narragansett, Rhode Island, October 22, 1981, p. 10 (hereafter cited as Narragansett Hearing Testimony).
28. McConnell, comments, Ibid., p. 11.
29. William Castro, comments, Providence Hearing Transcript, p. 17.
30. Ibid., p. 37.
31. McConnell, comments, Newport Hearing Transcript, p. 5.
32. Aldo Freda, comments, Providence Hearing Transcript, October 28, 1981, pp. 34-35.
33. Albert Henry, testimony, Narragansett Hearing Transcript, p. 25.
34. Leno Brunetti, testimony, Woonsocket Hearing Transcript, p. 20.
35. Charles Ted Wright, comments, Ibid., p. 23.
36. McConnell, comments, Ibid., p. 23.
37. Arthur Read, comments, Ibid., p. 24.
38. Marlene Smith, testimony, Ibid., p. 12
39. Jane Sherman, testimony, Providence Hearing Transcript, October 28, 1981, p. 3.

40. Smith, testimony, Woonsocket Hearing Transcript, pp. 14-17.
41. Ibid., p. 16.
42. Roland Boulais, testimony, Ibid., p. 29.
43. McConnell, comments, Ibid., p. 29.
44. Barbara Mildram, testimony, Providence Hearing Transcript, October 28, 1981, p. 28.
45. Bradford Gorham, comments, Ibid., pp. 31-32.
46. Mildram, testimony, Ibid., p. 32.
47. Mary Duncan, Providence hearing, p. 13.
48. Freda, comments, Ibid., p. 14.
49. Castro, comments, Ibid., p. 16.
50. Michael Flynn, testimony, Ibid., p. 20.
51. Susan Farmer, testimony, Ibid., pp. 26-27.
52. Nancy Langlois, testimony, Woonsocket Hearing Transcript, p. 26.
53. Minutes of the Reapportionment Commission, January 27, 1982.
54. William Castro, interview in Providence, Rhode Island, May 31, 1983 (hereafter cited as Castro Interview).
55. Lippitt, interview, April 20, 1983.
56. Although attendance at some commission hearings was low, the October forum had drawn over 100 people and the attendance at the later Providence hearings -- after an actual plan had been made public -- was also very high. The low turnout at the five fall hearings might say more about voter suspicion or pragmatism than it did about a lack of interest or apathy.
57. Coelho, interview, April 27, 1983.
58. Lippitt, interview, April 20, 1983; Holmes Interview, April 13, 1983; Sapinsley Interview, October 20, 1982.
59. McConnell, comments, Woonsocket Hearing Transcript, p. 2.
60. Coelho, interview, April 27, 1983.
61. Ibid.
62. Ibid.

63. 13 U.S.C.A. Sec. 141 (c) (1956 & Supp. 1986)
64. Henry, interview, June 14, 1983.
65. U.S. Bureau of the Census, Factfinder for the Nation (June, 1982), "Census Geography-Concepts and Products," p. 2.
66. Minutes of the Reapportionment Commission, January 22, 1982.
67. Coelho, interview, June 28, 1983.
68. Coelho, interview, April 27, 1983.
69. R.I. Const., Art. XIII (1909).
70. Coelho, interview, April 27, 1983.
71. Ibid.
72. Ibid.
73. Ibid.
74. William Castro, Reapportionment Commission, Vice Chairman, "Press Release," December 18, 1981, p. 1.
75. Although the Commission did not come together formally in December, a chronology of "Reapportionment Meetings, 1981 and 1982" prepared by the Senate Majority Leader, indicates that there were ten meetings during the month concerned with redistricting (see appendix). While even the sketchy detail garnered from interviews is not available on several meetings listed, it seems that these represented the "nitty-gritty" of the redistricting process.
76. Castro, press release, p. 1.
77. Ibid.
78. Castro, interview, May 31, 1983.
79. Lippitt, interview, April 20, 1983. /
80. Ibid.
81. Castro, interview, May 31, 1983.
82. Coelho, interview, April 27, 1983.
83. Ibid.
84. Castro, deposition, p. 40.
85. Ibid., p. 39.
86. Ibid., p. 85.

87. Steven Brown, letter to Rep. Andrew McConnell, January 18, 1982.
88. Brown letter.
89. Lila Sapinsley, memorandum, "To the Reapportionment Commission," with Minutes of the Reapportionment Commission, January 22, 1982.
90. Minutes of the Reapportionment Commission, January 22, 1982.
91. Minutes of the Reapportionment Commission, January 27, 1982.
92. Ibid.
93. Minutes of the Reapportionment Commission, January 28, 1982.
94. Minutes, January 22, 1982.
95. Minutes, January 27, 1982.
96. Ibid.
97. Minutes, January 28, 1982.
98. Ibid.
99. Minutes of the Reapportionment Commission, February 24, 1982.
100. Minutes of the Reapportionment Commission, February 26, 1982.
101. Minutes of the Reapportionment Commission, March 3, 1982.
102. Senator Richard Licht, testimony before the Rhode Island Reapportionment Commission, hearing, Providence, Rhode Island, February 3, 1982, transcript, p. 10-12 (hereafter cited as Providence Hearing Transcript, February 3, 1982).
103. Ibid., p. 12.
104. Sen. William Castro, comments before the Reapportionment Commission, Providence, Rhode Island, February 8, 1982, pp. 31-32 (hereafter cited as Providence Hearing Transcript, February 8, 1982).
105. Elizabeth Head, testimony, Ibid., p. 167.
106. Robert Tucker, testimony, Providence Hearing Transcript, February 3, 1982, p. 34.
107. Marlene Smith, testimony, Providence Hearing Transcript, February 8, 1982, pp. 160-161.
108. Licht, testimony, Providence hearing Transcript, February 3, 1982, p. 13.

109. Licht, testimony, Providence Hearing Transcript, February 8, 1982, p. 85
110. Frank Licht, testimony, February 8 Hearing Transcript, p. 60.
111. Senator Richard Licht, testimony, Providence Hearing Transcript, February 3, 1982, p. 13.
112. Senator John Lyle, testimony, Ibid., pp. 16-17.
113. Rep. Stephen Erickson, testimony, Providence Hearing Transcript, February 3, 1982, pp. 40-41.
114. Rep. Norma Willis, testimony, Providence Hearing Transcript, February 8, 1982, pp. 43-46.
115. Melvin Gelch, testimony, Ibid., pp. 145-147.
116. Alex Donis, testimony, Ibid. pp. 172-173.
117. Leo Brunetti, testimony, Ibid., pp. 53-54.
118. Marlene Smith, testimony, Ibid., p. 58.
119. Anthony Coelho, testimony, Ibid., p. 58.
120. Lyle, testimony, Ibid., p. 18.
121. Gelch, testimony, Providence Hearing Transcript, February 8, 1982, p. 150.
122. George Rorebach, testimony, Ibid., pp. 163-164.
123. Gelch, testimony, Ibid., p. 146.
124. Castro, testimony, Ibid., pp. 89-90.
125. Senator Licht, testimony, Ibid., pp. 92-93.
126. Catherine Rodes, testimony, Ibid., pp. 99-100.
127. James Reilly, testimony, Ibid., p. 119.
128. Ann Marol, testimony, Ibid., pp. 114.
129. Bruno Hoffman, testimony, Ibid., pp. 101-102.
130. Joseph Caffey, testimony, Ibid., pp. 140-142.
131. Head, testimony, Ibid., pp. 166-167.
132. Rep. Zygmunt Friedemann, testimony, Ibid., p. 2.
133. Marilyn Poole, testimony, Ibid., p. 124.

134. Head, testimony, Ibid., p. 167.

135. Susan Farmer, testimony, Ibid., pp. 128-129.

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Chapter IV

Assessments of the Process

To supplement the story of the 1982 redistricting process, the Rhode Island Advisory Committee conducted a series of interviews with elected and appointed officials, citizens group representatives, and interested observers (see appendix for a listing of persons interviewed).

The interviews concentrated on the following topics:

- 1) The composition of the Reapportionment Commission;
- 2) The role of the staff in the process;
- 3) The opportunity for public input;
- 4) The criteria used to guide the process; and
- 5) Changes which might improve the process in the future.

The views of Reapportionment Commission Vice Chairman William Castro and the ACLU's Steven Brown represented two opposing positions which encompass the range of perceptions provided by other respondents.

Two Views

Senator Castro emphasized that the 1981-1982 redistricting process was "opened up" for the first time,¹ although for Castro the openness referred largely to the treatment of fellow legislators. Castro noted that before the plan received formal consideration by

the commission:

We brought the senators from various areas of the state....They really know their districts better than anyone else and they know who lives in their districts. They know what minority groups live in their districts and we asked them to give us an overview of their districts; to look at the maps and make suggestions for change.²

He emphasized that "reapportionment is a political process...and politics is a situation of ins and outs."³

Castro also felt that allowing the legislators to express themselves in private was an important and productive strategy, since some were "bashful" in more public settings. He summarized his approach as designed to provide the opportunity for dialogue, claiming that "the more dialogue you can get from people, the better the plan is going to be."

With regard to public input Castro stated, "the vast majority of the electorate, unless they have a political ambition, really are not concerned as to what district they're in. Because under the one man, one vote principle everyone has an equal voting strength regardless of what district you're in."⁴ Castro argued: "We had a hearing in which 35 or 36 senatorial districts were reviewed [February 3, 1982]. There were very few people there. There was very little comment, and then we had a second hearing [February 8, 1982] and all the comments came from really one neighborhood that was affected."⁵

This discounted the concern about historical boundaries, communities of interest, compactness, contiguity, and embedding expressed during the fall and February hearings. According to Castro, any successful plan "must get one more vote than a majority and the signature of the Governor." He was well aware that the courts will generally defer to political bodies:

We eventually had a [Rhode Island] Supreme Court decision that said that 40 of the districts were done correctly and only 10 of them were done incorrectly. The house plan which was done by the same people as the senate plan was found to pass the test and the congressional reapportionment passed the test.⁷

Brown's assessment was far less sanguine. Brown characterized the process as "awful," though he was "not terribly suprised at what happened." He claimed that "it was not atypical, not a fluke," but reflected "systemic problems" inherent in Rhode Island's legislature. It was designed to "benefit the majority over the minority, Democrats over Republicans, endorsed over unendorsed candidates, and incumbents over challengers." According to Brown, "public input was not accepted or considered."⁸

Brown called for systemic change, and noted that the Reapportionment Commission's procedures and operations largely reflected those used by the general assembly. According to Brown: "The Reapportionment Commission did not get together for months and waited until near the very end of the process to decide to start work. By waiting that long, the public does not have an appropriate opportunity or adequate opportunity to respond to whatever is considered by the commission."⁹

The Commission

During the October forum, Rep. DeAngelis emphasized the political nature of reapportionment and Sen. Castro reiterated this position during his interview. Rep. Lippitt also confirmed that redistricting, as it occurred in 1982, "was a very political process."¹⁰ This assessment was shared by many persons, though several interviewees rejected this assumption.

Sen. Licht emphasized that the purpose of redistricting is to ensure that citizens have "representative government." "You must realize," he explained, "reapportionment is about representation in the general assembly and that is the electoral process."¹¹ James Sullivan of Common Cause stated, "It isn't legislators being reapportioned; it's us, the voters. We're going to be here forever."¹²

Suzanne Perry, of the Rhode Island Women's Political Caucus, urged that redistricting be "removed from the political arena." She suggested that "in the future any reapportionment [be] conducted by a non-partisan body."¹³ Jane Sherman of the League of Women Voters observed: "Basically politicians think we're naive. I mean they really think we don't understand the political process."¹⁴

Susan Farmer referred to a bill she introduced to form a commission which would be:

appointed by the general assembly for the purpose of establishing a reapportionment for submission to the general assembly for its consideration. The special commission shall contain no less than 11 and no more than 17 members. The commission shall not include as a member any members of the general assembly and no more than five members will be appointed from the same political party. At least one qualified elector from each county of the state should be appointed to the special commission.¹⁵

Staff

The relationship between the staff and the commission was one of the most controversial features of redistricting. However, Senator Castro noted that "in view of past reapportionments in Rhode Island, [Coelho] was much more experienced than we have had in the past."¹⁶

This assessment was shared by Albert Henry, who had been the "staff technician" for the the two previous redistrictings. He described a general process in which commission members operate as "communicants" and indicated that the "chairman works with the staff and provides feedback to the rest of the commission."¹⁷

Lippitt, who was critical of the 1982 process, recalled that "The one before was worse. There were no guidelines. Nobody saw anything until you were presented with your district." Nevertheless, in 1982, according to Lippitt, "actual redistricting was done by a man hired by the speaker of the house without the consent or knowledge of any of the commission. He really had no background but did exactly what he was told to do."¹⁸

Castro noted that redistricting "happens only every ten years, so there are no practitioners in the area or the country that can do reapportionment on a continual basis. So every ten years or so you get these people who become instant experts."¹⁹

Public Input

The public hearings of 1981 and 1982 were the first ever held in the state, though Brown felt the process placed a "burden on the public" to prove the value of its input.²⁰ Some participants questioned whether the public comments were in fact being sought in good faith. Governor Licht noted a "tenseness in the questioning" and added: "There seems to be a certain hardening of position....I would hope that you [the Reapportionment Commission] do have open minds, and that if I say something that has merit, that perhaps it might even change your minds."²¹

Another participant remarked that "[w]hat I heard tonight was very disappointing on a number of occasions where it was much more a case of an adversary relationship between the commission and the people who are coming up and proposing different ideas."²² Yet another participant was displeased that Senator Castro seemed to "keep the floor all the time and [was] answering what the public has to say."²³

According to Republican Party Chairman John Holmes, the statewide hearings were "a complete waste of time." He added:

Not a single thing was taken from those kinds of meetings and used to develop a new plan. What you had was a group of political people sitting there listening; in the meantime, in a room, in a locked room located over the house chamber, a staff had already been hired to reapportion Rhode Island.²⁴

Perry expressed similar skepticism concerning the hearings: "When the public hearings were held, they [the commissioners] were going through motions. To me, it was almost like they were listening to where the opposition was going to come from and when it became blatant...they just stonewalled it."²⁵

Guidelines

Interviewees repeated the emphasis on the need for reapportionment guidelines which emerged during the statewide and Providence hearings. Although Senator Castro recalled that "the commission did adopt procedures [which] prior to the first of the year were just principles,"²⁶ as the preceding chapter shows, the resolution adopted by the commission fell short of formal guidelines.

According to Castro, the Reapportionment Commission was responsible for adopting a "plan that meets the mandates -- either by case law or constitutional law -- in effect at the time...[and] from the information we received from our attorneys we were within the parameters of all these mandates."²⁷

While Castro felt that conformity to a set of general principles was adequate, attorney Mark Mandell, who represented Sen. Licht and the East Side plaintiffs, highlighted the need for publicly stated

guidelines. He acknowledged that the "one person, one vote" principle is an important starting point, but by itself is "too broad" as a basis for redistricting. He indicated that 2.5 percent deviation was "wrong because there was no reason for it; it was arbitrary."²⁸

For Mandell, the purpose of redistricting is to conform as "near as possible," to equal districts. Guidelines are needed, he argued, to "justify any deviation." Among reasons he believed to be legitimate were: "to foster minority representation, to keep cities and towns intact, to preserve natural boundaries, and to maintain neighborhoods." Mandell also expressed the opinion that the 1981-1982 process had been guided by "bad and inadequate advice," adding that the commission "did not know Rhode Island law or consider the 1966 State Supreme Court decision."²⁹

Mandell recalled that while "under the 1974 plan, of 24 communities with less than enough population for a senator, all but three remained intact." Under the initial 1982 plan, he stated, "nine or ten such communities were split up." Mandell suggested that a formal and public commitment to a guideline protecting the integrity of such communities would have prevented such an outcome. He added that such guidelines should also provide assistance in determining priorities, or circumstances under which community integrity could only be overridden by other factors.³⁰

In contrast to Castro's recollection, commission member Lippitt reported that: "We really didn't sit down and say, 'How should we reapportion the state? Should we stick to town lines? Should we have it done by computer and then see what it looks like? What should we do?' We never had that kind of discussion."³¹ Despite this, Lippitt suggested that "guidelines themselves are inadequate," claiming that "they would be adopted and then you would have to get down to the nitty-gritty." Overall, however, Lippitt indicated support for guidelines. Although he was critical of the 1982 commission's performance, he acknowledged the improvement shown in at least paying "lip service" to unwritten guidelines.³² As noted above, Brown shared this sense of the inadequacy of guidelines themselves, but indicated that their existence added a means of assessing the outcome of the process.

While Castro claimed that a set of basic principles guided the process, he argued that the formulation of hard and fast rules would make the task impossible. As an example, he noted that "compactness is a very relative term. We've got a situation here where we can talk about compactness in East Providence but what relationship does that have to a district in South Providence?"³³

Incumbency

One of the general themes which emerged from the hearings was given a specific name during the Advisory Committee interviews: the Reapportionment Commission's emphasis on obtaining approval from

current members of the the general assembly was dubbed "incumbency protection." According to commission member Lippitt, the entire process yielded an "incumbent protection plan." He added that:

I don't think it was intended necessarily to say that the Democrats in Rhode Island needed more seats in the general assembly and I don't think they were really after that. They were after protecting all the seats they've got [and] since they have most of the seats anyway, it turned out that way.³⁴

Lippitt, himself an incumbent, albeit a member of the minority party, acknowledged that the process did allow considerable flexibility in this regard. Although he reported that "the commission never discussed alternative plans" for the whole state, he described a process in which he could go to his neighboring colleague and say, "I'd like this [part of your district] for some reason, you want this [part of my district]?" He likened the process to a game of "Monopoly."³⁵

Mandell urged that incumbency become a much lower priority for determining district lines and commented that "if they [incumbents] want to be specific about their districts, let them say it publicly." He acknowledged that input from incumbents is important because of their knowledge but added that they should have "qualitative, not substantive input."³⁶ His comment reflects his contention that the process should concentrate on population shifts and hence that areas "losing population" would naturally be affected.

Holmes also indicated that incumbency should be given a low priority. He did observe, however, that:

[W]hen you run a campaign for senate or house in Rhode Island and your financial reward, after spending anywhere from \$3,000 to \$20,000 is \$300 a year, the last thing you need to do is have somebody carve up your district and deprive you of at least that base amount of support that you're going to get re-elected with.³⁷

He added that this concern is shared by all legislators, Democrats and Republicans, who have, "after all, been in the house and the senate for a while and want to protect their turf, too."³⁸

Castro recognized that disregarding incumbency made "good philosophy,"³⁹ but he also emphasized that the general assembly is mandated by the state Constitution to conduct redistricting. He also observed: "I don't know where you're going to get legislators or elected officials to vote for a proposition that would deal them out of office."⁴⁰

Coelho noted that incumbency is one factor to be considered in addition to population in terms of drawing lines. He added that while there is "always a potential for excesses" in protecting incumbents' positions, his "criteria in drawing lines which might include two current legislators [was to] make it possible for [either] to win."⁴¹

Role of the Executive

William Brodie, the Governor's Counsel, emphasized that redistricting is a "legislative function which minimizes the role of

the executive" and remarked that the "nature of the process gives rise to a hesitancy to overstep boundaries." Brodie emphasized that the plan affected the legislators' "very existence." The Governor, according to Brodie, saw redistricting as a "strictly 'in-house'" matter for the general assembly and "chose not to tie himself to the process."⁴²

When asked if the Governor had adopted this posture in principle only or in response to requests for intervention, Brodie responded that the Governor "had no legal responsibility and let [the redistricting legislation] pass without signature." He emphasized that "[t]he Governor is not the arbiter of constitutionality" and that such questions belonged in the courts. He did recall that the Governor met with "individuals who thought the plan was subject to challenge" but added that the Governor believed the plan "on its face, was not unconstitutional and chose not to interfere nor endorse" the redistricting bill.⁴³

East Side residents, according to plaintiff Mary Lima, "decided that we ought to go see the Governor and perhaps persuade him to veto the bill if it did in fact pass and reach his desk, [but] we never did get a commitment from him one way or the other in terms of what he would do. He suggested that we meet with [Senators] Quattrocchi and Castro." When asked whether any of the officials had been aware of the issues being raised regarding minority voters, Lima recalled that the Governor "had to think about it for a second [and] then sort of agreed with us that we were in fact right."⁴⁴

Minority Political Rights

The issues of involving minority voters and enhancing minority political participation were critical themes throughout the interviews. Lippitt indicated that "in Rhode Island there are certain minority groups that you can provide representation for if you put your mind to it," but in his view:

[T]he Reapportionment Commission paid very little attention to ethnic problems and was really, I think, kind of thoughtless that way because they [minorities] didn't fit into the [incumbent] protection plan very well. For example, you had a South Providence district which you could get that had [majority] black voting districts but it would have spoiled a little nest over there of some friends.⁴⁵

Lippitt did not "think it was in any sense intended to discriminate or dilute minority voting strength, but conscious consideration was never given to possible positive or negative effects on minority voting."⁴⁶

According to Castro, "we protected the minority interest to the best of our ability"⁴⁷ when: "The staff and legislators involved in the area identified the minority groups within various districts and we made adjustments to keep them within the districts they were in or to be sure they were not separated from their power base."⁴⁸

Coelho recalled that not diluting minority voting strength was one of the basic principles established at the outset of the process. Early in the process, the staff was "thinking of it in

terms of maintaining or improving minority voting strength in terms of population...[because] areas in Providence which experienced the most population decline were minority areas....The second smallest house seat [under the 1974 lines] represented an inner city area...and the second smallest senate district in the state had a substantial minority population."⁴⁹

Both Coelho and Castro cited the "compromise" worked out after meeting with representatives of the minority community from the East Side of Providence. Coelho said that the commission had "bent over backwards not to dilute minority voting strength" and he cited as evidence the fact that "in all proposed plans for Providence, [senate] districts nine and ten [including South Providence] were identical." According to Coelho, while the minority population "in District 8 was reduced from 30 percent to 18 percent, District 9 rose from 34 percent to 49 percent, and the strength in District 10 was maintained." Coelho expressed chagrin that the "court seemed to think that a new District 9 which had 51 percent minority population was superior."⁵⁰

According to Holmes, "in terms of minorities in certain areas of Providence, there is no question that minority interests should have been protected." He added:

Minorities have to take a look at what their role has been historically. The minorities in Rhode Island have been...identified as being part of the political operation...of the party in power. I think that the minorities do themselves a long range disservice...from a short range point of view, maybe they're getting a pittance here and a pittance there.⁵¹

B. Albert Ford offered his own critique of the role blacks played in the process and defended the performance of the legislature. Ford argued that "there has to be an awareness on the part of the people that everything we do is in a sense political." He observed that "we have not developed that awareness here as black people."⁵²

Ford described himself as "part of the process" and linked his assessment of the 1982 redistricting to the 1980 gerrymander attempt. According to Ford, the "stink" raised in 1980 by "instant politicians" had both sensitized legislators to the concerns of blacks and negated the potential improvement of minority voting strength which would have occurred "over time."

Ford had refused to support the court suit charging that the proposed senate plan would have separated East Side blacks from their community of interest.⁵³ "Politically, I saw nothing wrong with that [proposal]. Blacks could never elect a senator over here [East Side]."⁵⁴

While Ford concluded that "the process as it was being carried forth was considering our welfare every step of the way,"⁵⁵ several other East Side blacks did become plaintiffs in the case. The picture presented by these East Side residents differed greatly from the contentions of Castro and Coelho and were more in line with Lippitt's assessment that the Reapportionment Commission was inattentive to the effects of the proposed lines on minority residents.

Mary Lima recalled that "a group of five or six minority residents of the East Side" was disturbed by the proposal to include parts of Providence in a predominantly Pawtucket district. Lima described a meeting with Senators Castro and Quattrocchi:

Quattrocchi did agree to move the line from Rochambeau to Doyle, but we tried to make them understand that they were still leaving out a segment of the neighborhood that has a minority population. Well, Dr. Coelho insisted that the figures he had did not show this. We tried to impress upon him that in spite of what his figures said, we know otherwise and that in fact University Heights should also be included. We tried to impress upon him very strongly that we didn't feel that the neighborhood should at all be moved to Pawtucket. We had no kind of relation, no kind of identification with them. The possibility existed that the area the way it was at that time could at some time very soon elect minority representation to the senate because we had already done that in the City of Providence. I don't think Castro was aware of any of this and I'm not so sure Quattrocchi was aware of this. So we were trying to impress upon them that they were diluting our strength.⁵⁶

Lima recalled that the legislators had pointed out that there were not enough minorities to control an election. She said that the group of minority residents "understood this, but [repeated] that the way the area [had formerly been] laid out, it was very possible to nominate and elect a minority from the area."⁵⁷ During the meeting Quattrocchi and Castro "agreed to move the line to Olney Street," but according to Lima:

[W]e couldn't get them to understand or...to agree that even Olney Street to Pawtucket was not what we were looking for. We definitely wanted the area intact but we certainly didn't want it to go to Pawtucket. [Castro] did at one point ask us what did we want him to do with it. We said [to] him that we felt he was the one who had the expertise in terms of

drawing the lines so that it was equitable, but that we wanted him to keep in mind that this area should stay intact. We left sort of on that note...We weren't pleased when we left. I felt it was sort of an appeasement thing he had given us to get us off his back.⁵⁸

Ms. Bennie Fleming, another plaintiff, said that she had lived "on the East Side for 37 years and I felt that I had seen enough happen in the days when there was a cohesive black vote that could really make a difference though the opportunities were not as great as they are now."⁵⁹ She added that "to damage that cohesiveness was certainly not going to produce anything in the future that I could see as being beneficial to the black community."⁶⁰

Mandell indicated that he felt the decision in the senate case was a "landmark in terms of minority voting," because it established a principle of "community interest" which recognized that "15 percent of an East Side district" gave this minority population more of a voice than it would have if it had been added to the Pawtucket district.⁶¹

In terms of the effect of the plan on minority voters, consultant Bernard Grofman reported:

In the only areas of the state where there is substantial minority population (Providence in particular), great attention was paid to maximizing minority voting strength by (a) maintaining as near as possible the configuration of a particular minority voting district in South Providence despite a black population loss from the area, and (b) distributing

black strength across two districts in South Providence rather than wasting it (a concentration gerrymander) on a district which was already safely Black-majority. From the testimony at the [House] trial, it seemed to me quite clear that black voters had been given an opportunity for input and had come out quite well. (Because of dispersion of minority population, strict proportionality between a minority's voter share and its seat share is almost never going to occur). However, the discussion above, I should emphasize, refers to the [House] plan only. As I understood it, unlike the House plan, the various senate plans did pose real issues for minority representation, but I am not sufficiently familiar with the details on the senate side to be able to comment intelligently. There were allegations in the trial that the House plan was racially discriminatory, but I found no validity to those charges.⁶²

General Assessment

Several respondents offered general comments assessing the 1982 redistricting process. Mandell, for instance, observed that the commission "did not have much concern for the process but was primarily concerned with a result." As such, according to Mandell, the commission emphasized conformity to "one person, one vote" principles and "discounted public opposition and other legal requirements." He repeated his contention that the commission received "bad advice" and characterized the attitude of the general assembly's leadership as "contemptuous."⁶³ Farmer characterized the entire 1982 process as a "sham" and added: "It is clear that something has to be done to ensure that the same type of abuse does not occur again."⁶⁴

Ms. Anna Nestman, another plaintiff, offered a broader perspective on the Rhode Island process:

In all the cases that I know about -- when I was living in New York State or living in Illinois or living in West Virginia -- anytime that there was redistricting, there was always some kind of dirty dealing and in the end the thing had to go into court. The only way the thing ever got settled up fairly was when the court had a hand in it and did hire an outside expert.⁶⁵

Gordon Henderson, computer specialist at Richmond College in Indiana, who served as consultant to the Republican Party, observed that "having two plans for the senate declared unconstitutional on the ground that they were gerrymanders...does not to my mind speak well of the process by which those plans were developed."⁶⁶

Grofman, who spent nearly 200 hours in connection with the case, provided an overall assessment that the "final house plan (appropriately in my view) reflects the legislative priority for a 'least-changed plan.'"⁶⁷ However, he identified the key problem with the Reapportionment Commission's input to the legislature as the absence of anyone, including the state attorney general, familiar with reapportionment law.⁶⁸

Notes to Chapter IV

1. William Castro, interview in Providence, Rhode Island, May 31, 1983 (hereafter cited as Castro interview).
2. Ibid.
3. Ibid.
4. Ibid.
5. Ibid.
6. Ibid.
7. Ibid.
8. Steven Brown, interview in Providence, Rhode Island, April 20, 1983 (hereafter cited as Brown interview).
9. Ibid.
10. Frederick Lippitt, interview in Providence, Rhode Island, April 20, 1983, (hereafter cited as Lippitt interview).
11. Richard Licht, interview in Providence, Rhode Island, April 13, 1983 (hereafter cited as Licht interview).
12. James Sullivan, interview in Providence Rhode Island, May 11, 1983 (hereafter cited as Sullivan interview).
13. Suzanne Perry, interview in Providence, Rhode Island, April 13, 1983 (hereafter cited as Perry interview).
14. Jane Sherman, interview in Providence, Rhode Island, April 20, 1983 (hereafter cited as Sherman interview).
15. Susan Farmer, interview in Providence, Rhode Island, April 20, 1983 (hereafter cited as Farmer interview).
16. Castro interview.
17. Albert Henry, interview in Providence, Rhode Island, April 27, 1983 (hereafter cited as Henry interview).
18. Lippitt interview.
19. Castro interview.
20. Brown interview.

21. Frank Licht, testimony at Reapportionment Commission Hearing, February 8, 1982, Transcript p. 58.
22. Bruno Gilletti, testimony at Reapportionment Commission Hearing, February 8, 1982, Transcript p.135.
23. Bruno Hoffman, testimony at Reapportionment Commission Hearing, February 8, 1982, Transcript p. 102.
24. John Holmes, interview in Providence, Rhode Island, April 13, 1983 (hereafter cited as Holmes interview).
25. Perry interview.
26. Castro interview.
27. Ibid.
28. Mark Mandell, interview in Providence, Rhode Island, April 13, 1983 (hereafter cited as Mandell interview).
29. Ibid.
30. Ibid.
31. Lippitt interview.
32. Ibid.
33. Castro interview.
34. Lippitt interview.
35. Ibid.
36. Mandell interview.
37. Holmes interview.
38. Ibid.
39. Castro interview.
40. Ibid.
41. Coelho interview.
42. William Brodie, interview in Providence, Rhode Island, November 30, 1982 (hereafter cited as Brodie interview).
43. Ibid.
44. Mary Lima, interview in Providence, Rhode Island, June 16, 1983, (hereafter cited as Lima interview).

45. Lippitt interview.
46. Ibid.
47. Castro interview.
48. Ibid.
49. Coelho interview.
50. Ibid.
51. Holmes interview.
52. B. Albert Ford, interview in Providence, Rhode Island, April 27, 1983 (hereafter cited as Ford interview).
53. Ibid.
54. Ibid.
55. Ibid.
56. Lima interview.
57. Ibid.
58. Ibid.
59. Bennie Fleming, interview in Providence, Rhode Island, June 16, 1983, (hereafter cited as Fleming interview).
60. Ibid.
61. Mandell interview.
62. Bernard Grofman, letter to Lester Hilton, June 14, 1983.
63. Mandell interview.
64. Farmer interview.
65. Anna Nestman, interview in Providence, Rhode Island, June 16, 1983.
66. Gordon Henderson to Lester Hilton, June 14, 1983.
67. Grofman letter.
68. Ibid.

Chapter V

Prospects for the Future

Two definitions of "political" emerged during Advisory Committee interviews. To some it meant partisanship; to others, it meant representation. To create a representative political process, most respondents felt the appropriate focus of reform was the body charged with carrying out the reapportionment process.

Composition of the Redistricting Body

Several people called for the creation of non-legislative reapportioning bodies. James Sullivan of Common Cause suggested the creation of a "civilian commission, an independent commission" that would be:

appointed by legislative leaders because somebody's got to appoint them; and since it affects the legislature they should have some input to appoint people as they do in many other commissions. That commission of independent people who have no personal axes to grind and no personal enemies to punish should do the reapportionment.¹

Licht argued that the process "must be taken out of the politicians' hands." Though the plan must be approved by the general assembly, "considerations...[would] take a different form." Licht suggested that the reapportioning body should include representatives of, or formal protection for, certain "groups, particularly minorities."²

Bennie Fleming, one of the plaintiffs in the senate case, noted that though the composition of the commission was "bi-partisan," the process was not. She added that the commission "should not be made up of legislators but should include [private] citizens."³

Secretary of State Susan Farmer argued that expecting politicians to behave non-politically would be "asking too much of legislators as human beings; to be objective when they see it as protecting their own interests." The development of redistricting plans should be "one step removed" from the office holders. "The politicians can't be trusted to put the public's interest ahead of their own when redistricting a state. Anybody who has anything to lose or gain should not be involved in the process."⁴

Sherman observed that it is "very difficult for legislators to openly discuss a plan that's been prepared by legislators because they'd be criticizing their peers. If you have a commission that's not legislators, it gives the legislature more freedom." Sherman cited as evidence conversations with "members of the legislature who were appalled at these (1982) plans but who voted for them."⁵

Holmes recognized the need for "political people" and "representation by both political parties," but urged the inclusion of "very distinguished people within the community", including educators and business people who are not "identified with a political party." He also proposed an ongoing commission which would include "some minority group representation."⁶

According to Perry, "politicians should be excluded" altogether from the process.⁷ Licht, on the other hand, allowed that "maybe some legislators could serve on the commission."⁸ Lippitt agreed that "there should be some politicians represented on the commission," and added that "it is not so much that the legislature is wicked as that this was controlled really right in the leader's lap."⁹

Alta Smith of the League of Women Voters argued that it is not necessary to "go outside the legislature to find an upstanding commission....We've got to make them do their job."¹⁰ This seemed to reflect the position of ACLU's Brown, who, while allowing that an independent commission might be worth considering, felt that the formation of such a body "begs the whole question" of the "systemic problems" in the state legislature.¹¹

Although Coelho felt that the "commission should probably remain singularly in the hands of legislators," he acknowledged that some "lay people" might be added. He anticipated difficulties "getting them to appreciate that it (redistricting) is a legislative process," and suggested that any such members should be "non-voting" participants.¹²

Senator Castro urged that any possible non-legislative commission be elected. According to Castro, "as long as they're elected, they're answerable to the people....Appointed people will only serve the interests of those people who appointed them."¹³

To Albert Henry, "reapportionment is strictly a political process, no matter who does it....If you keep it in the political sphere, electors can vote those responsible in or out [but] if you go to a 'disinterested' commission there is no such recourse." He emphasized the notion that redistricting is the "responsibility of elected people."¹⁴

Sullivan argued that the assembly's willingness to place its "fate" in the hands of a legislatively-appointed "blue ribbon group" which studied compensation for legislators set a precedent for a non-legislative redistricting body.¹⁵ Others offered the performance of the Providence City Council Ward Boundary Commission [WBC] as evidence that elected officials can redistrict successfully. The city's new charter replaced the 26 seat council (two members from each of 13 wards) with 15 single-member seats, a reduction of 11 seats overall. The WBC completed its task on time and without litigation. Jane Sherman speculated that a major difference in the WBC process accounted for its success. According to Sherman:

At a working session, someone would come in and say, 'My ward committee man is on the other side of this line and I need him on my committee.' They'd say, 'Okay, we'll see what we can do,' and they'd fool around with it. And it was done in the open and it was honest and everybody understood it is a political process and nobody got uptight.¹⁶

Appointment of Redistricting Body

Among those who believed that an "independent commission" should be appointed, there were differences as to who should do the

appointing. While Castro felt any such commission should be elected, Farmer and Sullivan called for the general assembly or legislative leaders to make the appointments.

Sherman claimed that "the appointments are going to be made by a political body because there's no way you could designate anybody who's not political....It's either going to be the Governor or majority leader and minority leader." They could "appoint legislators or citizens or you can say that if they get three appointments, one of them must be a citizen not active with any political party."¹⁷

Perry indicated that the commission "would have to be appointed by somebody like the governor's office or the attorney general," but should be drawn from non-political organizations like "the League of Women Voters, the NAACP, the Urban League, even my group (Women's Political Caucus)."¹⁸

Holmes also noted that "[y]ou would have to end up with somebody political doing the asking and that should probably be the Governor."¹⁹ Under Castro's proposal for electing any such body, the composition would be open to those persons willing to put themselves forward and able to gain election.

Henry suggested that a "disinterested" commission "almost defies imagination." He asked, "who appoints them? The Governor, the chief justices?" In the first case, he noted the probability of

political factors remaining influential and in the case of justices he warned that it was not advisable "to bring the courts in on something they may have to review."²⁰

Redistricting Staff

To provide a staff both technically able and non-political, Sherman envisioned a two-tiered staffing procedure in which, first, "the people who receive census data should be a good, non-partisan group to organize the data, collate them, and prepare population figures for the commission." After accomplishing this purely technical task, "the commission could hire additional staff."²¹

Perry felt that reapportionment does not require an "enormous staff." A key need is up-to-date maps and she suggested that the board of elections or the secretary of state could be funded to put together a "uniform map system," and the demography center at the Brown University Department of Sociology could provide "invaluable, impartial technical assistance."²²

Castro suggested that a staff member of the general assembly have permanent responsibility. In addition, he noted that "it would be helpful to tap some of the other sources of technical expertise a little earlier."²³

Farmer emphasized that "staff should be openly hired with a regular application process; with resumes and interviews and

demonstrated experience." She noted that during work on the Providence charter, "We would make all the decisions about what it was we wanted in the charter and the staff would do the drafting." She noted that the commission should "set policy for the staff to implement."²⁴

Anna Nestman, one of the plaintiffs in the senate case, argued that staff "should be an expert...not somebody's friend who needs a job."²⁵ Sherman suggested that "technical expertise can come from hired consultants" rather than general assembly staff and "directions should be given to the experts to guide them."²⁶ Coelho said that the "State Data Center had been very helpful" and could play a more formal role in the future, but they must "have a commission-appointed staff."²⁷

Public Input

There were also several suggestions for furthering public involvement. Fleming called for:

enough communication between the community and the legislature so that people will have a voice in expressing their opinions and the people it will affect will definitely have a chance to have their say and be listened to....I wouldn't want any 'Mickey Mouse' meetings, either, where it's all cut and dry before you get there and no matter what you say it isn't going to make any difference.²⁸

Public input was the primary concern of Smith and Sherman of the League of Women Voters. Smith noted: "If you have public hearings

as we did before the process supposedly started...you're not getting anything. It's much easier to testify in reaction to something on paper than testify on a theoretical basis."²⁹

Sherman believed that the process used by the Providence Ward Boundary Commission served as an appropriate model for the state, and she indicated that "the most valuable input that can have the biggest effect is the input during the work sessions, because then they [commissioners] don't have to save face." She argued that "the work sessions are going to have to be in the whole state."³⁰

In addition to the work sessions, Smith felt the commission "should hold public hearings on tentative plans," adding that "it doesn't necessarily have to be one map but could be more than one map or set of proposed lines."³¹

Brown also contrasted the Reapportionment Commission with the Providence Ward Boundary Commission, whose procedures, according to Brown, invited "public input in an open process with regularly scheduled meetings." He recalled that the series of public meetings held by the WBC allowed the public to see "the redistricting plan unfolding" and stressed that there is "no reason this couldn't happen" on the state level.³²

General Assessment

Opinions of those interviewed on the prospects for improving the

process in the future were mixed. Lippitt reported that "there was no general legislative interest in the process [of reapportionment] on the part of the general assembly," and he lamented that there is "zero likelihood of improving the process if it suits the leadership to have it the way it is." He added, however, that the successful 1982 court challenge makes it "much more likely that in the next reapportionment if someone's unhappy, they will try to go to court." Lippitt speculated that one possible effect of the prospects of court challenge would be to force the legislature as a whole to "recognize that the onus is on them."³³

The 1982 court challenge was clearly an important factor in determining assessments for the future. Coelho, who suggested a measure of a successful process is avoiding "going to court," felt that in the future "legislators and the public will be a bit more sophisticated." He suggested that in the future the general assembly should pass "more specific enabling legislation which provides for even more public input." Coelho's familiarity with technical aspects of the process led him to speculate that he could see "a situation in the future where most states will have greater capacity to use their data center."³⁴

Sherman warned, however, that "for elected officials to give up responsibility even though they still have a vote on it goes against the grain."³⁵ From this observation she joined the ranks of those who doubted whether the general assembly would act in the future to alter the process. Although Perry shared this skepticism, she noted

the possibility of a constitutional convention later in the decade and speculated that this might present the best opportunity for permanent change.³⁶

Senator Castro, like Coelho, believed that the process had been fairly successful and suggested that "perhaps the Governor could appoint an advisory commission to review and digest past reapportionment procedures." This body would not conduct reapportionment but could serve to establish acceptable procedures, timetables and criteria prior to formation of a redistricting body. He suggested that this advisory panel include "activists, legislators and canvassers" from some of the state's cities and towns.³⁷

According to Henderson:

[T]he means exist right now -- in the form of very detailed data sets available from the Census Bureau, and in the availability of compact, easy-to-use, inexpensive but extraordinarily powerful "home" computers...to do a bang-up job of reapportioning a State legislature. The process could be one in which citizen input could be maximized and significant without placing a great burden either on existing expensive-to-operate State computing facilities or upon the staff hired to do the job of reapportioning.³⁸

He then suggested that a local citizens' organization purchase a computer, obtain technical assistance from a college or university and:

Publicize your newly acquired capability to keep a close watch on what the legislature does by your ability to draw alternate plans using your computer

system. Invite the public to come on in and try their hand at devising plans. That way, I believe, is one sound step toward making the legislature stay honest and deal fairly with all citizens during this delicate process.³⁹

Notes to Chapter V

1. James Sullivan, interview in Providence, Rhode Island, May 11, 1983 (hereafter cited as Sullivan interview).
2. Richard Licht, interview in Providence, Rhode Island, April 13, 1983 (hereafter cited as Licht interview).
3. Bennie Fleming, interview in Providence, Rhode Island, June 16, 1983 (hereafter cited as Fleming interview).
4. Susan Farmer, interview in Providence, Rhode Island, April 20, 1983 (hereafter cited as Farmer interview).
5. Jane Sherman, interview in Providence, Rhode Island, April 20, 1983 (hereafter cited as Sherman interview).
6. Holmes interview.
7. Suzanne Perry, interview in Providence, Rhode Island, April 13, 1983 (hereafter cited as Perry interview).
8. Licht interview.
9. Frederick Lippitt, interview in Providence, Rhode Island, April 20, 1983 (hereafter cited as Lippitt interview).
10. Alta Smith, interview in Providence, Rhode Island, April 20, 1983 (hereafter cited as Smith interview).
11. Steven Brown, interview in Providence, Rhode Island, April 20, 1983 (hereafter cited as Brown interview).
12. Anthony Coelho, interview in Providence, Rhode Island, April 27, 1983 (hereafter cited as Coelho interview).
13. William Castro, interview in Providence, Rhode Island, May 13, 1983, (hereafter cited as Castro interview).
14. Albert Henry, interview in Providence, Rhode Island, April 27, 1983 (hereafter cited as Henry interview).
15. Sullivan interview.
16. Sherman interview.
17. Ibid.
18. Perry interview.

19. Holmes interview.
20. Henry interview.
21. Sherman interview.
22. Perry interview.
23. Castro interview.
24. Farmer interview.
25. Anna Nestman, interview in Providence, Rhode Island, June 16, 1983.
26. Sherman interview.
27. Coelho interview.
28. Fleming interview.
29. Smith interview.
30. Sherman interview.
31. Smith interview.
32. Brown interview.
33. Lippitt interview.
34. Coelho interview.
35. Sherman interview.
36. Perry interview
37. Castro interview.
38. Gordon Henderson to Lester Hilton, June 14, 1983 (hereafter cited as Henderson letter).
39. Henderson letter.

Chapter VI:

RHODE ISLAND IN PERSPECTIVE

Many argue that arrangements which limit minority group access to the political process are often self-perpetuating. The controversy which emerged in January 1982 and which characterized the public discussion of redistricting, for example, was largely based on this premise of inevitable politicization.

From the time of the 1980 "gerrymander" -- universally recognized as politically motivated -- through the conclusion of the 1982 process, community groups sought to ensure that any infringements on minority voting rights caused by political maneuvering were recognized and eliminated. Yet despite these efforts, both the process and the plan approved by the general assembly were criticized for disregarding the interests and rights of some black residents in Providence.

To be sure, the first black ever elected to the Rhode Island Senate came from a South Providence district drawn by the Reapportionment Commission. Furthermore, Senator Castro and others did meet with members of the affected black community from the East Providence and attempted to accommodate their concerns. Members of the Reapportionment Commission and defenders of the process argue

that only a small number of black residents were negatively affected and that this was a small price to pay for protecting the interests of larger concentrations of minority voters in South Providence.

Participation in the Process

Many interviewees felt that viewed in terms of outcome rather than process, there seems to be some merit to this position, but the result does not of itself justify the process. They believed that the 1982 process repeated the 1980 cycle: political expedience "blinded" elected officials to minority group interests; public outcry ensued, and concessions were made as a reaction to the outcry. This occurred despite the fact that the Reapportionment Commission received a great deal of input on the effects of its actions on minority voters before its proposals were finalized.

Similarly, the commission did not respond to the detailed suggestions provided by the ACLU. The failure to consider changes might be interpreted to reflect a "status quo" orientation of the commission, demonstrated by the failure to alter South Providence districts, despite the fact that some changes might have actually enhanced minority voting strength and increased participation. As reapportionment consultant Grofman noted, such a procedure in the house reflected a "least-change" approach supposedly used across the state. In the senate plan, however, and in parts of the house plan, this "least-change" approach seems to have given way to attempts to

ensure control of specific numbers of seats for Providence and Newport.

Despite the recognized shortcomings of the Rhode Island redistricting process of 1981-82, there is merit to assertions by members of the Reapportionment Commission that the process was the "most open in the state's history." Past redistricting had been a wholly legislative matter, with little opportunity for even symbolic public scrutiny or input. Because redistricting in 1982 was open it generated criticism and debate.

Prospects for Change

As noted in Chapter II, no state has enacted the Common Cause model to reform the redistricting process. The failure of states to adopt either the model constitutional amendment or statute was not for lack of trying. In Rhode Island both were tried. "An Act Creating a Reapportionment Commission" was introduced in 1978 by Senator Frederico.¹ The bill was referred to the Senate Committee on Corporations. It differed slightly from the model but included all of its components: a six-member commission composed of non-office holding electors; population, convenient contiguity and compactness standards; sanctions on activities of commission members; anti-minority dilution sanctions; and judicial review by the superior court within 15 days of adoption.

The same proposal was introduced during the 1981 session of the assembly, after the enactment of the bill creating what became the legislative reapportionment commission. It died in the Senate Committee on Special Legislation. During 1983 several other bills were introduced which incorporated parts of the Common Cause models and they, too, died in committee.²

Although there is considerable disagreement across the country as to the most appropriate means of gaining reapportionment reform, reapportionment scholar Robert Dixon argued that "districting method is more important than districting standards."³ Dixon supports the creation of bipartisan commissions with tie-breakers because they allow the combination of "the political equality principle with political realities and a better informed public scrutiny."⁴ He also warns, however, that "a bipartisan commission with blinders which can consider only census population equality among districts would be as useless as a Federal Trade Commission which could look only at market price."⁵ He is thus extremely cautious about the kinds of standards imposed on plans.

Dixon argues for flexibility, noting that a balance must be struck between preserving political subdivision boundaries and population equality. He also takes exception to Common Cause's "flat prohibition on the consideration of addresses of incumbents,"⁶ which may be unenforceable because the Supreme Court has declined to find such considerations "invidious."⁷ Dixon finds that "[t]here are virtues in having some continuity in office for the sake of

experience, stability, and relations with constituents." He believes the corresponding virtues of turnover are "probably far better achieved...by limiting legislators to a specified number of terms."⁸

While Dixon is critical of demands that political factors be eliminated from consideration in drawing district lines, he echoes the emphasis of Common Cause that "data on electoral behavior" should not be used "for the purpose of favoring any political party, incumbent legislator, or other person or group."⁹

The question of purpose or intent arises regardless of whether Castro first learned of the presence of a pocket of black voters on the East Side from Licht during the mid-December caucuses or from Sapinsley during a late-December caucus. The commission proceeded to produce a plan which placed these voters in a non-Providence district. It was not until a group of black residents met with the Governor and Democratic Party senate leadership that some adjustments were considered and not until after the issue dominated a public hearing that the changes were made. As attorney Mark Mandell suggested, the failure of the commission to act after being informed that black voting strength would be diluted constituted a form of "intent" which could not be dismissed by arguing that the primary purpose for the action was political and not racial.¹⁰

Political scientist Dixon concludes that:

For the very reason that "intent" proof is difficult

and courts may tend now to be satisfied with any "quite equal" redistricting plan no matter how badly gerrymandering in actual result, it becomes all the more important that equality of political opportunity (which can also be called fairness or neutrality) be considered in the process of constructing the plan. It may be the first and last chance.¹¹

As a legal scholar, Dixon laments that the Supreme Court has decided political questions on the basis of the Fourteenth Amendment's "equal protection" clause rather than its "due process" clause, thus creating "a never-ending affirmative duty to try to equalize representation on the basis of census figures alone."¹²

Though Dixon favored the creation of non-partisan, non-legislative commissions with tie-breakers, he also warned that "every line drawn aligns partisans and interest blocs in a particular way different from the alignment resulting from putting the line in some other place."¹³ The creation of such commissions have, however, the "virtue [of] getting the districting process out in the open...so that it can be observed, and alternative plans adequately tested."¹⁴

Minority Voters

Concern for the impact of redistricting on Rhode Island's minority community was stimulated by the 1980 redistricting episode. As much as anything, most agreed it demonstrated the need for more careful attention to the effect of such action on the minority community.

Historical obstacles to minority voting in Rhode Island and across the country have created the need for this special attention. Concern for minority political participation is linked to maximizing the political participation of all voters. Protecting minority voting rights protects the rights of all voters. To perpetuate a system which limits the participation of some, diminishes the prospects for full and effective representation for all. It is believed that the best means of assuring an equitable outcome of redistricting is an open and defined process.

The impact on the minority voter of the Rhode Island redistricting experience appears to parallel that of California, which was studied by the California Advisory Committee to the U.S. Commission on Civil Rights.¹⁵ California is not only considerably larger than Rhode Island, but has a much larger and more diverse minority population, (Hispanic, Black, Asian and Pacific Islanders) in both urban and rural areas. Furthermore, unlike Rhode Island, California's population is growing -- so much so that it gained two new congressional districts as the result of the 1980 census. Redistricting in California is guided by a constitutional amendment which requires that districts be contiguous and consecutive as well as maintain the geographical integrity of political sub-entities to the greatest extent possible.¹⁶

These differences notwithstanding, the California Advisory Committee noted that "although the 1981 reapportionment process provided more opportunities for public review than past

redistrictings, a primary complaint...was the limited community involvement in reapportionment planning."¹⁷ A representative of the California NAACP expressed reaction identical to that of Rhode Islanders to the fall hearings when she said:

As I recall, this is the first time hearings have been held throughout the state. I think that is some improvement. I think the legislature did make an effort to get out. It would have been much more exciting to have had the final plan to comment on at the hearings.¹⁸

The California Advisory Committee also observed the incumbent protection efforts and commented:

The validity of incumbency as a redistricting standard was not discounted, but it was argued that apportionment would serve State residents when incumbency was secondary to public interest criteria in the formulation of district lines.

Speakers asked the legislature to adopt respect for minority populations, or minority 'communities of interest,' as a public interest standard. Particular demographic characteristics of minority groups were emphasized. It was pointed out that in order to insure state government policies and laws addressed the unique needs and problems of minority populations, the redistricting process must maintain the integrity of their communities of interest.¹⁹

In California the reaction of redistricting officials and legislators also paralleled the Rhode Island Reapportionment Commission's response. The executive director of the California Senate Elections and Reapportionment Committee emphasized that 11 meetings had been conducted statewide prior to drafting the plan, and that testimony had been printed, distributed to committee members and considered. In answer to charges that the meetings had

been "a sham" and that testimony was not really taken into consideration, he said: "They are based on no real evidence of conversations with me and no understanding of our state of mind or committee policy. I am concerned. I have worked on reapportionment now for 20 months. At no time have I not considered Hispanic representation to be terribly important."²⁰

As noted earlier, California and Rhode Island differ in many ways. Yet despite their differences, their experience with redistricting in the 1980s illustrates the ongoing "reapportionment revolution." As a result of this "revolution" California has amended its state constitution to set certain important standards for redistricting. In addition, its redistricting body, like Rhode Island's, "opened" the process by conducting statewide hearings. Although the senate plan adopted in California was criticized, the lower house plan was received favorably. Nevertheless, some of the most vocal criticism expressed to both Advisory Committees centered on the redistricting process. To be sure, this process will continue to be modified. Possible areas of modification are discussed in the following chapter.

Notes to Chapter VI

1. RI 78-S2760.
2. 83-S0519 & 83-H5679, 83-S4, 83-S473; and 83-S383.
3. Robert Dixon, "Fair Criteria, and Procedures for Establishing Legislative Districts" in Bernard Grofman, ed., Symposium on Reapportionment (Urbana, Ill.: Policy Studies Organization, 1981, p. 849.
4. Ibid., p. 842.
5. Ibid.
6. Ibid., p. 848.
7. Dixon, "Fair Criteria," p. 848; White v. Weiser, 42 U.S. 783 at 797.
8. Dixon, "Fair Criteria," p. 848.
9. Common Cause, "Toward a System of Fair and Effective Representation," (Washington, D.C.: Common Cause, 1977) p. 77 (emphasis added).
10. Mark Mandell, interview in Providence, Rhode Island, April 13, 1983.
11. Dixon, "Fair Criteria," p. 847 (emphasis added).
12. Robert Dixon, "The Court the People and 'One Man, One Vote,'" in N. Polsky, ed. Reapportionment in the 1970's (Berkeley, Calif: University of California, 1971).
13. Dixon, "Fair Criteria," p. 839.
14. Ibid., p. 849.
15. California Advisory Committee to the U.S. Commission on Civil Rights, Access to Political Representation: Legislative Reapportionment in California, 1982. (hereafter cited as California SAC) The study was based largely on a public meeting conducted in August, 1981.
16. Calif. Const. Art. XXI (1980).
17. California SAC, p. 141.
18. Ibid., p. 45.

19. Ibid., p. 143.

20. Ibid., p. 102.

Chapter VII

CONCLUSION

Despite generally recognized weaknesses in the 1982 Rhode Island redistricting process, there appears to be widespread agreement that it was an improvement over the redistricting efforts in 1966 and 1974. There is even wider agreement, however, that further improvements are possible. The Advisory Committee heard many valuable suggestions reported here, and the committee hopes that in addition to providing information to the U.S. Commission on Civil Rights, this report can serve as the basis for constructive dialogue before the process begins again.

The events of 1980 placed in question whether such fair and effective representation for the state's minority population would be protected under the inadequately defined operating procedures of the Reapportionment Commission. It was feared that the Reapportionment Commission would follow a "business-as-usual" approach which could again be detrimental to the interests of the state's minority population.

Despite presentations of several individuals to the Reapportionment Commission stressing the public interest in protecting minority voting rights, the Commission gave precedence to

political objectives. When conflict arose, the interests of the black residents of the East Side of Providence were secondary. Defenders of the commission contrast the small number of blacks affected by the East Side lines with the major concentration of black and Hispanic voters on the South Side. The commission's critics respond that their relatively small numbers make it all the more important to ensure that the means exist for their voices to be heard everywhere.

Although the responsibility of the Advisory Committee is to investigate whether minority group members have been deprived of their voting rights, this report has explored the entire realm of the redistricting process. The study illustrated the difficulty of separating process-related issues from those which involved only minority voters. The Committee agrees that changes designed to improve the process for all will be beneficial to minority voters and that improvements designed specifically to increase minority group political participation will be helpful to the entire electorate.

The process involves elected representatives, community organizations, local and state election officials, demographic specialists, cartographers and others with special technical knowledge of the mechanics of redistricting. This follows from a suggestion made by Senator Castro for the formation of a special committee to advise the legislature as part of its deliberations.

Among the many valuable suggestions heard by the Advisory Committee, the following five were regarded as most critical and deserving of careful attention:

1. **Composition of Redistricting Body:** While virtually all respondents acknowledged the need to have members of the general assembly represented on the redistricting body, many also argued that some consideration should be given to "civilian" representation. Since the general assembly is the only body allowed to redistrict under the state constitution, legislative input is assured prior to the implementation of any plan. Given the history of Rhode Island politics and the increasing diversity of its population, there should be serious consideration to assuring broader representation on the redistricting body, particularly minority group members.

2. **Redistricting Principles:** Given the controversy over the methods used to draw the lines in 1982 and the outcome of litigation over the plan, there should be serious discussion of the principles to be applied in redistricting. This discussion should draw upon legal and political science experts in the field of redistricting. Local politicians, advocates and community leaders should join in this discussion to determine whether there is a need for formal "standards" or "guidelines," or, if not, establish a clear set of expected priorities against which proposed plans can be measured.

3. **Staff of the Redistricting Body:** Consideration should be given to providing a more formal staffing procedure and defining staff size, responsibilities of staff, and qualifications for hiring. A process of detailed record-keeping for staff activities and staff-commission communications should also be considered.

4. **Public Participation:** As previously noted, the pre- and post-plan public hearings conducted by the Reapportionment Commission in 1981 and 1982 represented a major advance over past redistricting efforts. Despite this the quality of participation and its utilization were severely criticized. One change to be considered would be to replace the legislative regional caucuses held in the capitol with regional hearings on actual proposals. The public could then comment on the redistricting body plans and other proposals, in meetings comparable to the Providence Ward Boundary Commission "working sessions." The public could also be provided with the minutes of meetings, or the body could hold briefings with the press on decisions taken. The body might also elicit and process alternative proposals by private citizens or groups, and provide written responses to such submissions.

5. **Final Report:** Although the ultimate fate of redistricting will likely remain a legislative matter, and any final plan will be published as a general law, the body could prepare a written report specifying the number of meetings, staff time and expenses, as well as more substantive issues such as procedures used, data collected, plans considered, and explanations of actions taken. Such a document could prove to be an invaluable resource for both future scholars and policy-makers, as well as for the legislature itself in developing procedures for future redistricting.

Rhode Island has participated in, and has been affected by, the nationwide "reapportionment revolution." The corrupt "borough" system has been replaced, and in 1981 the first steps were taken to open the process of redistricting to the citizenry. These steps were designed to enhance the prospects for "fair and effective

representation." As was true in the nineteenth century reform movement which led to Dorr's War, black Rhode Islanders were peripheral to the political struggle which developed.

Yet the Advisory Committee sees in these events vindication of its belief expressed in 1980 that the fate of black and minority voters is inextricably linked to general reforms in the process. The historical circumstances of black Rhode Islanders require heightened attention and sensitivity. The Governor and the political leadership recognized this when they met with blacks representing the East Side in 1982, as they had in 1980 when they met with blacks concerning the gerrymander of South Providence districts. In both instances, concessions were made and the demands of blacks were recognized.

The Advisory Committee hopes that post hoc awareness will be replaced by a more consistent sensitivity to minority group interests, and that in order to avoid repetition of the events of 1980 and 1982, reforms which will benefit all Rhode Islanders will be adopted. It is therefore in the interest of all citizens to participate in a dialogue for reform, recognizing that fair and effective representation is impossible for all if any group is left out.

APPENDICES

- A. Legislation Creating Reapportionment Commission (Chapter 146 PL-1980)
- B. Senate Majority Leader Reapportionment Meetings, 1981 and 1982
- C. Reapportionment Commission Attendance
- D. Rhode Island ACLU Letter to Reapportionment Commission Chair, January 18, 1982
- E. Rhode Island ACLU Letter to Reapportionment Commission Chair, February 9, 1982
- F. Reapportionment Commission Staff Report on Redistricting Method
- G. Breakdown of Rhode Island into Areas as Voted by Reapportionment Commission
- H. List of Advisory Committee Interviews

APPENDIX A

LEGISLATION CREATING REAPPORTIONMENT COMMISSION (Chapter 146 PL-1980)

REAPPORTIONMENT COMMISSION

Sec. 1. A special commission is hereby created consisting of fifteen (15) members: nine (9) of whom shall be from the house of representatives, to be appointed by the speaker, not more than six (6) from the same political party; and six (6) of whom shall be from the senate, to be appointed by the majority leader of the senate, not more than four (4) from the same political party; and whose purpose it shall be to draft and report an act to reapportion the general assembly, and to perform the necessary functions incident to drafting such an act, including, but not limited to, the taking of a census of the population of the state during the year 1980 for reapportionment purposes and may incorporate in such census pertinent questions that relate to the general economic condition of the state; and dividing the state into 100 representative districts and 50 senatorial districts as near equal as possible.

Forthwith upon the passage of this article, the members of the commission shall meet and organize, and shall select from among themselves a chairman. Vacancies in said commission shall be filled in like manner as the original appointment.

The membership of said commission shall receive no compensation for their services, but shall be allowed their travel and necessary expenses. The commission may engage such clerical, technical and other assistance as it may deem necessary, and spend such other funds as is necessary to accomplish its purposes.

All departments and agencies of the state shall furnish such advice and information, documentary and otherwise, to said commission and its agents as is deemed necessary or desirable by the commission to facilitate the purposes of this article.

The director of administration is hereby authorized and directed to provide suitable quarters of said commission.

The commission shall have the power to make and enter into contracts both private and/or with local, state and federal government agencies in carrying out the purposes of said commission, and said commission is authorized to accept from local, state and federal government agencies grants in money, services or otherwise in carrying out the purposes of said commission.

The commission shall report its findings and recommendations to the general assembly on or before January 15, 1982.

APPENDIX B

SENATE MAJORITY LEADER REAPPORTIONMENT MEETINGS 1981 and 1982*

OCTOBER 20, TUESDAY

7:30 REAPPORTIONMENT PUBLIC HEARING
WARWICK CITY HALL

OCTOBER 22, THURSDAY

7:30 REAPPORTIONMENT PUBLIC HEARING
NARRAGANSETT TOWN HALL

OCTOBER 27, TUESDAY

7:30 REAPPORTIONMENT PUBLIC HEARING
NEWPORT CITY HALL

OCTOBER 28, WEDNESDAY

7:30 REAPPORTIONMENT PUBLIC HEARING
MCVINNEY AUDITORIUM

NOVEMBER 5, THURSDAY

7:30 REAPPORTIONMENT PUBLIC HEARING
WOONSOCKET CITY HALL

NOVEMBER 24, TUESDAY

1:05 AL HENRY & DR. COHELLO**
REAPPORTIONMENT

NOVEMBER 28, SATURDAY

10:00 A.M. REAPPORTIONMENT MEETING
SEN. CASTRO, SEN. MRUK, MCBURNEY,
MOSCA, LANDI & FUYAT CANCELLED

DECEMBER 7, MONDAY

10:00 A.M. REAPPORTIONMENT CANCELLED SNOW STORM
MCBURNEY, CASTRO, MRUK, MOSCA, FUYAT,
LANDI, AL HENRY & COHELLO

DECEMBER 11, FRIDAY

10:00 A.M. REAPPORTIONMENT
MCBURNEY, CASTRO, MRUK, CHAVES, AL HENRY &
COHELLO

DECEMBER 17, THURSDAY

10:00 A.M. REAPPORTIONMENT
 PROVIDENCE LEGISLATORS SENATORS
 BEVILACQUA, HICKEY, LICHT, QUATTROCCHI,
 D'AMBRA, ZUCCARELLI, ORABONA, O'LEARY,
 PATTERSON

DECEMBER 18, FRIDAY

10:00 A.M. REAPPORTIONMENT
 STATE COMMITTEE
 GOVERNOR LICHT, SEN. LICHT, MOSCA
 FUYAT, AND SEN. CASTRO

DECEMBER 22, TUESDAY

10:30 A.M. REAPPORTIONMENT
 STATE COMMITTEE
 SEN. LICHT, GOVERNOR LICHT, CASTRO,
 COHELLO, MOSCA, AL HENRY AND FUYAT

DECEMBER 28, MONDAY

4:00 P.M. REAPPORTIONMENT MEETING AL HENRY, DR.
 COHELLO, MOSCA, CASTRO, FUYAT
 EAST BAY SENATORS
 LIMA, SEVENFY, CANULLA, CHAVES, CARLIN &
 McKENNA

5:00 P.M. REAPPORTIONMENT, AL HENRY, COHELLO, CASTRO,
 MOSCA, FUYAT
 CRANSTON-SOUTH AREA
 SHOLES, McALLISTER, D'AMICO, SASSO, FLECK,
 INGLESBY, LYNCH, REVENS, MOPIN, MRUK, O'NEIL,
 MARTH, FEDERICO, DiLUGLIO AND MARCIANO

DECEMBER 29, TUESDAY

3:00 P.M. REAPPORTIONMENT, HENRY, COHELLO, CASTRO,
 MOSCA, FUYAT
 REPUBLICAN SENATORS
 SAPINSLEY, FARNUM, MOTHERWAY, FLYNN,
 LYLE, JANES, ROMANO

4:00 P.M. REAPPORTIONMENT, HENRY, COHELLO, CASTRO,
 MOSCA, FUYAT, GILGUN, HANAWAY, GANNON,
 SABATINI

5:00 P.M. PROVIDENCE & PAWTUCKET SENATORS-HENRY,
 COHELLO, MOSCA, FUYAT, HICKEY, LICHT,
 D'AMBRA, ZUCCARELLI, BEVILACQUA, ORABONA,
 O'LEARY, PATTERSON, GANNON, McBURNEY,
 SABATINI, KINCH, SHANNON, QUATTROCCHI

7:00 P.M. GOVERNOR LICHT, SENATOR LICHT, SENATOR
ORABONA, SENATOR QUATTROCCHI, CASTRO

JANUARY 5, TUESDAY

11:00 A.M. REAPPORTIONMENT
SPEAKER, REP. DeANGELIS, REP. McCONNELL

JANUARY 12, TUESDAY

2:30 CHAVES, CANULLA, SEVENEY, LIMA, AL HENRY,
DR. COHELLO, CASTRO

JANUARY 13, WEDNESDAY

3:00 IRENE SMITH, HANAWAY, GILGUN, REP.
DeANGELIS, AL HENRY, COHELLO, CASTRO

JANUARY 19, TUESDAY

11:30 CASTRO, SPEAKER, REP. DeANGELIS, REP.
McCONNELL, MOSCA, FUYAT

FEBRUARY 3, WEDNESDAY

7:30 REAPPORTIONMENT PUBLIC HEARING
VETERANS AUDITORIUM

FEBRUARY 8, MONDAY

7:30 REAPPORTIONMENT PUBLIC HEARING
VETERANS AUDITORIUM

FEBRUARY 26, FRIDAY

3:00 REAPPORTIONMENT PUBLIC HEARING
313 STATE HOUSE

* Source: Licht v. Quattrocchi, no. 82-1495, R.I. Superior
Court, deposition of William Castro, May 3, 1982.

** This is the spelling of Anthony Coelho's name in the original
document.

APPENDIX C

Reapportionment Commission Attendance

(Meetings/Hearings)

<u>House</u>	6/18/81	10/20/81	10/22/81	10/27/81	10/28/81	11/5/81	1/22/82	1/27/82	1/28/82	2/3/82	2/8/82	2/24/82	2/26/82	3/3/82	Total meetings/hearings
Joseph DeAngelis (D)		X			X		X	X	X	X	X	X	X	X	7 4
Aldo Freda (D)					X		X		X	X	X	X		X	5 3
Zygmunt Friedemann (D)	X		X		X	X	X	X	X	X	X	X	X	X	7 6
Andrew McConnell (D)	X		X	X		X	X								2 4
Joseph Quattrucci (D)	X			X	X	X		X	X	X	X	X	X	X	6 6
Antonio San Bente (D)								X	X	X	X	X		X	4 2
Charles T. Wright (D)	X		X	X		X	X	X	X					X	5 4
Bradford Gorham (R)			X		X			X		X	X				2 4
Frederick Lippitt (R)	X		X		X					X	X	X	X	X	4 5
Arthur Read (R)			X		X	X	X	X	X	X	X	X	X		6 4
<u>Senate</u>															
William Castro (D)	X				X	X	X	X	X	X	X	X	X	X	7 6
Joseph Cheves (D)								X	X			X			4 0
John McBurney (D)							X	X	X	X	X	X		X	6 2
Walter Mruk (D)							X	X	X		X	X		X	6 1
John Romano (R)	X		X		X	X	X		X	X		X		X	5 5
Lila Sapinsley (R)					X		X	X	X	X	X	X	X	X	7 3
<u>Total</u>		8	7	3	9	7	11	12	13	12	12	13	7	12	7 8

* Official meetings



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APPENDIX D

RHODE ISLAND AFFILIATE

January 18, 1982

Rep. Andrew McConnell
99 Englewood Avenue
Pawtucket, RI 02860

Dear Rep. McConnell:

I am again writing you in your capacity as chairman of the state Reapportionment Commission. The ACLU, both nationally and locally, has long had an interest in insuring adherence to the one-person, one-vote principle and to adequate representation of minorities in the reapportionment process. It is with these interests in mind that we have been eager to follow the work of your commission. The purpose of this letter is to offer some observations in this regard.

First, I wish to express our concern and disappointment with the general secrecy in which the Commission has thus far operated. Although we have learned from newspaper accounts that many district lines have been at least preliminarily drawn, the public has not yet had a chance to view or comment on them. In light of the commission's reporting date, which is little more than a month away, many people fear that any proposed redistricting plan will be a fait accompli, offering little chance for meaningful public input. The Commission's work thus contrasts sharply with that of the Providence Ward Boundaries Committee, which has been holding weekly meetings at which interested individuals have been able to examine the various plans offered for changing the city's ward lines. Nothing is as essential to the democratic process as the right to vote, and the redistricting procedure therefore takes on great importance. We sincerely hope that the public will get the chance in the very near future to view the commission's work and have the opportunity to offer comments that can be taken into consideration before a final plan is offered the legislature.

Even though at this point we obviously cannot comment on specific plans or proposals, we would like to submit the following observations on the redrawing of legislative boundaries, specifically as they affect the city of Providence and

minority representation there.

We believe, first, that the Mt. Hope neighborhood in Providence should not be tampered with in such a way so as to dilute minority voting strength. If, as has been mentioned as a proposed plan, senate voters in District 3 north of Olney Street are placed in the same district with citizens from Pawtucket, blacks in the Mt. Hope neighborhood would lose a great deal of influence. In the House, there is no reason for the Mt. Hope neighborhood to be split as it currently is between two seats, 3 and 5. There is sufficient population in the neighborhood for one seat, and dividing the neighborhood unnecessarily dilutes minority voting strength.

Our major concerns, though, are reserved for the action the Commission takes in redrawing district lines in the South Providence area. In the Senate, currently seats 8, 9 and 10 contain substantial minority populations, yet none is composed of over 50% minorities. In light of Providence's 20% minority population, they should rightfully maintain a majority in one, and probably two, seats in South Providence, and we would urge you to work toward that goal.

This fact of minorities being denied their just representation is even more pronounced in the House. Although there are currently six districts in the South Providence area (15-20), only one, 19, maintains a 50% minority population, despite the substantial black populace in that area. Some people have argued that the current set-up can only be viewed as a deliberate past attempt to dilute minority voting strength. Regardless, we would fully expect the Commission to now correct this obvious injustice and redraw the lines in such a way so that minorities are adequately represented. There is no reason minorities could not be easily concentrated in three districts to provide them the appropriate voting strength for their numbers.

As an example, we offer the following way to accomplish that goal:

1. Extend the boundary for seat 19 down to I-95, bringing its population to an acceptable level and increasing its minority influence.
2. To compensate for the loss of population in seat 20 by such a change, its northwest boundary could be extended

to include all territory south of I-95, which would be a reasonable natural boundary anyway.

3. Since seat 17 is too large, part of its share of census tract 3 could be placed into seat 18, providing 18 with a minority population of over 50%.

4. Seat 17 could then include the Reservoir Triangle and extend north into census tract 14 as it currently does. This seat would be about 30% minority.

5. Seat 15 could be stripped of the parts of Federal Hill and downtown it currently encompasses. Instead, it could include census tracts 7, 12 and that part of 3 not in 17. This would make the district primarily black.

6. Seat 16 could be eliminated and its population placed in seats 13, 12 and 17.

In following such a plan, seats 15, 18 and 19 would be minority dominated, thus providing the representation due minorities in light of their population. We do not propose this specific plan; rather, we offer it just as an example to show that equal and just representation can easily be provided to minorities by the Commission, to correct the current severely discriminatory problem of minority underrepresentation in the South Providence area. We would fully expect the Commission to rectify this situation.

We urge you to take all these views into account, and we look forward to an opportunity in the near future to comment more concretely on the Commission's work.

Sincerely,



Steven Brown
Executive Director

cc: Commission members



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RHODE ISLAND AFFILIATE

APPENDIX E

February 9, 1982

Representative Zygmunt Friedemann
Chairman, R.I. Reapportionment Commission
State House
Providence, RI 02903

Dear Rep. Friedemann:

I am writing you in your capacity as Chairman of the R.I. Reapportionment Commission. Unfortunately, I had to leave the Commission's public hearing on Monday before having the opportunity to present testimony. The purpose of this letter is to express our concerns about a particularly important matter which I had planned to discuss at that hearing.

The ACLU's major concern in the reapportionment process is that of insuring adequate minority voting strength. Since the proposed lines were unveiled a few weeks ago, some Commission members and the staff have made assurances that appropriate minority representation has been accounted for. However, I am surprised that such statements have been so confidently made, because as of the end of last week no breakdown was available from your staff of the percentage minority population in the proposed Providence districts. I am thus at a loss to understand how such assertions could be made, except in the most general terms.

As you know, last month the ACLU sent a letter to all members of the Commission in which we expressed our views on this general issue, and even presented a sample plan to show how minorities could be given their appropriate voting strength in Providence. It took the ACLU many, many hours of work poring over census figures and tract maps to prepare that information. We do not have our own redistricting staff, and it will take us much longer than a week -- the time between the public display of the proposed lines and the public hearing -- to determine exactly what these proposed lines mean for minorities. As a result I am extremely frustrated, for I can offer no comments on whether this plan satisfies constitutional requirements, nor do I believe the Commission can do so.

Dr. Coelho has told me that he believes no dilution has occur-

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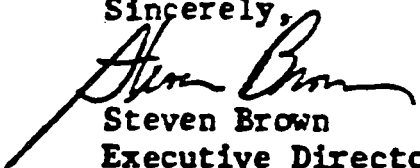
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Page Two
Rep. Zygmunt Friedemann
February 9, 1982

red because in drawing new district lines he has been careful to place minorities in the same district, and not to split them up. The fact that the original lines split up the Mount Hope section of Providence makes this questionable. But even if Dr. Coelho has taken this approach, a conscious effort to concentrate minorities could be viewed as a deliberate attempt to weaken voting strength. I am sure the Commission members realize that voting strength can be diluted just as easily by concentrating minorities as by splitting them into many districts. As an example: If you have an area that is 90% minority, placing them all together into one district, instead of giving them substantial influence in two districts, can be just as discriminatory as splitting them into four districts. Courts on numerous occasions have struck down just such an approach. Yet there appears to have been no attempt to make sure that something like this has not happened. In short, without specific numbers or clear guidelines, I don't see how anybody on the Commission can assert that they have tried to ensure that the proposed lines provide minorities their appropriate voting strength.

In all fairness, Dr. Coelho did mention to me that he would try to calculate those figures. And the proposed Providence lines may in fact be superb in providing proper representation. But the fact is, this cannot be said by anyone with any certainty as the result of the absence of relevant figures. At this stage, the omission of such information is inexcusable. I therefore hope and trust that such figures will be computed within the next few days, if they have not yet been, for whatever lines are proposed. In this way, any problems with the plan in this respect can be noted and the appropriate corrections made.

Thank you for your kind attention to this.

Sincerely,

Steven Brown
Executive Director

cc: Commission members
Dr. Coelho

APPENDIX F

REAPPORTIONMENT COMMISSION STAFF REPORT ON REDISTRICTING METHOD

The foundations of the reapportionment plan in the house and senate are the population requirement of a variation of 2.5% above or below the one man one vote mean of 18,940 persons for the senate and 9,470 for the house, and the fact that this is a statewide plan. For the senate, this results in a population variation of 18,470 (-2.5%) to 19,420 (+2.5%). For the house, the figures are 9,230 (-2.5%) to 9,710 (+2.5%). All members of the Senate have been shown their proposed lines which were drawn on the basis of the 2.5% population variation. These lines are tentative and preliminary. They have not yet been formally presented to the commission and are subject to change as the commission deems necessary. Adjustments have already been made to these preliminary lines at the request of various senators, and any alternative proposals from any of the affected senators are welcomed. Senate lines will continue to be fine tuned, and the tentative population totals must be verified before the lines are presented to the commission.

House lines are in the process of being drawn on the basis of the 2.5% guidelines. As members of the commission are undoubtedly aware, there are 100 house districts, which must be drawn as opposed to 50 in the senate. The 2.5% guideline makes house lines more difficult to draw since the population variance from the largest to the smallest district is only 480 persons while the senate variance was 950. In suburban areas and many urban ones where blocks with population totals of 800 to 1,000 are not uncommon, this small variance poses an added problem since we cannot draw lines through areas which the census reports as blocks. As was the case in the senate, staff briefings will be held to show proposed house lines to area delegations as soon as the lines are completed. I might add in this regard that while not all Democratic members of the house from northern Rhode Island have as yet seen their lines, Republican representatives from Cumberland, Lincoln, and North Smithfield have already seen their

proposed lines despite persistent reports of how the lines are being withheld from Republican members of the house. Thus far, tentative lines have been drawn for House districts in northern Rhode Island, Pawtucket, East Providence, Warwick, and the East Bay area with the exception of Aquidneck Island. Plans for Providence, Cranston, and South County are being drawn up, and we should be able to have briefings for area representatives beginning next week.

Once the proposed house and senate lines have been submitted to the commission, and the staff has made any adjustments which the commission deems necessary, the final adjustment of the lines will be effected. This procedure involves overlaying house and senate lines to eliminate pockets of House and Senate lines. Reduction or elimination of pockets will result in considerable savings for the cities and towns of Rhode Island over the life of the plan.

Dr. Anthony Coelho
1/22/82

APPENDIX G

BREAKDOWN OF RHODE ISLAND INTO AREAS AS VOTED BY REAPPORTIONMENT
COMMISSION

A motion was made, it was seconded and passed on a 12-0 vote:

To adopt the House district lines for those districts located on the western boundary of the state from Burrillville to Westerly including all of South County and East Greenwich.

A motion was made, it was seconded but not voted upon:

To have the staff redraw the district lines in the Smithfield-Lincoln area.

After a general discussion on the subject:

A motion was made, it was seconded and passed on a 9-3 vote:

To place the motion on the table.

A motion was made, it was seconded and passed on a 9-3 vote:

To adopt the House district lines for those districts located in the Northern section of the state.

A motion was made, it was seconded and passed on an 8-3 vote:

To adopt the House district lines for those districts located on the east side of the Narragansett Bay.

A motion was made, it was seconded and passed on an 11-0 vote:

To adopt the House district lines for those districts located in the Metropolitan area, specifically, Pawtucket, Central Falls, and Lincoln.

A motion was made, it was seconded and passed on a 10-0 vote with one abstention:

To adopt the House district lines for districts located in the Metropolitan area, specifically, Providence and North Providence.

A motion was made, it was seconded and passed on a 10-0 vote:

To adopt the House district lines for those districts located in the Metropolitan area, specifically, Cranston and Warwick.

APPENDIX H

LIST OF ADVISORY COMMITTEE INTERVIEWS

Lila Sapinsley, member of the Rhode Island Reapportionment Commission, October 20, 1982.

Richard Licht, member of the Rhode Island Senate, October 27, 1982.

William Brodie, Counsel to Rhode Island Governor Garrahy, November 30, 1982.

Suzanne Perry, Rhode Island Women's Political Caucus, April 13, 1983.

Mark Mandell, Esq., attorney in Licht, et. al. v. Quattrocchi, April 13, 1983.

John Holmes, Chairman of the Rhode Island Republican Party, April 13, 1983.

Steven Brown, Executive Director, Rhode Island Affiliate of the ACLU; April 20, 1983.

Frederick Lippitt, member of the Rhode Island Reapportionment Commission, April 20, 1983.

Susan Farmer, Rhode Island Secretary of State, April 20, 1983.

Alta Smith, President of the Rhode Island League of Women Voters, April 20, 1983.

Jane Sherman, President of the Providence League of Women Voters, April 20, 1983.

B. Albert Ford, Member of the Rhode Island Democratic Committee, April 27, 1983.

Anthony Coelho, Consultant to the Rhode Island Reapportionment Commission, April 27, 1983, June 28, 1983 (phone).

James Sullivan, President and Marilyn Hines, Rhode Island Common Cause, May 11, 1983.

William Castro, Vice Chairman of the Rhode Island Reapportionment Commission, May 31, 1983.

Albert Henry, Executive Secretary for the Joint Committee on Legislative Affairs, June 14, 1983.

Zygmunt Friedemann, Chairman, Rhode Island Reapportionment Commission (declined interview on advice of Attorney John Boehert, Esq.).

John Boehert, Esq., Tillinghast, Collins and Graham, June 21, 1983.

Anna Louise Nestman, Bennie Y. Fleming, Mary Lima, plaintiffs in Licht, et. al. v. Quattrocchi, et. al. June 16, 1983.