

HOUSE No. 5875

The Commonwealth of Massachusetts

INTERIM REPORT

OF THE

JOINT SPECIAL COMMITTEE

ESTABLISHED TO MAKE AN

INVESTIGATION AND STUDY OF A

NEW DIVISION OF THE COMMONWEALTH

INTO ONE HUNDRED AND SIXTY

REPRESENTATIVE DISTRICTS,

FORTY SENATORIAL DISTRICTS AND

EIGHT EXECUTIVE COUNCILLOR DISTRICTS.

(Under House Order No. 5840 of 1985 and revived
and continued by House Order No. 5205 of 1987)

July 9, 1987.

HOVELL, JAMES W. : No. 8774

CONFIDENTIAL

CONFIDENTIAL

INTERVIEW REPORT

1/15/54

RE: JAMES W. HOVELL

CONFIDENTIAL

The Commonwealth of Massachusetts

REPORT

RELATIVE TO

A NEW DIVISION OF THE COMMONWEALTH INTO
160 STATE REPRESENTATIVE DISTRICTS

(Under Joint Orders, House, No. 5840 of 1985,
amended, and House, No. 5205 of 1987)

July 9, 1987.

The Commonwealth of Massachusetts

ORDERS AUTHORIZING STUDY

HOUSE No. 5840 of 1985, Amended

1 *Ordered*, That a joint special committee, to consist of six
 2 Senators two of whom shall be members of the minority party,
 3 to be designated by the President of the Senate and fifteen
 4 Representatives, be established for the purpose of studying (1) a
 5 new division of the Commonwealth into one hundred and sixty
 6 Representative districts and (2) a new division of the Common-
 7 wealth into forty Senatorial and eight Executive Councillor dis-
 8 tricts, under the provisions of Article CI of the Amendments to
 9 the Constitution and in conformity with the decisions of the fed-
 10 eral and state courts.

11 The committee may expend for legal, clerical and other
 12 necessary expenses such sums as may be appropriated therefor
 13 shall be provided with quarters in the State House and shall be
 14 entitled to receive from the State Secretary and municipal election
 15 officials such data and information in their possession as may be
 16 of assistance to the committee.

17 The committee may report to the General Court from time to
 18 time, by filing the same with the Clerk of the House, and shall
 19 submit its final report hereunder not later than the fourth Wednes-
 20 day of December, nineteen hundred and eighty-six with the drafts
 21 of such legislation as may be necessary to comply with the
 22 provisions of the General Laws and of the constitution in relation
 23 to the aforesaid matters.

Adopted by:

The House of Representatives on March 20, 1985.

The Senate, with an amendment, on April 23, 1985.

*The House of Representatives, in concurrence, [on
 April 24, 1985.*

HOUSE No. 5205 of 1987

1 *Ordered*, That the special committee established for the
2 purpose of making an investigation and study relative to the delay
3 in the construction of Route 91 and Routes 291 and 391 in the
4 cities of Springfield, Chicopee and Holyoke, Riverside Road in
5 the city of Springfield and Route 57 in Agawam, and the North
6 End Bridge in the city of Springfield (under the provisions of
7 House order No. 5154 of 1972 and the time most recently extended
8 by House order No. 5854 of 1985), the joint committee established
9 for the purpose of making an investigation and study relative to
10 the feasibility of a revision of the Massachusetts criminal law
11 statutes for the purpose of establishing a criminal code with
12 uniform sentencing procedures (under the provisions of House
13 order, No. 6595 of 1977, Senate order No. 1360 of 1978, Senate
14 order No. 1662 of 1979, House order No. 5196 of 1980, House
15 order No. 5583 of 1981, House order No. 5830, App. B. of 1982,
16 House order No. 6230 of 1983 and House order No. 5854 of 1985),
17 the joint special committee established for the purpose of making
18 an investigation and study of the public employee contributory
19 retirement law contained in chapter thirty-two of the General
20 Laws and the various public employee retirement systems
21 established thereunder and any other matters it deems appropriate
22 (under the provisions of House order No. 5865 of 1982 and the
23 time most recently extended by House order No. 5854 of 1985),
24 the joint special committee established for the purpose of making
25 an investigation and study relative to comparable worth in
26 employment and the extent to which sex segregation continues
27 to exist in the state service (under the provisions of House order
28 No. 6547 of 1983 and the time extended by House order No. 5854
29 of 1985), the joint special committee established for the purpose
30 of making an investigation and study relative to the impact of the
31 closing of the Salem-Beverly Bridge destroyed by fire (under the
32 provisions of House order No. 6284 of 1984 and the time extended
33 by House order No. 5854 of 1985), *and the joint special committee*
34 *established for the purpose of studying a new division of the*
35 *Commonwealth into one hundred and sixty Representative*
36 *districts and a new division of the Commonwealth into forty*
37 *Senatorial and eight Executive Councillor districts, under the*

38 *provisions of Article CI of the Amendments to the Constitution*
39 *and in conformity with the decisions of the federal and state*
40 *courts, (under the provisions of House order No. 5840 of 1985*
41 *and the time extended by House order No. 5854 of 1985,* are*
42 *hereby revived and continued until the last Wednesday of*
43 *December, nineteen hundred and eighty-eight.*

Adopted by:

The House of Representatives on March 26, 1987.

The Senate, in concurrence, on May 4, 1987.

**Note: — The Joint Order, House, No. 5854 of 1985, does not pertain to the Joint Special Committee on the Redistricting of the General Court and the Executive Council.*

The Commonwealth of Massachusetts

JOINT SPECIAL COMMITTEE ON THE
REDISTRICTING OF THE GENERAL COURT
AND EXECUTIVE COUNCIL

LETTER OF TRANSMITTAL

July 9, 1987.

To the Honorable Senate and House of Representatives:

FELLOW LEGISLATORS: — We, the undersigned members of the joint special committee established by the joint order, House, No. 5840 of 1985 (as amended) to study a division of this Commonwealth into 160 representative districts, 40 senatorial districts, and eight executive council districts, based on the results of the 1985 state decennial census, hereby file this report containing our proposals and legislation necessary for the proper redistricting of the House of Representatives as required by Articles CI and CIX of the Articles of Amendment to the Constitution of the Commonwealth of Massachusetts.

Respectfully submitted,

REP. JAMES T. BRETT of Boston,

House Chairman

REP. MICHAEL P. WALSH of Agawam,

House Vice-Chairman

REP. KEVIN P. BLANCHETTE of Lawrence

REP. WILLIAM J. FLYNN, JR., of Hanover

REP. M. JOSEPH MANNING of Milton

REP. FRANCIS G. MARA of Brockton

REP. JOSEPH B. McINTYRE of New Bedford

REP. JAMES R. MICELI of Wilmington

REP. PETER G. TROMBLEY of Waltham

REP. WILLIAM B. VERNON of Mansfield

REP. SHERMAN W. SALTMARSH, JR., of Winchester

REP. ROBERT L. HOWARTH of Springfield

REP. PETER FORMAN of Plymouth

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The Commonwealth of Massachusetts

JOINT SPECIAL COMMITTEE ON THE REDISTRICTING
OF THE GENERAL COURT AND EXECUTIVE COUNCIL
(House, No. 5840 of 1985, amended, *et al.*)

MEMBERS OF THE JOINT SPECIAL COMMITTEE
Party Affiliation and Dates of Appointment
Are in Brackets

APPOINTEES OF THE PRESIDENT OF THE SENATE (SIX)

No appointments were made by the President of the Senate, in view of that Chamber's decision to establish a Special Senate Committee on the Redistricting of the Senate and Executive Council (See the following Senate orders: Senate, No. 1712 of 1986, adopted by the Senate on March 6, 1986; Senate, No. 1688 of 1987, adopted by the Senate on March 30, 1987; and an unnumbered Senate order adopted on April 29, 1987, Senate Journal, page 362).

APPOINTEES OF THE SPEAKER OF THE
HOUSE OF REPRESENTATIVES (FIFTEEN)

Representatives:

- JAMES T. BRETT of Boston, *House Chairman*, (D) (5/2/85)
 MICHAEL P. WALSH of Agawam, *House Vice-Chairman*, (D) (5/2/86)
 KEVIN P. BLANCHETTE of Lawrence, (D) (5/2/85)
 WILLIAM J. FLYNN of Hanover, (D) (5/2/85)
 M. JOSEPH MANNING of Milton, (D) (5/2/85)
 FRANCIS G. MARA of Brockton, (D) (5/2/85)
 JOSEPH B. MCINTYRE of New Bedford, (D) (5/2/85)
 JAMES R. MICELI of Wilmington, (D) (5/2/85)
 PETER G. TROMBLEY of Waltham, (D) (5/2/85)
 WILLIAM B. VERNON of Mansfield, (R) (5/27/87)
 SHERMAN W. SALTMARSH, JR., of Winchester, (R) (5/2/85)
 ROBERT L. HOWARTH of Springfield, (R) (5/2/85)
 PETER FORMAN of Plymouth, (R) (5/2/85)

Note: — Representative William E. Moriarty of Ware (D) who was appointed to the Committee on May 2, 1985, passed away on June 5, 1987. Representative Royal L. Bolling, Jr., (D) of Boston, was appointed to the Committee on May 2, 1985, but was not re-elected to the General Court in 1986. Representative William B. Vernon of Mansfield (R) replaced Representative Steven D. Pierce (R) of Westfield who was appointed to the Committee on May 2, 1985, and who stepped off the Committee on May 27, 1987 in order to devote his full attention to his duties as new House Minority Leader.

ASSIGNED LEGISLATIVE STAFF

- MR. GARY JONES, Research Director, Joint Committee on Counties, and election law specialist. Chief of staff, Joint Special Committee on Redistricting.
- MR. JAMES HUGH POWERS, Chief Research Analyst, Legislative Research Bureau. Technical advisor to the Joint Special Committee on Redistricting on "one person, one vote" standards, and related matters.
- MR. ROBERT E. ENGLAND, Research Assistant, Legislative Research Bureau. Assigned as research assistant and redistricting trainee to the Joint Special Committee on Redistricting.
- MRS. JEAN MARLEY, Administrative Assistant to the Joint Committee on Counties.

The Commonwealth of Massachusetts

**JOINT SPECIAL COMMITTEE ON THE
REDISTRICTING OF THE GENERAL COURT AND
EXECUTIVE COUNCIL**

**REPORT RELATIVE TO A NEW DIVISION
OF THE COMMONWEALTH INTO
160 STATE REPRESENTATIVE DISTRICTS**

CHAPTER I. INTRODUCTION

**Creation and Study Mandate
of the Joint Special Committee**

Study Directives

The Joint Special Committee on the Redistricting of the General Court and Executive Council, hereinafter referred to as the "Joint Special Committee," was established by the joint order, House, No. 5840, as amended, which is reprinted in full on page 2 of this report. That order, adopted by the House of Representatives on March 20, 1985, by the Senate with an amendment on April 23, 1985, and by the former branch in concurrence on April 24, 1985, directed the Joint Special Committee formulate and file with the House Clerk, no later than December 24, 1986, its report and legislative proposals relative to —

... (1) a new division of the Commonwealth into one hundred and sixty Representative Districts and (2) a new division of the Commonwealth into forty Senatorial districts and eight Executive Councillor districts, under the provisions of Article CI of the Amendments to the Constitution and in conformity with the decisions of the federal and state courts . . .

When that reporting deadline proved impossible to meet because of administrative problems in relation to the 1985 state decennial census, discussed later in this report, the Joint Special Committee was

revived and continued by the joint order, House, No. 5205 of 1987, adopted by the House on March 26, 1987, and by the Senate, in concurrence, on May 4, 1987. That latter order, reprinted in full at pages 5-6 of this report, has continued the life of the Joint Special Committee, and its reporting deadline, to December 30, 1987. However, constraints of the constitutionally-mandated schedule for establishing new legislative and executive councillor districts oblige us to report at this time.

The time schedule for the entire legislative redistricting process (except congressional redistricting) in Massachusetts is prescribed by Amendment Article CI of our State Constitution, which is discussed in greater detail in the following chapter of this report, and which is reprinted in full in Appendix A hereof. In essence, that constitutional provision mandates the taking of a state decennial census in each year ending in the number "5" (most recently, 1985), and enactment of legislation creating new representative, senatorial, and executive councillor districts in time for elections held in the year ending in the number "8" immediately following (i.e., by 1988). Legislators and executive councillors so elected take their seats on the first Wednesday of January immediately following those elections (i.e., 1989); and the legislative and executive councillor districts remain in effect for the decade commencing on that date, until the whole or districting process is repeated.

As a practical matter, legislation creating new representative, senatorial and executive councillor districts should be enacted no later than the first week of August of the year ending in the number "7" (i.e., 1987, in this case). The Election Division of the State Secretary's Department, and local election officials, require much "lead time" for the enormous administrative task of setting up the presidential preference primary (March 8, 1988), the state primaries (September 20, 1988), and the state biennial "general" election (November 8, 1988), which will utilize the new legislative districts. In addition, the State Constitution prescribes residency requirements as to the length of time prior to the state biennial election during which a candidate for election to the General Court must have resided in the place or district from which he or she is elected. For candidates seeking election to the House of Representatives, that residency period is one year (Amend. Art. CI, s. 1). Candidates for the Senate and Executive Council must have resided five years in the state immediately prior

to their election, and be inhabitants of the district for which they are chosen (Amend. Art. XCI; Amend. Art. CI, s. 2). The prompt enactment of redistricting legislation is thus in the interest of all, including, among others, incumbent members of the General Court and their challengers.

Organization of the Joint Special Committee

The joint order, House, No. 5840 of 1985, amended, provides that the Joint Special Committee shall be composed of 21 members, including 15 representatives, and six senators (two of whom shall be members of the minority party), named by the presiding officers of their respective branches.

Acting promptly, the Hon. George Keverian of Everett, Speaker of the House of Representatives, named 15 members of that chamber to the Joint Special Committee on May 18, 1985, in conformity with applicable House Rules. Representative James T. Brett (D) of Boston and Representative Michael P. Walsh (D) of Agawam were designated House Chairman and House Vice-Chairman, respectively, of the Joint Special Committee. The then Third Assistant House Minority Leader, Representative Steven D. Pierce (R) of Westfield, was named to the top Minority Party position, which he held until May 27, 1987, when he stepped off the Joint Special Committee to devote his full attention to his new post as House Minority Leader. His position on the Committee was filled by Representative William B. Vernon (R) of Mansfield. For the most part, the membership of the Joint Special Committee has continued with few other changes, as noted on pages 7-8 of this report.

We would be most remiss if we did not note, with profound regret, the untimely loss of our respected colleague and friend, Representative William E. Moriarty (D) of Ware, who passed away on June 5, 1987. A fine legislator, his valued input into our deliberations will be sorely missed by all of us on this Committee, and by the communities of the 1st Hampden Representative District he served so well.

Subsequent to the adoption of the joint order, House, No. 5840 of 1985 by both branches, the Senate Leadership had second thoughts about using a single joint special committee to redistrict both houses and the Executive Council. Hence, the Hon. William M. Bulger, President of the Senate chose to make no appointments of senators to this Joint Special Committee. Instead, on March 6, 1986, the Senate adopted an order, Senate, No. 1712 of 1986, creating a seven-member

Senate Special Committee on the Redistricting of the Senate and Executive Council, chaired in due course by Senator John A. Brennan, Jr., of Middlesex. The Executive Council was included within the jurisdiction of that Committee in view of a state constitutional requirement that each executive councillor district be comprised of five contiguous senatorial districts (Amend. Art. XVI).

Because of these developments, the Joint Special Committee has functioned with House members only, as they constitute a substantial majority of its authorized appointees, and has confined its activities to the formulation of proposals for the redistricting of the House of Representatives, based on the 1985 state decennial census. It has maintained a close and amicable cooperative working relationship with the Senate Special Committee on the Redistricting of the Senate and Executive Council in issues of common interest to both Committees, and in the sharing of information, working materials, and staff services. Both redistricting committees have been provided with modest funding to carry out their respective assignments during the fiscal years 1986-88.

To assist it in its work, the Joint Special Committee has utilized the services of the staff of the House Committee on Counties, the Legislative Research Bureau, and the Election Division of the Department of the State Secretary. In particular, the Joint Special Committee has benefited from the efforts of Mr. Gary Jones of the staff of the aforesaid House Committee, who has functioned as our "ad hoc" chief of staff; Mr. James H. Powers, Chief Research Analyst of the Legislative Research Bureau and its legislative redistricting specialist; and David Sullivan, Esq., Chief Legal Counsel to the Secretary of State, and member of the Local Election Districts Review Commission, with whom the Committee and its staff have worked closely in relation to matters pertaining to the 1985 state decennial census, related local precinct and ward revision, and legislative redistricting litigation. To all these professional state employees, the Committee extends its sincerest thanks.

Committee Work Program

Any legislative redistricting plan, if it is to pass judicial muster, must not only conform to applicable constitutional standards, but be based on intensive and thorough research and information-gathering by the responsible legislative committee and its staff. Hence, the House Chairman of the Joint Special Committee and the staff assigned to it addressed this task forthrightly from the moment of the Committee's creation. Major reliance was placed on the Legislative Research Bureau for this undertaking.

During 1985, primary attention was devoted to monitoring the execution, by local officials and the Department of the State Secretary, of the 1985 state decennial census, and the revision of wards (in cities) and of precincts (in cities, and in towns of 6,000 or more inhabitants) according to that census, in conformity with the State Election Law. As these municipalities received ultimate approval of their respective maps of wards and precincts by the Local Election Districts Review Commission in the Department of the State Secretary, copies of these maps were assembled in the Legislative Research Bureau. Towns of fewer than 6,000 inhabitants, not required (but allowed) to have precincts, and such towns without precincts, were also asked for maps; and the State Department of Public Works contributed accurate maps (without ward or precinct lines) of every city and town in the Commonwealth, useful in determining the contiguity of community to community. The Joint Special Committee emphasizes its deep appreciation, especially, to the city and town clerks, local election commissions, and the Election Division of the Department of the State Secretary, for their generous assistance and wonderful cooperation in this long and tedious task.

The House Chairman of the Joint Special Committee, and assigned staff, followed closely the controversy arising over the State Secretary's rejection, on April 16, 1986, of the 1985 state decennial census report of the City of Boston.

The Joint Special Committee staff consulted from time to time with the staff of the Department of the State Secretary, and of the Law Department of the City of Boston, as seemed appropriate, and monitored meetings of the State Decennial Census Commission which was established on February 9, 1987, to resolve this dispute between the City of Boston and the State.

The Joint Special Committee was provided with population

statistical analyses by the State Data Center. In addition, its staff conferred with Dr. Stephen P. Coelen, Director of Massachusetts Institute of Social and Economic Research at the University of Massachusetts (Amherst), who had participated in the audit which the Department of the State Secretary had conducted of Boston's 1985 state decennial census operation. Information was obtained from the Department of Community Development of the City of Cambridge relative to reasons for the decline in that city's "inhabitant" population between the state decennial census of 1975 and 1985 (i.e., a drop from 102,095 to 86,865 inhabitants). Other census information was provided by the Census Division of the Department of the State Secretary, and by the United States Census Bureau, as requested by the staff of the Joint Special Committee.

Unlike earlier legislative redistricting committees in this state, the Joint Special Committee found it necessary to assemble "community of interest" information, in some depth, because of recent federal judicial rulings which hold that "political gerrymandering" is justiciable, and that the arbitrary combining in a legislative district of two or more political subdivisions which lack a discernible "community of interest" may possibly have an adverse bearing over the constitutionality of a legislative redistricting scheme.¹

Accordingly, city and town planning boards, or local agencies of different description performing planning board functions, were solicited by letter for their information and news as to "community of interest" and regional government entities to which their cities or towns belong. The following state agencies provided information and maps of their administrative districts within the state, local regional districts under their aegis, and related information:

- Department of Commerce and Development
- Department of Education
- Executive Office of Environmental Affairs
- Massachusetts Bay Transportation Authority
- Department of Mental Health
- Metropolitan District Commission
- Department of Public Health
- Department of Public Utilities
- Department of Public Works
- Department of Youth Services

The Department of Corrections, and such of the above agencies

as administer institutions, provided institutional information as well, as requested.

Other parties contacted for available "community of interest" information, or assistance in gathering the same, included the Massachusetts Federation of Planning Boards, the Boston Redevelopment Authority, the Archdiocese of Boston, and the United States Census Bureau.

The Joint Special Committee made liberal use of the Legislative Research Bureau and the State Library for information as to judicial case law, and pending litigation, relative to legislative redistricting, which had evolved since the last redistricting of the General Court in 1977. Other sources tapped for such information include the National Conference of State Legislatures, the Committee on Policy Research of the California State Assembly, the California Legislative Counsel, the Indiana Legislative Services Agency, the Research Office of the New York Senate, the Democratic National Committee, the Republican National Committee, and Election Data Services, Inc., of Washington, D.C.

Further, the House Chairman of the Joint Special Committee, together with certain staff specialists, attended the meetings of the Reapportionment Subcommittee of the National Conference of State Legislatures, held in Washington, D.C., and Richmond and Williamsburg, Virginia, from November 7, 1985 to November 8, 1985. That meeting, in which personnel of the United States Census Bureau participated, reviewed judicial case law developments, requirements as to state compliance with the Federal Voting Rights Act, and cooperation between the state legislatures and the United States Census Bureau *re* the latter's revision of boundaries of census blocks and other census units to be used in the 1990 federal decennial census and thereafter, to make those units more appropriate for state legislative redistricting purposes.²

Finally, the Joint Special Committee has followed media reports and articles bearing upon the concerns of ethnic and racial minorities for equitable representation in the General Court and local legislative bodies. Legislative Research Bureau file information on past controversies over "minority" legislative districts, or the lack thereof, was examined. Attention was given to demographic changes since 1975. The State Commission on Hispanic Affairs furnished a copy of its report to the Joint Special Committee.

To all of these authorities, who have been so responsive to our requests for materials and information, we convey our sincerest thanks.

In the midst of these activities, the Joint Special Committee made available to the Department of the Attorney General and the Department of the State Secretary information useful in defending existing state legislative districts challenged in the Federal District Court in Boston in a suit filed by Representative John F. MacGovern (R) of Harvard and others on April 13, 1986. Plaintiffs sought to have those 1977 districts declared unconstitutional by reason of alleged impermissibly large population variations, and to require establishment of new legislative districts, based on the 1985 state decennial census, in time for the 1986 state primary and state biennial election. On June 11, 1986, the Court dismissed this suit on the grounds of laches and general equitable principles, inasmuch as the state's redistricting process was already under way. Plaintiffs chose not to appeal this decision.³

By mid-1986, the Joint Special Committee had in hand most of the materials and information needed to proceed with its redistricting project, except for the final 1985 census data for Boston. However, that data did not become available until the State Decennial Census Commission rendered its report on May 19, 1987.⁴ Pending the Commission's report, the House Chairman of the Joint Special Committee "roughed out," as best he could, tentative districts, based on available and estimated data, on conferences with members of the House and others. Upon receipt of the Boston data from the Commission, the Joint Special Committee was able to hold its first full meeting on May 28, 1987, at which it adopted redistricting criteria and agreed upon the general procedures to be followed in hammering out its final report and recommendations.

FOOTNOTES

¹*Bandemer v. Davis*, 603 F. Supp. 1479 (1984); *Davis v. Bandemer*, 54 LW 4898 (1986).

²P.L. 94-171 of 1975; 89 Stat. 1023; 13 U.S.C. 141.

³*MacGovern v. Connolly*, 637 F. Supp. 111 (1986).

⁴House, No. 5556 (1987), supplementing the State Secretary's report of the 1985 state decennial census results for the other 350 cities and towns, House, No. 6415 (1986).

CHAPTER II
CONSTITUTIONAL AND JUDICIAL CASE LAW
CRITERIA FOR REDISTRICTING
THE HOUSE OF REPRESENTATIVES¹

State Constitutional Requirements

Periodic Decennial Redistricting

The "House Cut Amendment" (Art. CI), ratified in 1974, obligates the General Court to redivide the Commonwealth decennially into 160 representative, 40 senatorial, and eight executive councillor districts on the basis of a state decennial census of "inhabitants" conducted in each year ending in the number "5". A person is to be counted as an "inhabitant" of that city or town in which he or she has his or her "usual place of residence" according to standards used by the federal decennial census, unless exceptions to those standards are authorized by laws enacted by the General Court.² Under the State Election Laws, this state census is taken by city and town authorities under the supervision of the State Secretary.³ The state census must report the number of inhabitants of each local precinct (cities and towns) and ward (cities), if the locality is so divided.⁴ For the purposes of reporting their census results to the State Secretary, municipalities of 6,000 or more inhabitants must revise their precincts and wards so as to make them population-equal, as nearly as may be; such mandatory "reprecincting" is not imposed upon smaller towns, which may divide themselves into precincts or not as they choose.⁵

The state decennial census figures compiled in the year ending in the year numbered "5", as set forth above, must be certified by the State Secretary to the General Court.⁶ They must then be used by the General Court for the purpose of establishing new representative, senatorial, and executive councillor districts in time for the state primaries and state biennial election held in the year ending in the number "8" immediately following the state decennial census year ending in the number "5" aforesaid.⁷

Such legislative and executive councillor districts then remain in force for a decade, unless another redistricting is sooner called for by a state constitutional amendment or court action.

General Requirements

The Massachusetts Constitution (Amend. Art. CI) lays down these five special requirements for the redistricting of the House of Representatives.

Firstly, each House district must contain "an equal number of inhabitants, as nearly as may be," according to the state decennial census. The number of inhabitants of Massachusetts, according to the 1985 state decennial census, was 5,746,441 including (a) 5,145,346 of whom resided in 350 cities and towns whose census reports were certified to the General Court by the Secretary of State without challenge, and (b) 601,095 of whom were determined to be inhabitants of the City of Boston by the State Decennial Census Commission in its resolution of a controversy between the Secretary of State and that City over the latter's 1985 state census report. Based on the 1985 state decennial census total aforesaid of 5,746,441 inhabitants, the ideal ratio or "apportionment norm" of Massachusetts inhabitants per state representative is 35,915 such inhabitants. Under applicable "one man, one vote" opinions of the Massachusetts Supreme Judicial Court and the United States Supreme Court, the representative districts so created need not conform to this apportionment norm exactly, but variations in district populations must be reasonable, *de minimis*, and sustainable as part of a rational state plan.

At the time of the 1977 redistricting of the House of Representatives, the Joint Special Committee on Redistricting which authored the same construed judicial case law at that time to allow House districts which varied $\pm 10\%$ from the apportionment norm for that chamber. However, in a recent court challenge to the present House and Senate districts which was thrown out on grounds of *laches* (tardiness) and equity, as the Commonwealth was already launching upon its present redistricting effort, the Federal District Court in Boston warned that the 1977 $\pm 10\%$ variation, or point spread of 19.99% between the least and most populous House districts presented a *prima facie* claim of discrimination violative of the Fourteenth Amendment of the Constitution.⁸ The Federal District Court cited a Federal Supreme Court ruling holding that an apportionment plan with disparities in population of greater than 10% (i.e., $\pm 5\%$) is suspect and must be justified by the state if the plan is not to be invalidated.⁹

A $\pm 5\%$ deviation from the 1985 House apportionment norm of

35,915 inhabitants per state representative will reflect a range of from as few as 34,119 inhabitants to as many as 37,711 inhabitants, assuming that no representative district breaks that floor or ceiling. If a district falls below 34,119 inhabitants, or exceeds 37,711, other districts created would have to be so devised as to preserve a 10 percentage point population difference between the least and most populous districts to satisfy the judicial standard described above. If the population (inhabitant) gap is greater, the burden is upon the Commonwealth to prove it warranted by special circumstances as part of a "rational state plan."

It is the belief of the Joint Special Committee that the $\pm 5\%$ population deviation, or 10% spread between the least and most populous districts, indicated as allowable in the foregoing Federal District Court opinion is more rigid than the deviation permitted under United States Supreme Court opinions, if (a) the vast majority of House districts proposed in our plan fall within the $\pm 5\%$ range, and (b) the remaining districts fall within a $\pm 10\%$ range and are justifiable as part of "rational state plan." A $\pm 10\%$ range would translate into an "inhabitant" population range of no less than 32,324, nor more than 39,506 inhabitants, in a district.

A redistricting plan reflecting this $\pm 10\%$ deviation criterion will reduce the number of towns which would otherwise have to be divided between representative districts. Thus, the historic importance of towns as units can be recognized, without doing unacceptable violence to anyone's right to representation. By minimizing, within reason, the division of towns in this geographically small state, better protection can be afforded to "community of interest" concerns of our municipalities in the legislative redistricting process, a factor to which the courts now seem to attach some weight. There is no judicial mandate requiring us to place localities on a Procrustean Bed in a mindless commitment to mathematical precision, so long as what we do is reasonable and conformable to criteria laid down by the United States Supreme Court and our Supreme Judicial Court.

On this score, the last Joint Special Committee on Redistricting noted in its report in 1977 that —

In the case of *Swann v. Adams* in 1967, the United States Supreme Court held unacceptable variations of from 15.27% below to 18.28% above the apportionment norm for the 117-member Florida House of Representatives, which the state had

sought to justify in terms of area, economic interests and other group interests.¹⁰ Similarly, in *Kilgarlin v. Hill* decided in that same year, the Court found objectionable variations of from 14.84% below to 11.64% above the apportionment norm of the 150-member Texas House of Representatives.¹¹ On the other hand, after disallowing plans with greater variation for election of Hawaii's 51-member House of Representatives,¹² the federal courts accepted a plan with variations of from 16.1% below to 15.3% above the House apportionment norm, justified by the uniquely insular character of the Aloha State.¹³ In the instance of the 99-member Virginia House of Delegates, variations of from 9.6% below to 6.8% over the apportionment norm were sustained by the United States Supreme Court in 1973, since most districts were within $\pm 4\%$ of that norm, and the larger deviations to respect the integrity of local political subdivisions were not viewed as unreasonable in the circumstances.¹⁴ In another 1973 decision, a plan of districts for the 140-member House of Representatives of Texas, with variations of from 4.1% below to 5.8% above its apportionment norm, passed judicial muster so far as those variations were concerned, but failed on racial discrimination grounds.¹⁵ In contrast, the United States Supreme Court rejected North Dakota representative districts in 1975 (for the election of 102 members) because of "unjustified" variations ranging from 8.71% below to 11.43% above the apportionment norm.¹⁶

In passing upon the "acceptability" of variations in state legislative districts, much attention is given by the courts to such factors as (a) the number of such districts which vary little from the apportionment norm as contrasted with the number of districts with more extreme variations, and (b) the sizes and configurations of the political subdivisions, local election districts, or federal census blocks, enumeration districts, and tracts which the state legislature or apportionment commission has available as "building blocks" for designing legislative districts. The easier it is to hold all districts within a modest distance of the apportionment norm, the greater the burden is upon the state to justify more significant variations therefrom.¹⁷

More recently, in *Brown v. Thompson*, the United States Supreme Court let stand a Wyoming statute redistricting the House of

Representatives of that thinly-populated state on the basis of the 1980 federal decennial census, which allowed one of the 64 House seats to be allocated to a small county, even though this produced a plan of districts having an average deviation from population equality of 16% and a maximum deviation of 89%.¹⁸ The apportionment norm was 7,337 persons per representative. The Court accepted this arrangement, on the basis of special circumstances in Wyoming expressly set forth in detail in the redistricting statute.¹⁹

Secondly, the territory of each of the 160 new representative districts must be "contiguous," although there is no specific constitutional requirement that it also be "compact." The Massachusetts Constitution does not define the term "contiguous." Judicially, that term has been defined to describe contiguous territories as those which have a common frontier for a distance, or which touch at a point.²⁰ Thus, parts of a legislative district are "contiguous" if one may travel between any of them without having to leave that district.²¹

"Contiguous land" and "contiguous territory" are not the same thing, since the former excludes water areas while the latter includes them. Hence, two areas not adjacent to one another by land, but which face one another on the same body of water and have common or touching boundaries on a river, lake, pond, bay or sound, constitute "contiguous territory" and may be included in the same legislative district.²² However, in a dispute over control of offshore ocean areas the United States Supreme Court held the same to be beyond the maritime frontier of the state, and to be solely under federal jurisdiction; hence, waters in Nantucket Sound beyond the state's three-mile limit are not "contiguous territory" of the Commonwealth.²³

Thirdly, representative districts must be formed "as nearly as may be" without uniting two counties or parts of two or more counties. The Supreme Judicial Court has viewed such "county limitations" historically more as a constitutionally-endorsed policy than as an iron-bound mandate. In senatorial redistricting cases arising under like constitutional provisions, the Court has held that such county limitations are not absolute and that the General Court has discretionary authority to combine counties or parts thereof in senatorial districts so long as this is not done "unreasonably."²⁴ While allowing "reasonable" departures from the apportionment norm in

legislative districts populations to accommodate a state's desire to preserve the integrity of counties or other political subdivisions, the United States Supreme Court has warned that they must be kept within "tolerable constitutional limits" so as to produce a plan of districts which, viewed as a whole, does not sacrifice "substantially" those rights of the franchise and of representation which are protected by the Fourteenth Amendment of the Federal Constitution.²⁵

Fourthly, representative districts must be drawn "as nearly as may be" without uniting (a) two cities or parts of two or more cities, (b) a city and a town, (c) two or more towns or parts thereof, (d) parts of cities and parts of towns. As in the instances of the above "county limitation," this requirement is also regarded by the Supreme Judicial Court as a strong constitutional policy declaration rather than as an absolute mandate. Hence, in past cases, it has declined to substitute its judgment for that of the redistricting authority, even when it was evident that a better plan of districts could have been devised, absent evidence of unacceptable deviations from the apportionment norm or other grave constitutional defects.²⁶ The federal judicial rulings described above in regard to preserving the integrity of counties apply also to state legislative efforts to respect the unity of municipalities.

Fifthly, no town of fewer than 2,500 inhabitants may be divided between representative districts. This provision indicates a constitutional intent that the General Court be authorized to divide larger towns, if need be, to meet the population-equality standard notwithstanding the above policy against the "fragmentation" of municipalities. Since the courts do not construe "one man, one vote" standards to require mathematical precision in legislative redistricting, the General Court has been able to redistrict the House constitutionally without dividing towns of fewer than 6,000 inhabitants.

Federal Constitutional Requirements

Prior to 1962, the United States Supreme Court had shunned the subject of state legislative redistricting, dismissing "one person, one vote" complaints as involving "political issues" which did not involve a "substantial federal question." However, in the Tennessee case of *Baker v. Carr*, in 1962²⁷ and the six state case of *Reynolds v. Sims*,²⁸ in 1964, the Court brought the subject within the reach of the Equal Protection of the Laws Clause of the Fourteenth Amendment,²⁹ and

the Supremacy Clause,³⁰ of the Federal Constitution. In these cases, the Court laid down federal criteria for state legislative redistricting, since emphasized by other court opinions, which the Ohio Legislative Service Commission has summarized concisely³¹ as follows:

1. The right to vote is an individual right protected by the Equal Protection Clause of the Fourteenth Amendment, and an individual's right to vote is unconstitutionally impaired when its weight is in substantial fashion diluted when compared with the vote of citizens living in other parts of the state.
2. The Equal Protection Clause requires that both houses of a bicameral legislature must be apportioned substantially on a population basis.
3. The right to vote is an individual right which cannot be denied by a majority of the electorate, and the fact that an apportionment plan has been approved by the electorate has no constitutional significance.
4. Regardless of the complexity or the sophistication of an apportionment plan, it cannot result in the undervaluation of the weight of certain voters.
5. Regardless of the issues in a lower court, the Supreme Court in reviewing a state legislative apportionment must consider the scheme as a whole.
6. The primary responsibility for legislative apportionment rests with the legislature itself and the court should act only when the legislature fails to enact a constitutionally valid scheme. If, however, the legislature fails to act after having adequate opportunity to do so, the court should not allow elections to be held under a constitutionally invalid scheme.
7. It is neither practicable nor desirable to judicially determine the constitutional validity of apportionment plans by establishing rigid mathematical standards. The proper judicial approach is to ascertain whether, under the particular circumstances in the state, there has been a faithful adherence to a plan of population-based representation with only such variations as occur from recognizing factors that are free of arbitrariness or discrimination.
8. State courts can act in apportionment cases but the same constitutional standards are applicable in a state as well as

a federal court. A federal court having proper jurisdiction of an apportionment case in which the provisions of the state constitution and law are clear need not await its action until a state court determines questions of state law.

9. A legislature of a state whose apportionment system has been established in its constitution and held invalid presumably has the inherent power to enact at least temporary apportionment legislation pending the adoption of constitutional provisions.
10. Variances in population in legislative districts are not justified because they result from periodic reapportionments, nor by the fact that the variance is less than those in the Electoral College, nor by the fact that under-represented districts contain numbers of military and military-related personnel.

The United States Supreme Court has agreed that modest and reasonable deviations from the apportionment norm of a legislative body are constitutionally permissible:

- (1) To maintain the integrity of political subdivisions but not to the extent of assuring any such subdivision of a legislative seat regardless of its population size;
- (2) To achieve districts of compact and contiguous territory;
- (3) To adapt to natural boundaries; and
- (4) To accommodate in minor degree historic factors and community of interest.

Such deviations must be based on considerations incidental to a rational state policy. They may not be substantial. And they must be able to withstand judicial scrutiny. No absolute "ceiling" on such deviations or variations from the apportionment norm has been established by judicial formula, as this matter is determined on a case-by-case basis. However, as previously noted, any deviation exceeding $\pm 5\%$ (or a 10% spread between the least and most populous districts) is suspect in the eyes of the judiciary, unless greater deviations in the redistricting plan are proven "rational," given circumstances prevailing in the state.

*Special Aspects**Preservation of the Integrity of Municipalities in Massachusetts*

In keeping with the mandate of the House Cut Amendment that the division of individual municipalities among representative districts be minimized, the last Joint Special Committee on Redistricting made a considerable effort to preserve the unity and integrity of cities and towns wherever this could be done without violating the overriding constitutional requirements that population be the controlling criterion of the House redistricting plan.

In doing so, the Committee adhered to the following principles enunciated by the United States Supreme Court:

Population is, of necessity, the starting point for consideration and the controlling criterion for judgment in legislative apportionment controversies . . . The Equal Protection Clause demands no less than substantially equal state legislative representation for all citizens of all places as well as of all races . . .³²

We realize that it is a practical impossibility to arrange legislative districts so that each one has an identical number of residents, or citizens, or voters. Mathematical exactness or precision is hardly a workable constitutional requirement . . . (it) . . . may be feasible to use political subdivision lines . . . in establishing state legislative districts . . . while still affording adequate representation to all parts of the State. To do so would be constitutionally valid, so long as the resulting apportionment was one based substantially on population and the equal-population principle was not diluted in any significant manner . . .³³

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 . . . (so) . . . long as the divergences from a strict population standard are based on legitimate considerations incident to the effectuation of a rational state policy, some deviations from the equal-population principle are constitutionally permissible with respect to the apportionment of seats in either or both of the two houses of a bicameral state legislature . . .³⁴

A consideration that appears to be of more substance in justifying some deviations from population-based representation in

state legislature is that of assuring some voice to political subdivisions. Several factors make more than insubstantial claims that a state can rationally consider according political subdivisions some independent representation in at least one body of state legislature, as long as the basic standard of equality of population among districts is maintained. Local government 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. However, permitting deviations from population-based representation does not mean that each local governmental unit or political subdivision can be given separate representation, regardless of population . . . Such a result, we conclude, would be constitutionally impermissible. And careful judicial scrutiny must of course be given in evaluating state apportionment schemes, to the character as well as to the degree of deviations from a strict population basis . . .³⁵

Application of the "absolute equality" test . . . to state legislative redistricting may impair the normal functioning of state and local governments . . . The policy of maintaining the integrity of political subdivision lines in the process of reapportioning a state legislature . . . is a rational one . . . (if) . . . upon examination of the legislative plan, . . . it does in fact advance that policy . . . (and) . . . population disparities which are permitted thereunder result in a maximum percentage deviation which we hold to be within tolerable constitutional limits . . .³⁶

Massachusetts, of course, has had a long history of strong central government control over local government, which has been modified only modestly with the ratification of the Municipal Home Rule Amendment to the State Constitution in 1966.³⁷

Municipalities are used as components of many regional governmental entities created to serve regional and state purposes in metropolitan, suburban and rural areas, and to enable communities to "pool" their resources and efforts in providing services at the municipal level; the organization, powers and duties of these regional

entities are closely defined by a multitude of general and special laws enacted by the General Court, and amended by it from time to time. Local government problems thus comprise a substantial portion of the business agenda of the General Court each year.

In addition, as Massachusetts municipalities are largely limited to the local property tax as a local revenue source, and have long depended on federal and state grants-in-aid, and on state revenue sharing with localities, the fiscal well-being of the 351 cities and towns has been tightly wedded to state tax policy and the state budget. The state, in turn, has a vital concern as to the impact of local property taxation on economic development, housing, land use and conservation in Massachusetts.

Hence, while not the sole principle followed, keeping communities intact in the redistricting process has long been an important consideration in the redistricting of the House of Representatives in order to afford the best achievable forum for these local voices, within the four corners of the population-equality guidelines laid down by the United States Supreme Court. Accordingly, in 1977, the last Joint Special Redistricting Committee stressed (a) the creation of districts within the boundaries of very populous municipalities, (b) legislative district boundaries coterminous with municipal boundaries of cities or towns populous enough to compose their own single representative district, (c) the grouping together of whole smaller communities in single representative districts, (d) minimal divisions of towns of 6,000 or more inhabitants, and of cities, in ways which would deprive them of a distinctive voice in the House of Representatives, and (e) no division of any town of fewer than 6,000 inhabitants.

It should be stated that the General Court cannot reasonably be expected to describe 160 representative districts of "equal" population sizes in a commonwealth consisting of 351 cities and towns without the division of some municipalities.

The above policy relative to House redistricting appears as appropriate to the current Joint Special Committee on Redistricting as to its predecessor. Of course, adherence to it, in the sense of minimizing the division of towns, will be more difficult if our Committee must function with the +5% population deviation suggested by the Federal District Court, rather than the $\pm 10\%$ range utilized by our predecessor body.

Gerrymandering

General Aspects. For legal purposes, the term “gerrymander” has been defined as a name —

. . . given to the process of dividing a state or other territory into the authorized civil or political divisions, but with such a geographical arrangement as to accomplish a sinister or unlawful purpose, as, for instance, to secure a majority for a given political party in districts where the result would be otherwise if they were divided according to obvious natural lines, or to arrange school districts so that children of certain religions or nationalities shall be brought within one district and those of a different religion or nationality in another district.³⁸

The invention of the gerrymander is attributed to Massachusetts Governor Elbridge Gerry, who authored a salamander-shaped Senate district in Essex and Middlesex counties in 1812.

Given the human condition, controversies over “gerrymandering,” or the designing of legislative districts geographically to confer representational advantages upon certain political parties, factions, racial and ethnic groups, and economic communities are an inevitable aspect of the legislative redistricting process. Gerrymandering may be good, bad or indifferent depending upon the manner in which it is done, its motives, and whose ox is gored from the standpoint of the observer. It is not prohibited expressly by the state and federal constitutions, but it is subject to certain judicial constraints.

Racial Discrimination. Equality of the franchise, representation and political participation are assured to all residents of the Commonwealth by the Declaration of Rights of the Massachusetts Constitution,³⁹ by the Equal Protection of the Laws Clause of the Fourteenth Amendment of the Federal Constitution, and by the Fifteenth Amendment of the Federal Constitution which forbids any state to deny the right to vote to any citizen of the United States on account of race, color or previous condition of servitude. Generally speaking, these constitutional provisions obligate the General Court, like other redistricting authorities, to avoid “invidious discrimination” against any racial, ethnic or political segment of the population when it forms legislative districts. For the most part, state redistricting authorities have a wide latitude to form districts on nonracial grounds so long as district variations are within tolerable constitutional limits and

other constitutional standards are observed. Greater hazards arise where racial or ethnic considerations enter the picture.

In general, the judiciary have taken the position that racial and ethnic populations are not automatically entitled to legislative districts of their own. What they are guaranteed is protection against "invidious discrimination." That condition is considered judicially to exist when a plan of districts is shown to have been devised to cancel out the voting strength or voice of a racial or ethnic group in the legislative body through the manipulation of district lines, in combination with other practices or measures instituted by political authorities to discourage or inhibit participation by the racial or ethnic bloc in the political process. Hence, a gerrymander which fitted this definition would be unconstitutional. For the most part, the "minorities" benefitting from this judicial protection to date have been Blacks, Puerto Ricans, Mexicans and other non-Whites.⁴⁰

A state may take racial and ethnic considerations into account for a wide range of legitimate purposes incidental to a rational state redistricting plan.

Racial criteria may be employed by a redistricting plan for purposes including, but not limited to, eliminating the effects of past discriminatory districting. Thus, a state redistricting plan may award to a racial or ethnic minority a number of districts proportionate roughly to that minority's share of the state or regional population, and may use racial quotas to make that determination. So long as other ethnic residents of such a "minority" district may vote and participate in the political processes of that district, their rights are not violated.⁴¹

If a state redistricting authority sets about the task of designing some legislative districts for the benefit of particular ethnic communities, it may find itself obligated to accord like treatment to other ethnic or racial groups sufficiently numerous and concentrated to be embraced by districts in which they comprise a majority. This possibility, which depends upon the circumstances of the particular state and redistricting plan, looms significantly where the racial or ethnic group claiming "equal treatment" is Black, Puerto Rican or other Hispanic, and is concentrated in a metropolitan area.

Where a state has non-White areas fewer than 50% of whose residents voted in the 1968 presidential election, it is subject to the Federal Voting Rights Act of 1965, as amended,⁴² and is subject to the judicial rule of "nonretrogression." Under that rule, changes of legislative dis-

districts in such non-White areas may not “lend to a retrogression in the position of racial minorities with respect to their effective exercise of the electoral franchise.” Thus, if a new plan of legislative districts decreases a non-White minority’s proportion of all legislative districts, or if it increases the percentages of Whites within such non-White districts substantially, it may run afoul of the foregoing judicial rule.⁴³

The Federal Voting Rights Act of 1965 will be violated if “packing” or “fragmentation” characterize a map of legislative districts. On this score, the Local Election Districts Review Commission has warned local officials responsible for drawing ward and precinct lines that —

“Packing” means concentrating a high proportion of minority group members in one or a few districts, so that their votes cannot elect as many minority group representatives. “Fragmentation” refers to spreading minority group members among many districts or submerging them in a district dominated by another group, also resulting in their electing a smaller number of minority group representatives. Under different circumstances, either of these practices may violate the above provisions.⁴⁴

Manifestly, legislative redistricting committees across the land must make careful judgment calls to avoid these types of gerrymandering difficulties.

Partisan Gerrymanders. Until recently, federal and state courts shunned partisan gerrymandering issues for the most part, due to extraordinary difficulty faced in formulating any workable standards for controlling them.⁴⁵ Where partisan gerrymanders have been attacked judicially, the districts have usually been invalidated on other more conventional grounds, such as impermissible population variations. Thus, the courts have accepted political parties as a fact of life, and have stressed voter control rather than judicial control as the best remedy for most partisan excesses.

The United States Supreme Court has upheld the right of state apportioning authorities to draw districts in such a way as to achieve a rough approximation of the statewide political strengths of the two major political parties, so long as individual districts do not vary from their apportionment norms unacceptably.⁴⁶

In recent litigation initiated in Indiana in 1984, and decided by the United States Supreme Court in 1986, the federal judiciary have opened up partisan gerrymandering to closer judicial scrutiny for violations of the Fourteenth Amendment. At issue was a Democratic and

NAACP challenge to state legislative districts drawn by a Republican-controlled Indiana Legislature in 1981, based on the 1980 federal decennial census.

In its decision in *Bandemer v. Davis* in 1984,⁴⁷ the Federal District Court for the Southern District of Indiana, agreeing with the Democratic plaintiffs, struck down the plans of state senatorial and state representative districts aforesaid on Fourteenth Amendment grounds because (a) plaintiffs had been intentionally discriminated against by the Indiana Legislature's reapportionment of legislative districts, and (b) the voting efficacy of the NAACP plaintiffs was impinged upon because of their politics and not because of their race. Thus, the court didn't find violations of the Voting Rights Act or the Fifteenth Amendment to the Constitution as argued by the NAACP plaintiffs. The court did find that the NAACP plaintiffs, just as the *Bandemer* plaintiffs, suffered invidious discrimination in violation of the Fourteenth Amendment as a direct result of "political gerrymandering."

Important factors considered by the Federal District Court included the following:

- (1) That the minority party had very little input with respect to the reapportionment legislation;

- (2) That in the 1982 Indiana House elections, democratic candidates received 51.9% of the votes cast across the state, but only 43 Democrats were elected to the 100-member House;

- (3) That district maps were not drawn in a compact manner, that they reflected little apparent emphasis on "community of interest," (the inclusion of citizens in a legislative district who share a geographic area, with similar concerns and needs to be met by their state legislator), and that they likely resulted in confusion to the voters;

- (4) That the disadvantaging effect of the plan's multi-member districts fell particularly hard and harsh upon Black voters in the state. In Marion and Allen counties, the use of multi-member districts resulted in Republicans winning 18 of 21 seats, or 86%, while their candidates received only 53.4% of the vote.⁴⁸

Upon appeal, this lower federal district court opinion was reversed by the United States Supreme Court in *Davis v. Bandemer* in 1986.⁴⁹ The High Court held that partisan political gerrymandering presents a justiciable question under the Fourteenth Amendment, but the Justices could not agree upon a single rule by which to judge such

a claim. The *United States Law Week*, summarized the Supreme Court action thus:

Six members of the court reject the argument that political gerrymandering claims raise a nonjusticiable political question. Justice White, writing for this majority, equates this case with prior decisions finding alleged racial gerrymandering to be a justiciable question. "[T]hat the claim is submitted by a political group, rather than a racial group, does not distinguish it in terms of justiciability."

Justice O'Connor, joined by the Chief Justice and Justice Rehnquist, would hold that claims of political gerrymandering by "major political parties" are political questions "that the judiciary should leave to the legislative branch."

No clear majority emerges as to precisely what standards should be employed in testing political gerrymandering claims. Justice O'Connor does not address the issue. Justice White, joined by Justices Brennan, Marshall, and Blackmun, would find unconstitutional only those redistricting plans for which evidence exists "of continued frustration of the will of a majority of voters or effective denial to a minority of voters of a fair chance to influence the political process." The district court's reliance in this case on a single election to prove unconstitutional discrimination "is unsatisfactory," he says.

Justice Powell, joined in dissent by Justice Stevens, says that, in considering political gerrymandering claims, courts should look to "the shapes of voting districts and adherence to established political subdivision boundaries," as well as other criteria such as "the nature of the legislative procedures" used and "contemporaneous legislative goals." The district court's findings of unconstitutional discrimination are not clearly erroneous, he declares.⁵⁰

Manifestly, partisan gerrymandering will generate more litigation as groups unhappy with particular legislative redistricting plans seek clarification and refinement of the Court's *Bandemer* opinion. For the time being, it appears safe to proceed upon the assumption that the drawing of legislative districts with partisan considerations in mind is constitutional, so long as this practice is not carried to extremes, and the formation of obviously bizarre and outrageously configured districts is avoided.

FOOTNOTES

¹The following text updates, in reduced form, Chapter III of the *Seventh Report* of the last Joint Special Committee on Redistricting the General Court and Executive Council (House, No. 5900 of 1977, 157 pp.; at pp. 44-80).

²Mass. Const., Amend. Art. CI of 1974, s. 1, as amended, by Amend. Art. CIX of 1978.

³G.L. c. 9, ss. 7-9A.

⁴Mass. Const., Amend. Art. CI of 1974, s. 1.

⁵G.L. c. 54, ss. 1-9.

⁶G.L. c. 9, s. 7.

⁷Mass. Const., Amend. Art. CI.

⁸*MacGovern v. Connolly*, 637 F. Supp. 111 (D. Mass. 1986) citing U.S. Supreme Court opinions in *Swann v. Adams*, 385 U.S. 440 (1967) and *Brown v. Thompson*, 462 U.S. 835 (1983).

⁹*Brown v. Thompson*, 462 U.S. 835 (1983).

¹⁰378 U.S. 553 (1964), 383 U.S. 210 (1965) and 385 U.S. 440 (1967).

¹¹386 U.S. 120 (1967).

¹²*Burns v. Richardson*, 384 U.S. 73 (1966).

¹³*Burns v. Gill*, 316 F. Supp. 1285 (1970).

¹⁴*Mahan v. Howell*, 410 U.S. 315 (1973).

¹⁵*White v. Regester*, 412 U.S. 756 (1973).

¹⁶*Chapman v. Meier*, 420 U.S. 1, 95 (1975).

¹⁷House, No. 5900 (1977), pp. 50-51.

¹⁸462 U.S. 835 (1983).

¹⁹1981 WY Sess. Laws, c. 76, s. 3.

²⁰17 *Corpus Juris Secundum*, 359-363; *Matter of Sherrill v. O'Brien*, 188 N.Y. Rep. 185, at p. 207 (1970); *Commonwealth ex rel Specter v. Levin*, 448 PA 1, 17-19 (1972).

²¹*Wells v. Rockefeller*, 311 F. Supp. 48 (1970), 398 U.S. 901 (1970).

²²*Lamson v. Secretary of the Commonwealth*, 341 Mass. 264, at pp. 274-276 (1960).

²³*U.S. v. Maine, et al.*, 106 S. Ct. 951 (1986); 54 LW 4173 (1986).

²⁴*Attorney General v. Secretary of the Commonwealth*, 306 Mass. 25 (1940).

²⁵*Reynolds v. Sims*, 377 U.S. 533 (1964); *Burns v. Richardson*, 384 U.S. 73 (1966); *Burns v. Gill*, 316 F. Supp. 1285 (1970); and *Mahan v. Howell*, 410 U.S. 315 (1973).

²⁶*Attorney General v. Secretary of the Commonwealth*, 306 Mass. 25 (1940); *Graham v. Special Commissioners of Suffolk County*, 306 Mass. 237 (1940).

²⁷369 U.S. 186 (1962).

²⁸*Reynolds v. Sims*, 377 U.S. 533 (1964), *Vann v. Baggett*, 377 U.S. 533 (1964); and *McConnell v. Baggett*, 377 U.S. 533 (1964), all relating to Alabama; *Lucas v. Colorado General Assembly*, 377 U.S. 713 (1964) *re* Colorado; *Roman v. Sincock*, 377 U.S. 695 (1964), *re* Delaware; *Maryland Committee for Fair Representation v. Tawes*, 377 U.S. 656 (1964), *re* Maryland; *WMCA v. Lomenzo*, 377 U.S. 633 (1964) *re* New York; and *Davis v. Mann*, 377 U.S. 678 (1964) *re* Virginia.

²⁹U.S. Const., 14th Amend., s. 1.

³⁰U.S. Const., Art. VI.

³¹Ohio Legislative Service Commission, *Legislative Reapportionment*, Staff Research Report No. 64, Columbus, OH, Jan. 1976, 76 pp. at pp. 23-24.

³²*Reynolds v. Sims*, 377 U.S. 533 1567 (1964).

³³*Ibid.*, 578.

³⁴*Ibid.*, 578-580.

³⁵*Ibid.*, 580-581.

³⁶*Mahan v. Howell*, 410 U.S. 315 (1973).

³⁷Mass. Const., Amend. Art. II (1820), as revised by Amend. Arts. LXXXIX (1966) and CXIII (1978).

³⁸Black, Henry C., *Black's Law Dictionary*, 3rd Ed., West Publishing Co., St. Paul, MN (1933), 1944 pp., at p. 842; *State v. Whitford*, 54 WI 150, 11 N.W. 424.

³⁹Mass. Const., Part I, Arts. I, IX and X, as amended, and Amend. Art. III, as amended.

⁴⁰*Gomillion v. Lightfoot*, 364 U.S. 399 (1960); *Wright v. Rockefeller*, 376 U.S. 52 (1964); *Kilgarlin v. Hill*, 386 U.S. 120 (1967); *Whitcomb v. Chavis*, 397 U.S. 984 (1970), 403 U.S. 124 (1971); *White v. Regester*, 411 U.S. 755 (1973); *Beer v. United States*, 425 U.S. 130 (1976).

⁴¹*United Jewish Organizations of Williamsburgh, Inc., et al. v. Carey*, U.S. S. Ct. Opinion No. 75-104, Mar. 1, 1977, 45 LW 4221.

⁴²42 U.S.C., s. 1973(c).

⁴³*Beer v. U.S.*, 425 U.S. 130 (1976); *United Jewish Organization of Williamsburgh, Inc., et al. v. Carey*, 45 LW 4221 (1977).

⁴⁴Commonwealth of Massachusetts, Local Election Districts Review Commission, Memorandum to City Councils and Boards of Selectmen, *Racial and Language Minority Effects of 1985 Local Redistricting*, Mar. 25, 1985, 7 pp. mimeo, at p. 2.

⁴⁵*WMCA v. Lomenzo*, 238 F. Supp. 916 (1965), 382 U.S. 4 (1965).

⁴⁶*Gaffney v. Cummings*, 412 U.S. 735, 751, 754 (1973).

⁴⁷603 F. Supp. 1479 (1984).

⁴⁸Source: Indiana Legislative Council.

⁴⁹54 LW 4898 (1986).

⁵⁰55 LW 1001 (1986).

CHAPTER III.

1985 STATE DECENNIAL CENSUS
AND REVISION OF LOCAL WARDS AND PRECINCTS*Statutory Requirements**Basic Elements of Coordinated Procedure*

In Massachusetts, the taking and reporting of the state decennial census is closely integrated with the revision of precincts in large towns and in cities, and city ward revision, by virtue of the previously-described state constitutional mandate that towns of less than 2,500 inhabitants, and precincts of larger municipalities, be used as “building blocks” in forming state legislative districts. These local election units have to pass muster on “one person, one vote” . . . equality of representation grounds. . . by both state and federal constitutional standards, where they are used to elect members of local legislative bodies, or other local officers, on other than an “at large” basis.

Hence, the General Court has need to protect its own districts against the possibility that a court may invalidate such local precincts and wards for all election purposes, not just local election purposes only, upon the premise that in a given case “double maps” of precincts in a city or town may unduly confuse voters and thus burden unreasonably and unconstitutionally their exercise of their right to vote. Through provisions in the State Decennial Census Law and State Election Law, the General Court has endeavoured to avoid these and other difficulties by coordinating the entire census and local precinct and ward session processes on a rational, manageable basis.

The essential steps are (a) the taking of the state decennial census in each city and town by local authorities, (b) the revision of precincts in towns of more than 6,000 inhabitants, and of precincts and wards in cities, by local authorities on a basis of equal numbers of inhabitants according to that census, (c) review of these new precincts and wards by the Local Election Districts Review Commission in the Department of the State Secretary for compliance with statutory and constitutional standards, (d) correction by local authorities . . . or if need be, in the case of towns, by that Commission . . . of any plan of precincts and wards found defective by the Commission, (e) reporting by the cities and towns of their state decennial census results

to the Secretary of the Commonwealth (State Secretary), by ward (cities), precinct (towns having precincts) or precinctless town, and (f) review of such local census returns by the State Secretary and certification of the same by him to the General Court. Should a locality and the State Secretary disagree as to that locality's state decennial census report, the issue is referred to an *ad hoc* commission created under law to settle the controversy. Once these processes have been completed, the General Court is able to proceed with its task of redistricting the House of Representatives, the Senate, and Executive Council.

State Decennial Census

General Statutory Provisions. — The 1985 state decennial census was taken by the 351 cities and towns under the supervision of the Department of the State Secretary, then and now headed by the Hon. Michael J. Connolly, Secretary of the Commonwealth. Thus, the actual count in the field was conducted by city and town canvassers or enumerators, and not by personnel of the Department of the State Secretary or of any organization under contract to that Department. The relevant State Census Law provision, as amended to date, ordains that —

In the year nineteen hundred and seventy-five and every tenth year thereafter, the selectmen of each town, the city manager of each city having a council-manager form of city government, and the mayor of every other city, shall appoint a municipal census supervisor, who may be the clerk or some other employee of said city or town, and shall cause a census to be made, under the direction of said municipal census supervisor, of the inhabitants of said city or town residing therein on the state decennial census day. Said day shall be March first in the year nineteen hundred and seventy-five, and January first every tenth year thereafter. Such census shall be compiled and reported upon forms provided by the secretary and in accordance with his instructions, and shall be returned to him under oath by the selectmen of such town, or city manager or mayor aforesaid of such city, as the case may be, on or before November first following, specifying the number of inhabitants residing in each precinct of such town and in each precinct and ward of such city. The aforesaid precincts in towns,

and precincts and wards in cities, in respect to which said census is taken, shall be those existing on the state decennial census day; provided, however, that if new precincts shall be established in any town, or new precincts or wards shall be established in any city, or under authority of chapter fifty-four subsequent to the state decennial census day but not later than October fifteenth immediately following in the year in which the aforesaid census is taken, the selectmen of such town, or the city manager or mayor of such city, shall cause the aforesaid census in their respective town or city to be rearranged, compiled and reported to the secretary, as aforesaid, on the basis of the newly established precincts and wards, as the case may be.

In making such census, there shall be available to the selectmen of such town, and to the city manager or mayor aforesaid of such city, the services and facilities of the registrars of voters or board functioning as such, the police, and such other municipal departments as may serve under the supervision and control of said selectmen, city manager, or mayor, as the case may be.

The secretary may in his discretion verify any such census reported to him hereunder, in such manner as he deems advisable. For this purpose, he may inspect the records of any city or town and call upon the mayor, city manager, selectmen, or municipal census supervisor thereof for such further information as he desires. If he shall find that any census return submitted to him by a city or town has not been submitted in proper form or contains significant errors, he may refuse to accept the same, and in the event of such refusal, he shall return the same to the selectmen of the town or to the city manager or mayor of the city of origin for correction and [resubmission]. *If such correction is not submitted and accepted by November first of said year the governor shall appoint a decennial census commission, hereinafter called the commission. Said commission shall consist of five members one of whom shall be designated as chairman. No more than three members of the commission shall be of the same major political party and the other two members shall be of the other major political party. The members of the commission shall serve without compensation but shall be reimbursed for their expenses actually and necessarily incurred in the discharge of their official duties. The*

commission shall examine the original submission and may inspect the records of any city or town and call upon the mayor, city manager, selectmen or municipal census supervisor thereof for such further information as it desires. The commission shall determine and verify the census for such city or town which then shall be accepted by the secretary. No city or town shall be entitled to reimbursement under section seven A of this chapter until its census return hereunder shall have been accepted by the secretary.

From the returns so made and accepted, with such amendments as the secretary may find necessary to correct any errors or omissions therein, the secretary shall compile the census of inhabitants of each city and town required by Article CI of the Articles of Amendment to the Constitution, shall submit the result thereof to the general court by filing the same with the clerk of the house of representatives as soon as possible thereafter and may publish the results thereof in such form as he may determine (G.L.c. 9, s. 7).

In December of 1986, the above law was amended to delete the words shown in brackets, and to insert the provisions shown in italics, in order to resolve a controversy between the Department of the State Secretary and the City of Boston over that municipality's 1985 state decennial census counts.¹ Except for Boston, the other 350 municipalities had submitted census figures which had been accepted by the Department before the law was so amended.

In 1985, cities and towns were granted an extension to January 30, 1986 of the deadline for submitting their census reports to the State Secretary.²

To compensate them for their state decennial census costs, cities and towns receive a state subsidy of \$1 per inhabitant enumerated by them, subject to appropriation therefore by the General Court.³ Specific appropriations by the General Court to pay that subsidy and other state decennial census costs amounted to \$6,307,630 in the fiscal year 1985, plus \$149,318 (prior appropriation continued) in the Fiscal Year 1986.⁴ Not included in the foregoing sums are 1985 state decennial census costs "buried" in other appropriations for other units of the Department of the State Secretary, for the Legislative Research Bureau, and for standing and special legislative committees involved directly or indirectly in the census process.

Federal Basis for Enumerating Inhabitants. Prior to 1985, the state decennial census enumerated “inhabitants” of cities and towns on a “legal domicile” basis, as of the state census day designated by statute (usually, January 1st). The Massachusetts Constitution mandated that a person be deemed an inhabitant of that locality “where he dwelleth or hath his home.”⁵ The Supreme Judicial Court had interpreted this provision to mean that the terms “inhabitants” and “resident” were equivalent, indicating one’s home or dwelling according to the Common Law Doctrine of Domicile.⁶ In deciding questions as to an inhabitant’s “legal domicile,” consideration had to be given to the *intent* of the individual as to his or her place of residence, i.e., his or her decision to remain in that place permanently or for an indefinite time without any certain purpose to remain there permanently.⁷

Hence, under these constitutional and judicial case law rules, a college student who resided nine months of the year in a dormitory of Harvard University in Cambridge in 1974-75, but whose family home was in Needham, Massachusetts, was counted as an “inhabitant” of Needham, *unless* (a) he registered to vote in Cambridge or (b) otherwise acted to establish legal domicile in Cambridge under applicable judicial case law and state statutes.⁸

In 1978, Massachusetts voters ratified Constitutional Amendment Article CIX which abolished this complex legal voter criterion of state decennial census enumeration and legislative redistricting, in favor of the “usual place of residence” standard long followed by the United States Census Bureau in federal decennial census for the redistricting of the United States House of Representatives, and other federal censuses. Amendment Article CI of our State Constitution was thus amended to provide that —

For purposes of said . . . (state decennial) . . . census every person shall be considered an inhabitant of the city or town of his usual place of residence in accordance with standards used by the United States from time to time in conducting the federal census required by Section 2 of Article I of the Constitution of the United States subject to such exceptions as the general court may provide by law. Said census shall specify the number of inhabitants of each precinct of each town and of each precinct and ward of each city.

No "exceptions" to the "usual place of residence" standard have been legislated by the General Court in respect to enumerating inhabitants in the state decennial census.⁹

Under the "usual place of residence" standard, the United States Census Bureau enumerates each person at the place where he or she was living or sleeping most of the time as of the federal decennial census day of April 1st. The Bureau also counts, as part of a community's population, (a) all persons found there who have no "usual place of residence" elsewhere, (b) armed forces personnel and their families stationed in the locality regardless of legal domicile elsewhere, (c) members of crews of naval vessels and merchant marine vessels which have that community as their assigned "home port," (d) inmates, patients, student and trained nurses, and resident employees in institutions situated in the community (exclusive of short-term hospital patients), and (e) members of religious orders occupying local convents, monasteries and similar facilities. Not counted as "local" population by the United States Census Bureau are (a) students attending local boarding schools below the college level (except those in institutions for the deaf, dumb and blind), and (b) foreign nationals *other* than those studying or working in the community and family members living with them; the former locally uncounted students are attributed to the communities where their parents or guardians live.¹⁰

Thus, an individual's "residence" for federal census purposes is not necessarily identical to his or her legal residence, voting residence or legal domicile.¹¹ Under these federal enumeration rules, our hypothetical Needham college student, attending Harvard University in 1984-85, and residing in one of its Cambridge dormitories, was counted in that latter city's population in the 1985 state decennial census.

Decennial Precinct and Ward Revision

To facilitate the taking and reporting of the 1975 and subsequent state decennial census, local compliance with "one person, one vote" standards in the election of local bodies, and the formation of state legislative districts using city and town precincts, and whole small towns as "building blocks," the State Census Act of 1975 (c.10) rewrote provisions of the State Election Law (G.L.c. 54) to implement the "House Cut" Amendment (Art. CI) added to the State Constitution in 1974. Certain local precinct and ward revision,

optional in relation to the 1975 state decennial census, was made mandatory in relation to precinct and ward revision based on the 1985 and later state decennial censuses, and the reporting by localities of their state decennial census counts, as summarized below.

In each state decennial census year, commencing in 1985, the city council in every city, except Boston, must redivide its city into new precincts, and into new wards composed of such precincts, containing as nearly as may be equal numbers of inhabitants; except as otherwise provided by law, this task must be completed on or before June 15th of the state decennial census year.¹² Boston functions under special laws which mandate no precinct and ward changes such as those just described, but which direct that the city be redivided decennially into nine "districts," composed of contiguous precincts, for the election of "district" councillors and school committee members; that city redistricting, based on the state decennial census, must be completed no later than August 1st of the year immediately following the state decennial census year.¹³

Likewise in each state decennial census year, commencing in 1985, the board of selectmen of every town of 6,000 or more inhabitants must divide it into precincts of equal populations of inhabitants, as nearly as may be;¹⁴ in 1984-86 only, this requirement did not apply to any such town with less than 12,000 inhabitants which was contiguous by land with only one other municipality or which was surrounded by water.¹⁵ In less populous towns, a division or redivision of the town into precincts is optional with the board of selectmen, unless they are required to do this by vote of their town meeting.¹⁶

No city precinct,¹⁷ and no precinct in a town of 6,000 or more inhabitants, may be so established with a population in excess of 4,000 inhabitants; and all precincts are required to consist of compact and contiguous territory.¹⁸ If any town of 6,000 or more inhabitants which has no precincts, or has precincts not conforming to the statutes outlined above, fails to establish new precincts by June 15th of the state decennial census year, that division must be made by the Local Election Districts Review Commission in the Department of the State Secretary by October 15th of that year, unless the town has produced a plan of precincts acceptable to the commission in the meantime.¹⁹ If a city council fails to revise its precincts by October 15th of the state

decennial year, that power devolves upon the mayor, in a mayor-council city, or upon the city manager, in a council-manager city.²⁰ To accommodate cities and towns which desire more time for these purposes, localities were given an additional 90 days to complete their ward and precinct revisions based on the 1985 state decennial census.²¹ Town council towns are treated as “cities,” and their council districts as “wards,” under Massachusetts laws.

Cities and towns adopting new plans of precincts and wards are required to file the same with the State Secretary for examination and approval by the Local Election Districts Review Commission, which judges the compliance of such plans with constitutional and statutory standards, and arranges with local authorities for appropriate corrections of any defects.²²

Cities and towns remain subject to the jurisdiction of the state and federal courts in respect to any present or future failure on their part to comply with “one person, one vote” standards in the formation of their precincts, wards or other local election districts.

The 1985 State Decennial Census

Planning and Administration

The Census Division of the Department of the State Secretary had on its hands the enormous task of planning the 1985 state decennial census, and in supervising the taking of that count by the 351 municipalities. That Division, in turn, met its responsibilities with legal guidance from Mr. David Sullivan, Chief Legal Counsel of the Department, and, as need be, with the cooperation of the Election Division of the Department. In planning the census, the Department sought and received technical advice from Mr. Arthur G. Dukakis, Regional Director of the United States Census Bureau in Boston, and his staff. Throughout the census process, the Chief Legal Counsel of the Department, and administrators of the Census Division thereof, responded to inquiries of the Joint Special Committee, the Legislative Research Bureau, and the Joint Committee on Election Laws, concerning census matters and the progress of the census.

In contrast with the United States Census Bureau, which maintains a significant ongoing staff to conduct the federal decennial census and numerous intervening special censuses of one sort or another, Massachusetts enters upon its own decennial census efforts (a) with

a State Census Division staff that is “skeletal” between state decennial censuses and has to be expanded when a new such census looms, and (b) such modest numbers of canvassers as city and town clerks and election commissions may have assembled from one year to the next in order to conduct the annual street listing.²³ Such local canvassers are usually retained for the latter task for but a brief period of time each year, and gain experience only if re-employed. This, then, is the corps from which the Secretary of the Commonwealth must develop as competent a census force as he can, within a short period of time, once every ten years.

Various memoranda and instructions relative to the enumeration of inhabitants, and the reporting of the same, were prepared and distributed by the Department to municipal census supervisors, for the guidance and training of the latter and municipal employees working under their supervision and control. A standard official state census form was printed by the Department and distributed to these local authorities, mailing to each household or other place of abode, to be completed by the resident addressee, listing all persons living at that address, and to be remailed by him to the municipal census supervisor. The Department also provided such supervisors with standard “visitation/phone” follow-up census forms to be used by local census-takers (canvassers) in the event that particular resident addresses failed to respond to the original mailed inquiry. With the approval of the Department through its Census Division, certain municipalities desiring to do so in an acceptable manner received authority to devise their own census forms for use in lieu of the foregoing standard forms.

Unlike the federal decennial census, which seeks a great amount of information as to each person enumerated, the Massachusetts state decennial census is more modest in scope. The standard official state census form issued to the cities and towns for use in the 1985 state enumeration, elicited the following information only as to each individual:

- | | |
|---|---|
| <ol style="list-style-type: none"> 1. His or her name 2. The person's sex 3. Date of birth 4. Citizenship (if not U.S.) 5. Address, if different on January 1, 1987 6. Address on January 1, 1985 | <ol style="list-style-type: none"> 7. Occupation 8. Status of absent person who was legally domiciled in residence or place of abode, but resident elsewhere in college, military service, location of employment, home for aged, long-term health care facility, or other institution. |
|---|---|

The relevant information as to each individual's precinct and/or ward of residence, street code, house number, and apartment number, was also collected in this process. A few localities are reported also to have collected ethnic minority information, although not required to do so either by the State Census Law then in effect, or by regulations of the Department of the State Secretary.

Redivision of Cities and Towns into Precincts and Wards

Pursuant to the State Election Law provisions described above, 38 cities, five "town council" towns,²⁴ and 160 towns of 6,000 or more inhabitants submitted new maps of inhabitant-equal wards, councillor districts, and precincts to the Local Election Districts Review Commission, redrawn or created on the basis of the numbers of their inhabitants enumerated in the 1985 state decennial census. One such large town, Rockport, abutted by only one municipality, and hence not obligated to equalize its precincts in terms of inhabitants,²⁵ continued in use its 1984 precincts. The 39th city . . . Boston . . . which is not required to revise its wards and precincts, but is required to redraw its nine city council/school committee districts on an inhabitant-equal basis decennially in the year ending in the number "6" *per* the state decennial census, did so by an ordinance signed by the Mayor on June 18, 1986.

Some of the 203 local maps received by the Local Election Districts Review Commission were returned by it to local authorities for correction. These corrections were made voluntarily in due course by all but one of these municipalities, on the basis of consultations by local officials with representatives of the Commission and with personnel

of the Census Division and Election Division of the Department of the State Secretary. In only one instance (Danvers) did the Commission have to seek court action in order to secure submission of an acceptable map of new precincts. All localities required to form new inhabitant-equal precincts, wards, and town council districts did so by the statutory deadline of January 13, 1986.

In addition to Boston and Rockport, 146 towns of fewer than 6,000 inhabitants were not required to divide into precincts, or to revise their existing precincts, on an inhabitant-equal basis according to the 1985 state decennial census. Of these 146 small towns, 63 reported more than 2,500 inhabitants, and hence could have been divided in forming state legislative districts under Amendment Article CI of the Constitution had the Joint Special Committee and the General Court deemed this necessary; the other 83 small towns of under 2,500 inhabitants are constitutionally "indivisible." Voluntarily, at least 11 small towns in the 2,500-5,999 inhabitant range nevertheless have created precincts either before or after the 1985 state decennial census, as have at least five small towns in the under 2,500 inhabitant category, as a matter of local convenience.

This process of local ward and precinct revision, used for reporting the 1985 state decennial census, was monitored closely by the staff of the Joint Special Committee, in consultations with the Chief Legal Counsel and other representatives of the Department of the State Secretary. The Committee staff responded to numerous inquiries from city and town clerks, local election commissions, state legislators, and other interested parties, as to this process and its role in the redistricting of the General Court.

Reporting of the 1985 State Decennial Census

350 Cities and Towns. — By the statutory deadline of January 30, 1986 all but one (Boston) of the state's 351 municipalities had submitted 1985 state decennial census returns which were accepted as valid by the State Secretary. The total number of inhabitants so reported for these 350 cities and towns was 5,145,346. Absent a Boston 1985 state decennial census account of inhabitants he found acceptable, for reasons set forth more fully below, the State Secretary was unable to submit a timely report of that decennial census. Pending resolution of the controversy concerning Boston, he certified the 1985

state decennial census results for the 350 municipalities to the General Court on October 20, 1986.²⁶ The Joint Special Committee, using a rough estimate of 605,000 inhabitants for the City of Boston, was able to begin the task of drawing, albeit roughly, tentative House Districts outside the Boston metropolitan area, in an effort to get its redistricting task under way.

Controversy Over Boston's 1985 State Decennial Census Count. — On February 11, 1986, Mayor Raymond Flynn of Boston submitted to the State Secretary a 1985 state decennial census report, broken down by that city's 22 wards and 252 precincts, showing a total of 620,889 inhabitants therein. What ensued is described thus in the report of the five-member State Decennial Census Commission appointed by His Excellency, Governor Michael S. Dukakis on February 9, 1987, to resolve the controversy which followed when the State Secretary, the Hon. Michael J. Connolly, rejected the city's census return:

On April 16, 1986, the Secretary, Michael J. Connolly, rejected the census return submitted by the City. In his letter to Mayor Flynn . . . the Secretary cited two reasons for rejecting the return. First, the Secretary stated that there was a "substantial discrepancy" between the city's total reported population (620,889) and the July 1, 1984 population estimate of the United States Bureau of the Census of 570,719. Second, the Secretary's staff had conducted a two-stage audit, consisting of an internal audit and a field audit, which suggested that the City's census return contained "statistically significant errors." Accordingly, the Secretary returned the City's census return and ordered the City to submit a corrected census count, consistent with the Secretary's audit results, within two weeks. The City did not submit revised figures within the allotted period . . .

On April 18, 1986, the City requested access to certain public records relating to the 1985 state census from the Secretary pursuant to the Public Records Law, G.L. c. 66, s. 10 . . . The Secretary provided access to these records, with the exception of the records of the Secretary's field audit. In a letter of April 30, 1986 . . . the Secretary's office declined to provide the audit

record, stating that such records were exempt from disclosure as investigatory materials under G.L. c. 4, s. 7(f). A formal request for the audit records was submitted by the City on April 30 . . . but on May 6, 1986, the Secretary again refused to provide the audit records, relying upon an advisory opinion of the Supervisor of Public Records . . . which stated that the records were not subject to disclosure under the exemption for investigative materials.

The Secretary sought the assistance of the Massachusetts Attorney General, Francis X. Bellotti, in securing a corrected census return from the City on May 13, 1986 . . . In late June 1986, the City refused to permit the Attorney General's office further access to documents regarding the conduct of the 1985 census, stating that it was not in the City's interest to permit prelitigation discovery . . . On July 2, 1986, the Attorney General's office made a formal request for additional census information . . . This information was not provided . . .

The City volunteered to conduct a new census in a letter to the Attorney General's office on August 18, 1986 . . . This new census was to begin immediately and to produce a new census return by February 28, 1987. This new census was never undertaken . . .

In late 1986, the Massachusetts Legislature passed a bill to form a decennial census commission to resolve the dispute over the City census. The legislation was approved by Governor Michael S. Dukakis on January 7, 1987. The new law, Chapter 681 of the Acts of 1986, amended the decennial census statute (G.L. c. 9, s. 7) to provide that —

If such correction is not submitted and accepted by November first of said year the governor shall appoint a decennial census commission, hereinafter called the commission. Said commission shall consist of five members one of whom shall be designated as Chairman. No more than three members of the commission shall be of the same major political party and the other two members shall be of the other major political party. The members of the commission shall serve without compensation but shall be reimbursed for their expenses actually and necessarily incurred in the discharge of their official duties. The

commission shall examine the original submission and may inspect the records of any city or town and call upon the mayor . . . or municipal census supervisor thereof for such further information as it desires. The commission shall determine and verify the census for such city or town which then shall be accepted by the secretary.

Governor Dukakis appointed the members of the Decennial Census Commission on February 9, 1987. Tunney F. Lee was selected as Chairman of the Commission; the other Democrats appointed were Paul Guzzi and Philip L. Clay. The Republicans appointed to the Commission were John W. Delaney and Eunice P. Howe. The Commission was charged pursuant to statute with the authority to "determine and verify the census" conducted by the City for January 1, 1985, and to report its findings to the Secretary.²⁷

From February 17, 1987 through May 15, 1987, the State Decennial Census Commission held a series of open meetings, the first two of which were organizational in character, and the remainder of which were devoted to receiving the testimony, briefs, reports and other materials offered by members of the General Court and by representatives of the Department of the State Secretary, City of Boston, and other interested agencies and organizations. The Commission and its staff gave intense scrutiny to the manner in which the City had conducted and recorded its 1985 state census count, and to the procedures followed by the Department in auditing the same. Several problems confronted the Commission from the outset, apart from anything that the City and the Department did, may have done, or may have failed to do.

The statute requiring the Commission to "determine" and to "verify" a disputed census count of a city or town does not define these two words. Neither the State Census Law nor Amendment Article CI provides any methodology or set of guidelines prescribing how these determinations or verifications are to be accomplished by the Commission. No applicable legislative history or legal precedents were available to aid the Commission in approaching its assignment. Moreover, the statute under which the Commission functioned confers on it no rule-making authority or authority to conduct adjudicatory proceedings.

To resolve its first problem, that of definitions, the Commission turned to *Webster's Third International Dictionary* (Unabridged, 1971), wherein it found that —

“Determine” is defined to mean “to fix conclusively or authoritatively”; “to settle a question or controversy about”; “to come to a decision concerning as the result of investigation or reasoning”; “to settle or decide by choice of alternatives or possibilities.” *Id.* at 616. “Verify” means “to prove to be true: establish the truth of: conclusively demonstrate by presentation of facts or by sound reasoning or argument”; “to check or test the accuracy or exactness of: confirm the truth of truthfulness of by or as if by comparison with known data or a recognized standard or authority”; or “to confirm or establish the authenticity or existence of by examination, investigation, or competent evidence.” *Id.* at 2543.²⁸

As to procedures to be followed in “determining” and “verifying” the Boston 1985 state census return, the Commission reported that —

The possible alternatives open to the Commission were to determine and verify that the correct total census figure is (1) the figure submitted by the City, (2) the figure submitted by the City after correcting for identifiable errors, or (3) some other figure arrived at by a new census or some other accepted methodology. The City has repeatedly argued that the Commission must either verify the City’s original return, or identify specific errors in the City’s return and request that the City correct those identified errors. The Commission does not find this argument persuasive. Nothing in the Commission’s charter contains such a restriction on alternatives available to the Commission for determining and verifying the census. The Commission accordingly has rejected the City’s argument of the Commission’s limited authority. The Commission does agree, however, that its first inquiry should be to decide whether the City census return can be determined and verified. Only if the census return cannot be determined and verified need the Commission consider the alternatives available to determine the correct count . . .

. . . While the Secretary has long had the statutory power to verify census returns, the Commission could find no instance in

which the Secretary had previously rejected a census return. Thus the Secretary has never found it necessary to promulgate rules or standards for verifying a rejected census return. Further, the statute does not explicitly give the Commission either rule-making authority or the authority to conduct adjudicatory proceedings. The Commission accordingly limited its investigatory activities to reviewing written submissions, inspecting records, and taking unsworn oral testimony.²⁹

On the basis of testimony and evidence introduced or elicited in its hearings, and in the light of the investigation carried out by its own staff, the State Decennial Census Commission concluded that it was unable to determine and verify that the 1985 state decennial census return submitted by the City of Boston presenting a count of 620,889 inhabitants, was accurate.³⁰ In relation to that City count, the Commission found:

- (1) That the City did not comply with the statutory requirements and the instructions of the State Secretary in conducting its 1985 census count, and that therefore the Commission could not verify the accuracy of the City's census return.³¹
- (2) That the City's procedures for tabulating the census count and checking the accuracy of that count did not contain proper procedural safeguards.³²
- (3) That based on the extrinsic evidence of the number of inhabitants residing in Boston on January 1, 1985, the Commission could not determine and verify the City's submitted census count of 620,889 inhabitants.³³
- (4) That the procedural and substantive errors in the City's census were serious, substantial, and of such a character as to make it impossible to pinpoint each individual miscount more than two years after the census date. Hence, it was necessary for the Commission to look to other reliable data to correct the City's census return.³⁴

The Commission concluded that its choice of courses lay between a "top-down" or a "bottom-up" methodology, to reach an accurate *estimate* of the City's 1985 inhabitant population.

The "top-down" method utilizes an uncorrected census total and applies statistical data to determine the degree of error based on certain confidence levels. The only data available for a "top-down"

adjustment in this instance was the count of 592,156 inhabitants claimed by the audit by the Department of the State Secretary, the City's count having been rejected for the reasons stated:

The Secretary conducted a two-stage audit procedure consisting of an internal (office) audit of the City's precinct tabulations and a field audit of the City's census cards . . . The audit was designed by Dr. Coelen³⁵ to test the overall accuracy of the City's census . . . In refusing to verify the City's census return, the Secretary placed special emphasis on the results of his field audit . . .

According to Dr. Coelen, a random sample of 2,000 individual census cards, representing households in the City, were to be verified by the Secretary's staff . . . Dr. Coelen emphasized the importance of accurately verifying and recording the information on the photocopy of each census card chosen for the audit, and of keeping accurate data on each contact . . .

Dr. Coelen also recommended that the Secretary conduct a second field audit of sample geographic units to reveal whether certain households had been missed altogether by the City census . . . This second field audit was never undertaken . . .

The field audit did not measure up to the standards established by the designer, Dr. Coelen. Dr. Coelen initially recommended that the audit cover 112 precincts and 2,000 household cards. The audit only covered 77 precincts and 1,777 household cards. Although representatives of the Secretary's office testified that Dr. Coelen reduced the size of the audit because he felt that the results of the audit would not be changed, the original scope of the audit was based on Ms. Simonetti's computation that there were only 303,000 household cards for the City . . . The City claimed that there were in fact 380,000 cards . . . The staff of the Commission counted the number of cards using the same type of estimating technique that Ms. Simonetti reported using . . . The staff found that indeed there were approximately 380,000 cards . . . Accordingly, the original design scope of the audit is questionable, since the number of sampled cards may not have statistical validity based on a total of 380,000 cards. Therefore, some of the Secretary's statistical estimates based on the audit sample may not be reliable.

An equally serious problem with the Secretary's field audit is that the Commission is unable to verify the results of the audit. Under Ms. Simonetti's direction, the field auditors made notes on the copies of the census cards of the results of the contacts with the inhabitants . . . The Secretary is unable to locate over 700 of the 1,777 photocopies of the census cards it audited . . . With over 700 of the cards with notes missing, neither the Commission nor the City could verify the results of the Secretary's audit. Further, the handwritten notations on the photocopies of the census cards by field auditors are confusing even when examined in light of the Secretary's explanations . . . The Commission further notes that the Secretary's field audit was conducted more than 15 months after the census date. This time delay increases the likelihood of error.

The Commission concludes that it cannot verify the validity of the methods, procedures and results of the Secretary's audit. The Commission has consequently determined that utilizing a top-down methodology is not possible to correct the 1985 City census. The Commission has instead elected to use a bottom-up methodology based on accurate federal census data and BRA studies, rather than a top-down approach based on unconfirmed audit data.³⁶

As the "top-down" method was unacceptable for the reasons just stated, the Commission opted for the alternative "bottom-up" method, using as its base the 1980 federal decennial census report of 562,994 persons resident in Boston as of April 1, 1980. That census also reported a total of 241,444 housing units then existing; a 9.5% gross vacancy rate and a 7.5% net vacancy rate in those units; and a group quarters population of 39,518. In its report, the Commission stated that —

A bottom-up methodology is a two stage process. The first stage consists of selecting a known total population for some prior period, such as the last accurate census. The second stage requires a measurement of the net change in population since the time of the earlier known total . . .

There are two methods for measuring this net change. One method is to account for all births, deaths and migration of

population since the known population total. This is the method used by the Census Bureau in making its population estimates . . . The greatest difficulty with this method is the accurate tracking of migration within, into and out of a geographic area. Even the Census Bureau has difficulty measuring migration accurately, and is currently adjusting some of its estimates.

A second method for measuring net change in population is to compute the change based on housing data. This method requires computing the net change in habitable housing stock since the time of the known population, multiplying that change by the occupancy rate, and then by the average household size. This method is used by the BRA³⁷ in making population estimates . . . and is one of the statistical approaches suggested by Dr. Coelen of MISER to determine the City's population as of January 1, 1985. . .

The Commission believes that a bottom-up approach is an appropriate methodology for determining the City's correct population on January 1, 1985. The BRA used this methodology to estimate Boston's population in various documents it prepared, and Mr. Ganz . . . also used the method in his various submissions to the Commission. In addition, Dr. Coelen described the bottom-up approach as a workable alternative available to the Commission. The Commission finds that the bottom-up approach is the most reliable method available for adjusting the city's census count through the use of statistical data.³⁸

Through the application of the above-described "bottom-up" statistical process, the Commission arrived at these seven findings:

- (1) That the total number of household units in the City of Boston in 1985 was 249,197.³⁹
- (2) That the correct gross vacancy rate for the City of Boston in 1985 was 8.17%.⁴⁰
- (3) That the number of occupied housing units in that City in 1985 was 228,838.⁴¹
- (4) That the average household size in Boston in 1985 was 2.41 persons.⁴²
- (5) That the population in group quarters in Boston on January 1, 1985 was 48,894.⁴³

- (6) That the census of inhabitants of Boston as of January 1, 1985 should include 701 homeless persons not in shelters.⁴⁴
- (7) That the total population of the City of Boston on January 1, 1985, was therefore 601,095, reflecting a 6.8% growth over the City's 1980 federal census count.⁴⁵

The Commission determined this count of 601,095 inhabitants by multiplying the average household size by the number of occupied housing units in Boston, then adding the population in group quarters and the homeless. The Commission found that this number was derived from the most reliable data available to it, and that it is thus the correctly enumerated population of the City of Boston on January 1, 1985.⁴⁶

Allocating these 601,095 inhabitants among the City's 22 ward and 252 precincts also involved an estimating procedure, inasmuch as the 1980 federal decennial census was not compiled by such units. To make this allocation, the Commission measured the percentage of growth in each of the City's 22 wards between 1980 and 1985. Noting that its count of 601,095 inhabitants for 1985 represented an overall increase over the 1980 federal census figure for Boston of approximately 65% of the increase measured by the City, the Commission reported that —

... to allocate the growth to each ward, the measured percentage change in the ward's population between the 1980 *Latino*⁴⁷ population allocation and the 1985 City census count is multiplied by 65% of the City's reported growth in its census return. This calculation is then made for each ward . . .

The Commission has determined that the percentage change in the precinct counts reported in the 1985 City census, unlike the ward counts, are not reliable. Unlike the ward counts, which are large enough to demonstrate relative growth propensity, even very slight undercounts and overcounts have a substantial effect on precinct populations. The Secretary's internal audit demonstrated precinct over and undercounts of hundreds of persons. The Commission has, therefore, decided to assign the growth rate within each ward equally to each of its precincts. Each precinct's share of the computed ward population growth is proportional to the 1980 federal census precinct counts as determined in *Latino*.⁴⁸

The City's 1985 inhabitant population total, so broken down by ward and precinct, was then submitted to the State Secretary, who transmitted it to the General Court on May 21, 1987 for incorporation into the official figures for the 1985 state decennial census of inhabitants of the 351 cities and towns.

Completed Count of Inhabitants of Massachusetts in 1985 State Decennial Census. — The ultimate 1985 state decennial census count resulting from those proceedings was reported to the General Court as follows:

(a) State Secretary's report of October 20, 1986, <i>re</i> inhabitants of 350 cities and town ⁴⁹	5,145,346
(b) Report of State Decennial Census Commission on May 19, 1987, <i>re</i> number of inhabitants in City of Boston ⁵⁰	<u>601,095</u>
(c) Total number of inhabitants of Massachusetts as of January 1, 1985	<u>5,746,441</u>

1986 Special Census by Race and Language

Over the years, the Massachusetts state decennial census has enumerated "legal voters" (until 1975) and "inhabitants" in the Commonwealth and its localities, their wards and precincts, with only such further breakdown of that data as particular incumbent State Secretaries have seen fit to order. Thus, the 1955 state decennial census gave detailed population breakdowns by sex, age and employment status, and also counted resident war veterans. The age and sex breakdown appeared also in the report of the 1965 state decennial census. The 1971, 1975 and 1985 state decennial censuses simply counted "inhabitants," without providing the General Court and its redistricting committee with age, sex or other breakdowns of that data.

The absence of more detailed state decennial census data was a matter of some moment to our predecessor Joint Special Committee on Redistricting of the General Court and Executive Council in 1974-75, and to the Executive Office for Administration and Finance (which desired such data for fiscal and program purposes). That Joint Committee, and interested agencies of the executive branch, explored with representatives of the United States Census Bureau the feasibility of having the 1975 state decennial census taken by that Bureau

under contract. However, this plan fell through because the Bureau could not take the census on the domicile-oriented basis of inhabitant enumeration then required by our State Constitution, except at considerable additional cost. Moreover, executive branch agencies could not agree as to the kinds of detailed data they desired to be collected. Amendment Article CIX, added to the State Constitution in 1978, abandoned the legal domicile basis of enumeration in favor of the "usual place of residence" standard used by the United States Census Bureau. This benefitted older communities with institutional populations and other "non-domiciled" residents, and made possible future arrangements for better ways of conducting the state decennial census.

For ethnic and racial minority populations, whose members in the General Court and whose organizations had been following these developments, the question of requiring an ethnic and racial breakdown of the 1985 (and subsequent) state decennial census figures became a major concern early in the present redistricting process. In 1984, legislation proposing such a breakdown was proposed by Senator Royal L. Bolling, Sr., of Suffolk, and by Representative Royal L. Bolling, Jr. of Boston (later a member of this Joint Special Committee); although favorably reported by the Joint Committee on Election Laws, it failed to pass before the prorogation of the 1984 legislative session.⁵¹ Thereupon, these two legislators reintroduced their measure into the 1985 General Court.⁵² Throughout the discussion of these measures, the Department of the State Secretary expressed concern that the enumeration of people by ethnic and racial categories would delay the 1985 state decennial census, the work on which his staff had already started; and he indicated that he would not conduct such a count less ordered to do so by the General Court. Opposition to an ethnic and racial count was also expressed by officials of the City of Boston and certain other localities, on like grounds; and they objected that the bills proposing this count were introduced late in 1984, just as the 1985 state decennial census was about to start. Black groups threatened court action if a "raceless" census was attempted.

To head off such litigation, the Hon. Michael J. Connolly, Secretary of the Commonwealth, leaders of the Black Caucus, and the House leadership agreed upon a compromise solution, whereunder the 1985 state decennial census would collect ethnic and racial data in those 40

cities and towns wherein the Black, Hispanic and certain other minorities accounted for a significant part of the population (3% or more) according to the 1980 federal decennial census. This approach was approved by the House Committee on Ways and Means, which recommended that an additional \$1,511,700 be appropriated to the Department of the State Secretary for these purposes in fiscal year 1985.⁵³ The supplementary appropriation bill containing these provisions was passed by the House of Representatives, only to have the above census feature struck out by the Senate on the recommendation of its Ways and Means Committee.⁵⁴ In the conference committee, Senate members supported this Senate decision, and the bill was enacted without these census provisions.⁵⁵

Subsequently, in July of 1985 the General Court enacted legislation designed to achieve the objectives of the compromise, in part at least, by requiring all cities and towns to compile ethnic and racial information when they undertook their 1986 "street listing" or "police listing."⁵⁶ That 1985 act (c. 165), providing, among other things, that —

Notwithstanding the provisions of any general or special law to the contrary, the annual street listing required by section four of chapter fifty-one of the General Laws for the year nineteen hundred and eighty-six shall include an inquiry, in a form prescribed by the state secretary, as to each resident's race and primary language. For the purpose of such inquiry, sections one to eight, inclusive, of chapter fifty-six of the General Laws shall apply, and the state secretary shall have all the powers provided in sections seven and nine of chapter nine of the General Laws. On or before June first, nineteen hundred and eighty-six the registrars or listing board shall return the resulting information to the state secretary, in a form prescribed by him in the manner provided by section seven of chapter nine of the General Laws. The state secretary shall file the same with the clerk of the house of representatives as soon as possible thereafter, for the supplemental and informational use of the general court in making its new division of the commonwealth into representative, senatorial, and executive councillor districts, under Article CI of the Amendments to the Constitution . . .⁵⁷

The street listing provision of the General Laws, referred to in the above text, mandates, in part, that —

Registrars, assistant registrars, or boards having similar duties under any special or general law, or one or more of them, except in the city of Boston, shall annually in January or February visit or communicate with the residents of every building in their respective cities and towns, and after diligent inquiry, shall make true lists containing, as nearly as they can ascertain, the name, date of birth, occupation, nationality if not a citizen of the United States, and residence on January first in the preceding year and in the current year, of every person three years of age or older residing in their respective cities and towns . . . Said list shall contain the name, residence and age or date of birth of each such person and shall be open to public inspection at reasonable times. That proportion of any expenses incurred by the registrars under this section, equal to the proportion that the number of persons under seventeen years of age bears to the total number of persons listed thereunder, shall be carried as an item in the school committee budget.

In the city of Boston, the registrars, assistant registrars, or boards having similar duties under any special or general law, or one or more of them, shall annually in January or February visit or communicate with the residents of every building in their respective city and after diligent inquiry, shall make true lists containing, as nearly as they can ascertain, the name, date of birth, occupation, nationality if not a citizen of the United States, and residence on January first in the preceding year and in the current year, of every person seventeen years of age or older, residing in their respective city.⁵⁸

In conformity with the foregoing provisions, and instructions issued by the Department of the State Secretary, 348 cities and towns compiled this 1986 street listing data for all age groups, as intended by the General Court in Acts of 1985, c. 165. Boston, Gill and Shelburne submitted such data only for persons aged 17 or more, thus omitting minors, and limiting the usefulness of their ethnic and racial data to the Joint Special Committee. The results of the Chapter 165 enumeration were transmitted to the General Court by the state Secretary on March 30, 1987.⁵⁹

Aside from the foregoing omissions of information, many persons were listed by individual cities and towns in the "did not reply" category, when they failed to return their listing questionnaires.

Consequently, the Joint Special Committee has made guarded use of the results of this population count, deeming it to be less than a "census" in the proper meaning of that term.

FOOTNOTES

¹Acts of 1986, c. 681, s.2.

²Acts of 1985, c. 165, s.1.

³G.L. c. 9, s. 7A.

⁴Acts of 1984, c. 234, s. 2; 1985, c. 54, s. 2; 1985, c. 140, s. 2. (Line Item 0519-0000).

⁵Mass. Const., Part II, c. I, s. II, Art. II (1780).

⁶*Blanchard v. Stearns*, 46 Mass. 298 (1842); *Opinions of the Justices*, 122 Mass. 594 (1877).

⁷*Couture v. Commonwealth*, 338 Mass. 31 (1958); *In re Troy*, 364 Mass. 15 (1973); *Opinions of the Justices*, 365 Mass. 661 (1974); *Hershkoff v. Board of Registrars of Voters of Worcester*, 366 Mass. 570 (1974).

⁸*Hershkoff v. Board of Registrars of Voters of Worcester*, 366 Mass. 570 (1974).

⁹Acts of 1987, c. 115 does provide that the following persons not be enumerated in forming precincts (and thus wards) of cities, and precincts in towns of 6,000 or more inhabitants, unless they register to vote: (a) inhabitants of a college or university, (b) inhabitants of correctional institutions, (c) inhabitants of health care or mental health facilities, (d) inhabitants of military reservations, and (e) inhabitants of any "other such institution" (Amending G.L. c. 54, ss. 1 and 6).

¹⁰Joint Special Committee on the Redistricting of the General Court, *Seventh Interim Report*, House, No. 5900 (1977), 157 pp. at pp. 38-39. This paragraph up-dates excerpts text from that document.

¹¹*Ibid.*

¹²G.L. c. 54, s.1.

¹³G.L. c. 43, ss. 131-132; Acts of 1982, c. 605, s. 3; Acts of 1986, c. 343.

¹⁴G.L. c. 54, s. 6.

¹⁵Acts of 1985, c. 165, s. 2, (Salisbury and Rockport).

¹⁶G.L. c. 54, s. 6.

¹⁷Except in Boston, as previously noted.

¹⁸G.L. c. 54, ss. 2 and 6.

¹⁹G.L. c. 54, s. 6.

²⁰G.L. c. 54, s. 1.

²¹Acts of 1985, c. 165, s. 1.

²²G.L. c. 54, ss. 1 and 6.

²³The annual street listing, authorized by G.L. c. 51, ss. 4-14A, is also known in some localities as the "police listings" because of the use of police officers there to act as canvassers (census-takers). Except in Boston, all persons aged three or more are listed. In Boston only persons aged 17 or more are listed. In either case, such listings are as of where the person listed was on January 1st. of the listing (calendar) year.

²⁴These five "town council" municipalities, without selectmen or town meetings are, in effect, council-manager cities, and are so treated by the General Court. The Town of Greenfield has a selectmen-manager government, with a "town council" which is, in effect, a small representative town meeting, and hence is a town, not a city.

²⁵Acts of 1985, c. 165, s. 2.

²⁶*Communications from the Secretary of the Commonwealth Submitting the Results of a Census of the Inhabitants of Each City and Town of the Commonwealth Taken in the Year 1985 (Excluding the City of Boston)*, House, No. 6415 (1986), 62 pp.

²⁷*Communication from the Secretary of the Commonwealth Submitting the Results of the Determination and Verification by the Decennial Census Commission Relative to a Census of the Inhabitants of the City of Boston*, House, No. 5556 (1987), 81 pp; containing the *Report of the Decennial Census Commission to the Secretary of the Commonwealth of Massachusetts on the Boston Decennial Census of January 1, 1985, at pp. 8-10.*

²⁸House, No. 5556 (1987), p. 20.

²⁹House, No. 5556 (1987), pp. 20-21.

³⁰*Ibid.*, p. 29.

³¹*Ibid.*, pp. 29-33.

³²*Ibid.*, pp. 33-41.

³³*Ibid.*, pp. 41-43.

³⁴House, No. 5556 (1987), p. 44.

³⁵Dr. Stephen P. Coelen, Director, Massachusetts Institute for Social and Economic Research, (MISER) University of Massachusetts, Amherst, Mass.

³⁶House, No. 5556 (1987), pp. 45-48.

³⁷Boston Redevelopment Authority.

³⁸House, No. 5556 (1987), pp. 48-49.

³⁹House, No. 5556 (1987), p. 54.

⁴⁰*Ibid.*, pp. 54-56.

⁴¹*Ibid.*, p. 56.

⁴²*Ibid.*, pp. 56-57.

⁴³*Ibid.*, pp. 57-59.

⁴⁴*Ibid.*, p. 59.

⁴⁵*Ibid.*, pp. 59-60.

⁴⁶House, No. 5556 (1987), pp. 59-60.

⁴⁷1980 federal census data adjustments used in determining Boston ward and precinct populations in *Latino Political Action Committee v. City of Boston*, 568 F. Supp. 1012 (D. Mass. 1983). Involved dispute *re* division of City into districts for the election of city councillors and school committee members.

⁴⁸House, No. 5556 (1987), p. 62.

⁴⁹House, No. 6415 (1986), 62 pp.

⁵⁰Transmitted to General Court by State Secretary on May 21, 1987; House, No. 5556 (1987).

⁵¹Senate, No. 2362 (1984).

⁵²Senate, No. 116 (1985).

⁵³House, Nos. 5800 (1985) and 5815 (1985), Line Item 0519-1000.

⁵⁴Senate, Nos. 2184 (1985) and 2187 (1985).

⁵⁵House, No. 6060 (1985); Acts of 1985, c. 54.

⁵⁶Acts of 1985, c. 165. Based on House, No. 6091 (1985), amended, substituted by the House of Representatives on the motion of

Representative John A. Businger of Brookline, House Chairman of the Joint Committee on Election Laws, for House, No. 5024 (1985), petition of Representative Steven D. Pierce of Westfield (3rd Assistant House Minority Leader), The Massachusetts City Clerks' Association, The Massachusetts Town Clerks' Association, *et al.*

⁵⁷Acts of 1985, c. 165, s. 1, in part.

⁵⁸G.L. c. 51, s. 4.

⁵⁹*Communications from the Secretary of the Commonwealth Transmitting the Results of a Special Census of Race and Language for the Supplemental and Informational Use of the General Court in Establishing Representative, Senatorial and Executive Councillor Districts*, House, No. 5232 (1987), 96 pp.

CHAPTER IV.

**BROAD CONSULTATIVE BASIS OF PROPOSED
HOUSE REDISTRICTING PLAN**

The new plan of House districts proposed by the Joint Special Committee, like any other legislative measure, must be given a full and complete series of readings before the House and Senate, and then be approved by the Governor before becoming law. Within that process, there exists the mechanism for amendments, corrections and changes. But whatever the final outcome, the ultimate product cannot be altered substantially because we are dealing with the finality of hard numbers.

Realizing all this, the Joint Special Committee recognized at the outset that it could not succeed in its mission without the confidence, good will, cooperation and votes of the membership of both branches of the General Court, and most particularly of those men and women serving in the House of Representatives who will be most affected by the redistricting. Moreover, the Committee also appreciated the legitimate concern which local officials, state and local civic organizations, individual communities, and the general public have in any redistricting plan. Hence, the Committee conferred broadly with numerous individuals and organizations in an attempt to gather information and views relevant to its assigned task.

As noted previously, full use was made of the services of the Legislative Research Bureau, the Counsel to the Senate and House of Representatives, the staff of the Joint Committee on Election Laws, the Local Election Districts Review Commission, and the Census Division and Election Division of the Department of the State Secretary. Numerous inquiries were also directed to city and town clerks and election commissions. The Joint Special Committee is most grateful to these and other authorities for their generous cooperation and advice.

As a result of its research and investigations, the Joint Special Committee prepared a tentative series of maps, by county, of new state representative districts, which were then made the subject of four regional public hearings held as follows:

July 7, 1987, in Holyoke, Mass., *re* proposed House districts in Berkshire, Franklin, Hampden, and Hampshire Counties.

July 8, 1987, in Marlborough, Mass., *re* said districts in Essex, Middlesex, and Worcester Counties.

July 9, 1987, in Plymouth, Mass., *re* said districts in Barnstable, Bristol, and Plymouth Counties.

July 11, 1987, in Boston, Mass., *re* said districts in Norfolk and Suffolk Counties.

Both before and after the release of the above tentative plan of House districts, the public was made aware of the work and possible recommendations of this Joint Special Committee through newspaper interviews, conversations with local civic and political office holders, speeches made by Committee members before boards of selectmen, city councils and civic organizations, and a general "open door" policy which welcomed all interested citizens who inquired as to your Committee's progress or who desired to present alternative proposals or suggestions, which resulted in the public being aware of its probable recommendations long before this report was written.

No attempt was ever made, or even considered, to conduct the Committee's work in a less than open manner. On the contrary, the tremendous public interest and media discussion, involving in specific detail the description of representative districts throughout the Commonwealth, could not have been possible if the work of this Committee was not being fully and freely reported periodically to all concerned.

Thus, whether one agrees or disagrees with our proposed plan of 160 House districts, there can be little question that our Committee followed the principle of "open government" in this redistricting process.

CHAPTER V.

**PROPOSED PLAN OF 160 NEW REPRESENTATIVE
DISTRICTS
POPULATION ASPECTS****Apportionment Norm Based on 1985 State Decennial Census**

The Apportionment Plan contained in this report (see Appendix D) in the opinion of the committee meets all the state constitutional requirements as set forth in Chapter II. The plan consists of 160 single member districts. The committee adopted as its goal a principle embodied in an earlier Supreme Court decision, *Reynolds v. Sims* (1964) which stated "the achieving of fair and effective representation for all citizens is concededly the basic aim of legislative apportionment."

Adhering to its state constitutional obligations, federal requirements and legislative mandates, the committee examined the 1985 state decennial census statistics. Based upon that data, the population of the commonwealth was 5,746,441, residing in 351 cities and towns varying widely in concentration and geographical spread. An ideal ratio or "apportionment norm" of inhabitants for each state representative is 35,915.

**Population Variations Among Districts On
Statewide Basis and Among Counties**

The committee recognizes that only cold statistical numbers would render any apportionment plan unsatisfactory to the demands of a modern society. Even the Supreme Court has stated that modest and reasonable deviations from the apportionment norm of a legislative body are constitutionally permissible to maintain the integrity of political subdivisions, to achieve some degree of compactness and contiguity, to adapt to natural boundaries, and accommodate historic factors and community of interest. The office of state representative has always been considered a "local" office with close ties to the community and the committee was especially sensitive to these factors in drawing up new district lines.

A broad overview of the plan shows a shift of only four seats from the present districts as follows: —

Suffolk and Middlesex counties each lose one seat; Barnstable and Plymouth counties each gain one seat. This reflects a long term population shift from the thickly populated cities to the more suburban southeastern part of the Commonwealth.

For these four counties some internal district lines will change. Cambridge-Somerville area as a result of some population loss required some re-arranging of the district lines. Plymouth and Barnstable counties have experienced the most growth and consequently each will gain additional representation in the General Court to reflect that expanded population.

The committee has been mindful of the historic role of the General Court in representing local interests. In the early days of the last century each town elected its own representative to the General Court. As the population grew the larger towns were allotted additional representatives in direct proportion to that growth. For a number of years many larger municipalities were in multi-member districts.

Constitutional provisions then in effect, required apportionment according to counties; multi-member districts were allowed; further constitutional changes required single member districts in the 240 member House and since then county based representation was ended. From that time on, and with the House reduction to 160 members, apportionment has been on a population basis, being mindful of the legal requirements set forth in Article CI of the Amendments to the Constitution.

Several concerns loomed large in the committee review of population data. Among them were the ideal notion of preserving and maintaining the integrity of large concentrations of people in large cities. How to draw district lines while preserving neighborhoods and local municipal patterns of social, ethnic, racial and economic factors presented problems. The committee assiduously avoided splitting up these larger municipalities in a manner which fractured these important bonds. Some larger cities must, of necessity, be divided up, and the committee was extremely sensitive to minimize arbitrary divisions and instead focused on keeping together like areas. Therefore, the prime aim was to keep as many districts as possible wholly within the larger municipalities and at the same time to minimize the number of large communities which of necessity had to be divided.

The last redistricting committee had to wrestle with an added dimension to a redistricting task which this committee happily did not have. That was the reduction of the size of the House from 240

members to 160. The factors then present, such as preserving the two-party system, incumbent members pitted against each other in the same district, larger districts necessitated by the reduced membership, all combined to make a difficult task almost impossible to the satisfaction of everyone.

Realizing that the two major political party system has been one of the mainstays of our democracy, the committee did not set out on a course to weaken the minority party but to come up with a fair plan for both parties. The present political line-up, barring future campaigns and political personalities, should remain about the same.

Recognizing that Massachusetts voters are defiantly independent, it is anticipated that the tendency to disregard party labels in selecting their public officials, especially their state representative, will continue. However, in those districts with high concentrations of voters registered in either of the two parties, the results are pretty much predictable. With these admonitions, the plan anticipates that the heavily Democratic electorate in Massachusetts will continue to elect an overwhelming number of Democratic candidates to the House of Representatives. Both major political parties will undoubtedly wage aggressive campaigns with attractive candidates for the two new districts in Plymouth and Barnstable counties. This could present an opportunity for the Republican party to gain seats since these are in areas where Republican candidates traditionally have done well.

Non-white vs. White. The committee has been especially sensitive, and made a conscious effort to make certain that non-white representation, substantially reflecting their numbers statewide and in the affected urban areas, be established in the new districting plan. The Supreme Court has stated, in a number of cases, that racial and ethnic factors can be considered and employed to achieve a fair allocation of political power between white and non-white voters, thus allowing non-white voters a meaningful role in the political process. This is especially so in the urban, economically disadvantaged areas where public assistance programs are vital to this constituency. A state representative is an important connection with the people living in these neighborhoods and their state government. In an era of federal retrenchment and proposition 2½ cutbacks, the people, more than ever, need this crucial link between them and state administered programs of education, welfare, public health, mental health, housing,

employment and urban redevelopment and rehabilitation. The committee believes it has dealt fairly with this important matter.

Island Counties. Prior to the reduction in the size of the House to 160 members, the two Island Counties of Dukes and Nantucket were assured to their historic and distinctive representation in the House of Representatives. An initiative petition eliminated the islands as separate districts. To establish them as separate districts would have resulted in insular district deviations from the apportionment norm entirely unacceptable to the federal courts. The plan presented herewith again makes no provision for island representation even though community of interest and special island concerns might justify special consideration and representation. Since the population figures just cannot support any such proposal, the plan continues with the current system of merging them with the mainland communities.

APPENDIX A

LEGISLATIVE REDISTRICTING ARTICLE OF
MASSACHUSETTS CONSTITUTION

AMENDMENT ARTICLE CI OF 1974 (AS AMENDED)

SECTION 1. In the year nineteen hundred and seventy-five and every tenth year thereafter a census of the inhabitants of each city and town shall be taken. For purposes of said census every person shall be considered an inhabitant of the city or town of his usual place of residence in accordance with standards used by the United States from time to time in conducting the federal census required by Section 2 of Article 1 of the Constitution of the United States subject to such exceptions as the general court may provide by law. Said census shall specify the number of inhabitants of each precinct of each town and of each precinct and ward of each city. Said census shall be the basis for determining the representative districts for the ten year period beginning with the first Wednesday in the fourth January following the taking of said census; provided that such districts as established based on the census in the year nineteen hundred and seventy-one shall terminate on the first Wednesday in January in the year nineteen hundred and seventy-nine. (Language added by Amend. Art. CIX of 1978 underlined.)

The House of Representatives shall consist of one hundred and sixty members. The General Court shall, at its first regular session after the year in which said census was taken, divide the Commonwealth into one hundred and sixty representative districts of contiguous territory so that each representative will represent an equal number of inhabitants, as nearly as may be; and such districts shall be formed, as nearly as may be, without uniting two counties or parts of two or more counties, two towns or parts of two or more towns, two cities or parts of two or more cities, or a city and a town, or parts of cities and towns into one district. Such districts shall also be so formed that no town containing less than twenty-five hundred inhabitants

according to said census shall be divided. The General Court may by law limit the time within which judicial proceedings may be instituted calling in question any such division. Every representative, for one year at least immediately preceding his election, shall have been an inhabitant of the district for which he is chosen and shall cease to represent such district when he shall cease to be an inhabitant of the Commonwealth. The manner of calling and conducting the elections for the choice of representatives, and of ascertaining their election, shall be prescribed by law.

SECTION 2. Each such census of inhabitants required in section one shall likewise be the basis for determining the senatorial districts and also the councillor districts¹ for the ten year period beginning with the first Wednesday in the fourth January following the taking of such census; provided that such districts as established based on the census of the year nineteen hundred and seventy-one shall terminate on the first Wednesday in January in the year nineteen hundred and seventy-nine. The Senate shall consist of forty members. The General Court shall, at its first regular session after the year in which said census is taken, divide the Commonwealth into forty districts of contiguous territory, each district to contain, as nearly as may be, an equal number of inhabitants according to said census; and such districts shall be formed, as nearly as may be, without uniting two counties or parts of two or more counties into one district. The General Court may by law limit the time within which judicial proceedings may be instituted calling in question such division. Each district shall elect one senator, who shall have been an inhabitant of this Commonwealth five years at least immediately preceding his election and at the time of his election shall be an inhabitant of the district for which he is chosen; and he shall cease to represent such senatorial district when he shall cease to be an inhabitant of the Commonwealth. The manner of calling and conducting the elections for the choice of senators and councillors, and of ascertaining their election, shall be prescribed by law.

¹Amend. Art. XVI (1855), as revised by Amend. Art. LXIV (1918), requires that each executive councillor district be composed of five contiguous senatorial districts, each such district to be represented by one such councillor.

SECTION 3. Original jurisdiction is hereby vested in the supreme judicial court upon the petition of any voter of the Commonwealth, filed with the clerk of the supreme judicial court for the Commonwealth, for judicial relief relative to the establishment of House of Representatives, councillor and senatorial districts.

SECTION 4. Article XCII of the Amendments to the Constitution is hereby annulled.

APPENDIX B

160 PROPOSED REPRESENTATIVE DISTRICTS ARRANGED IN DECLINING ORDER
OF 1985 POPULATION SIZE

In the following tabulation, the "population" figure is the total number of "inhabitants" enumerated in the 1985 Decennial State Census. On the basis of that 1985 enumeration, the "redistricting norm" or ideal number of inhabitants per representative is 35,915, or 160th of the total of the sum of the districts which is 5,746,440.

District		% Deviation From Inhabitants Redistricting Norm
Seventeenth Middlesex	39990	11.35%
Fourth Plymouth	39582	10.21%
Third Worcester	39576	10.19%
Second Middlesex	39521	10.04%
Thirty Sixth Middlesex	39467	9.89%
Fourth Worcester	39298	9.42%
Twelfth Worcester	39079	8.81%
Sixth Worcester	39049	8.73%
First Worcester	38966	8.50%
Twentieth Middlesex	38949	8.45%
Fourth Norfolk	38942	8.43%
Eighteenth Middlesex	38880	8.26%
Second Barnstable	38850	8.17%
First Plymouth	38836	8.13%
Eighth Norfolk	38737	7.86%
Ninth Suffolk	38701	7.76%
Nineteenth Middlesex	38669	7.67%
Eighth Middlesex	38662	7.65%
Second Suffolk	38585	7.43%
First Bristol	38508	7.22%
Tenth Plymouth	38394	6.90%
Fifth Bristol	38299	6.64%
Second Essex	38246	6.49%
Tenth Middlesex	38157	6.24%
Tenth Worcester	38083	6.04%
Seventh Hampden	38073	6.01%
Tenth Norfolk	38064	5.98%
Eleventh Essex	37956	5.68%
Tenth Hampden	37936	5.63%
Twelfth Essex	37842	5.37%
Fourteenth Norfolk	37795	5.23%
Ninth Plymouth	37785	5.21%
First Barnstable	37631	4.78%
Seventh Worcester	37608	4.71%
Third Plymouth	37588	4.66%
Seventh Suffolk	37563	4.59%
Third Hampden	37484	4.37%
Seventh Plymouth	37435	4.23%
Fifteenth Norfolk	37433	4.23%
Second Franklin	37351	4.00%
Fifth Essex	37211	3.61%
Seventh Essex	37092	3.28%
Twenty First Middlesex	37087	3.26%
Seven Bristol	37007	3.04%
Twenty Sixth Middlesex	36972	2.94%
Third Hampshire	36963	2.92%
Eighth Hampden	36935	2.84%

District		% Deviation From Inhabitants Redistricting Norm
Thirtieth Middlesex	36934	2.84X
Fourteenth Middlesex	36929	2.82X
Sixteenth Middlesex	36878	2.68X
Third Bristol	36832	2.55X
Thirteenth Suffolk	36823	2.53X
Eighth Suffolk	36813	2.50X
Twenty Fourth Middlesex	36687	2.15X
Fifth Worcester	36639	2.02X
Thirteenth Hampden	36633	2.00X
Thirteenth Essex	36630	1.99X
Fifteenth Essex	36624	1.97X
Thirty Seventh Middlesex	36589	1.88X
First Hampshire	36561	1.80X
Seventh Norfolk	36522	1.69X
Sixteenth Essex	36495	1.61X
Fourth Middlesex	36471	1.55X
Fourteenth Bristol	36425	1.42X
Fourth Essex	36325	1.14X
Thirty Fifth Middlesex	36301	1.07X
Second Worcester	36259	0.96X
Tenth Essex	36243	0.91X
First Essex	36146	0.64X
Fifteenth Middlesex	36126	0.59X
Tenth Suffolk	36117	0.56X
Twenty Ninth Middlesex	36109	0.54X
Fifth Suffolk	36080	0.46X
Sixth Middlesex	36039	0.35X
Ninth Middlesex	36023	0.30X
Fifth Barnstable	35997	0.23X
Eighth Worcester	35973	0.16X
Twenty Seventh Middlesex	35947	0.09X
Fourteenth Essex	35940	0.07X
First Franklin	35886	-0.08X
Fifth Plymouth	35869	-0.13X
Fourth Berkshire	35806	-0.30X
Thirty First Middlesex	35773	-0.40X
Seventh Middlesex	35733	-0.51X
Eleventh Worcester	35730	-0.52X
Seventeenth Worcester	35694	-0.62X
Twenty Fifth Middlesex	35671	-0.68X
Fourteenth Suffolk	35670	-0.68X
Thirteen Bristol	35640	-0.77X
Twenty Second Middlesex	35630	-0.79X
Eighteenth Suffolk	35613	-0.84X
Nineteenth Suffolk	35568	-0.97X
Third Essex	35537	-1.05X
Twelfth Hampden	35534	-1.06X
Sixth Essex	35532	-1.07X
Sixteenth Suffolk	35492	-1.18X
Ninth Bristol	35412	-1.40X
Twentieth Suffolk	35378	-1.50X
First Hampden	35306	-1.70X
Fourteenth Worcester	35303	-1.70X
Seventeenth Suffolk	35282	-1.76X
Fifteenth Worcester	35206	-1.97X
Fifth Norfolk	35189	-2.02X
Third Norfolk	35148	-2.14X
Eleventh Suffolk	35132	-2.18X

District		% Deviation From Inhabitants Redistricting Norm
Second Berkshire	35105	-2.26%
Sixth Plymouth	35083	-2.32%
Thirty Fourth Middlesex	35072	-2.35%
Sixth Norfolk	35052	-2.40%
Fifteenth Suffolk	35045	-2.42%
Second Hampshire	35016	-2.50%
Second Norfolk	34934	-2.73%
Twenty Eighth Middlesex	34913	-2.79%
Thirteenth Middlesex	34876	-2.89%
Eleventh Bristol	34860	-2.94%
Third Middlesex	34829	-3.02%
Fourth Suffolk	34827	-3.03%
Twelfth Bristol	34805	-3.09%
Thirty Third Middlesex	34793	-3.12%
Tenth Bristol	34745	-3.26%
Fourth Hampden	34717	-3.34%
Thirty Eighth Middlesex	34691	-3.41%
Fifth Middlesex	34630	-3.58%
Sixth Hampden	34521	-3.88%
Twelfth Suffolk	34516	-3.90%
Ninth Hampden	34389	-4.25%
First Suffolk	34286	-4.54%
Twenty Third Middlesex	34223	-4.71%
Sixth Suffolk	34218	-4.73%
Third Suffolk	34199	-4.78%
Twelfth Plymouth	34101	-5.05%
Thirteenth Worcester	34094	-5.07%
Fifth Hampden	33893	-5.63%
Ninth Worcester	33736	-6.07%
First Middlesex	33727	-6.09%
Sixteenth Worcester	33671	-6.25%
Eleventh Middlesex	33613	-6.41%
Ninth Norfolk	33525	-6.65%
Eleventh Hampden	33478	-6.79%
First Berkshire	33430	-6.92%
Eighth Bristol	33379	-7.06%
Eleventh Norfolk	33328	-7.20%
Seventeenth Essex	33215	-7.52%
Fourth Barnstable	33148	-7.70%
Twelfth Middlesex	33087	-7.87%
Second Hampden	33018	-8.07%
Ninth Essex	32962	-8.22%
Eighth Plymouth	32941	-8.28%
Eighth Essex	32927	-8.32%
Fourth Bristol	32876	-8.46%
First Norfolk	32833	-8.58%
Eleventh Plymouth	32758	-8.79%
Sixth Bristol	32602	-9.22%
Thirteenth Norfolk	32451	-9.64%
Third Berkshire	32403	-9.78%
Second Plymouth	32374	-9.86%
Third Barnstable	32295	-10.08%
Second Bristol	32233	-10.25%
Thirty Second Middlesex	32189	-10.37%
Twelfth Norfolk	32127	-10.55%
Population Total	5746440	

APPENDIX C

160 PROPOSED REPRESENTATIVE DISTRICTS ARRANGED BY COUNTIES
IN DECLINING ORDER OF 1985 POPULATION SIZE.

District		% Deviation From Inhabitants Redistricting Norm
BARNSTABLE COUNTY		
Second Barnstable	38850	8.17%
First Barnstable	37631	4.78%
Fifth Barnstable	35997	0.23%
Fourth Barnstable	33148	-7.70%
Third Barnstable	32295	-10.08%
BERKSHIRE COUNTY		
Fourth Berkshire	35806	-0.30%
Second Berkshire	35105	-2.26%
First Berkshire	33430	-6.92%
Third Berkshire	32403	-9.78%
BRISTOL COUNTY		
First Bristol	38508	7.22%
Fifth Bristol	38299	6.64%
Seven Bristol	37007	3.04%
Third Bristol	36832	2.55%
Fourteenth Bristol	36425	1.42%
Thirteen Bristol	35640	-0.77%
Ninth Bristol	35412	-1.40%
Eleventh Bristol	34860	-2.94%
Twelfth Bristol	34805	-3.09%
Tenth Bristol	34745	-3.26%
Eighth Bristol	33379	-7.06%
Fourth Bristol	32876	-8.46%
Sixth Bristol	32602	-9.22%
Second Bristol	32233	-10.25%
ESSEX COUNTY		
Second Essex	38246	6.49%
Eleventh Essex	37956	5.68%
Twelfth Essex	37842	5.37%
Fifth Essex	37211	3.61%
Seventh Essex	37092	3.28%
Thirteenth Essex	36630	1.99%
Fifteenth Essex	36624	1.97%
Sixteenth Essex	36495	1.61%
Fourth Essex	36325	1.14%
Tenth Essex	36243	0.91%
First Essex	36146	0.64%
Fourteenth Essex	35940	0.07%
Third Essex	35537	-1.05%
Sixth Essex	35532	-1.07%
Seventeenth Essex	33215	-7.52%
Ninth Essex	32962	-8.22%
Eighth Essex	32927	-8.32%

District		% Deviation From Inhabitants Redistricting Norm
FRANKLIN COUNTY		
Second Franklin	37351	4.00%
First Franklin	35886	-0.08%
HAMPDEN COUNTY		
Seventh Hampden	38073	6.01%
Tenth Hampden	37936	5.63%
Third Hampden	37484	4.37%
Eighth Hampden	36935	2.84%
Thirteenth Hampden	36633	2.00%
Twelfth Hampden	35534	-1.06%
First Hampden	35306	-1.70%
Fourth Hampden	34717	-3.34%
Sixth Hampden	34521	-3.88%
Ninth Hampden	34389	-4.25%
Fifth Hampden	33893	-5.63%
Eleventh Hampden	33478	-6.79%
Second Hampden	33018	-8.07%
HAMPSHIRE COUNTY		
Third Hampshire	36963	2.92%
First Hampshire	36561	1.80%
Second Hampshire	35016	-2.50%
MIDDLESEX COUNTY		
Seventeenth Middlesex	39990	11.35%
Second Middlesex	39521	10.04%
Thirty Sixth Middlesex	39467	9.89%
Twentieth Middlesex	38949	8.45%
Eighteenth Middlesex	38880	8.26%
Nineteenth Middlesex	38669	7.67%
Eighth Middlesex	38662	7.65%
Tenth Middlesex	38157	6.24%
Twenty First Middlesex	37087	3.26%
Twenty Sixth Middlesex	36972	2.94%
Thirtieth Middlesex	36934	2.84%
Fourteenth Middlesex	36929	2.82%
Sixteenth Middlesex	36878	2.68%
Twenty Fourth Middlesex	36687	2.15%
Thirty Seventh Middlesex	36589	1.88%
Fourth Middlesex	36471	1.55%
Thirty Fifth Middlesex	36301	1.07%
Fifteenth Middlesex	36126	0.59%
Twenty Ninth Middlesex	36109	0.54%
Sixth Middlesex	36039	0.35%
Ninth Middlesex	36023	0.30%
Twenty Seventh Middlesex	35947	0.09%
Thirty First Middlesex	35773	-0.40%
Seventh Middlesex	35733	-0.51%
Twenty Fifth Middlesex	35671	-0.68%
Twenty Second Middlesex	35630	-0.79%
Thirty Fourth Middlesex	35072	-2.35%
Twenty Eighth Middlesex	34913	-2.79%
Thirteenth Middlesex	34876	-2.89%

District		% Deviation From Inhabitants Redistricting Norm
MIDDLESEX COUNTY		
Third Middlesex	34829	-3.02%
Thirty Third Middlesex	34793	-3.12%
Thirty Eighth Middlesex	34691	-3.41%
Fifth Middlesex	34630	-3.58%
Twenty Third Middlesex	34223	-4.71%
First Middlesex	33727	-6.09%
Eleventh Middlesex	33613	-6.41%
Twelfth Middlesex	33087	-7.87%
Thirty Second Middlesex	32189	-10.37%
NORFOLK COUNTY		
Fourth Norfolk	38942	8.43%
Eighth Norfolk	38737	7.86%
Tenth Norfolk	38064	5.98%
Fourteenth Norfolk	37795	5.23%
Fifteenth Norfolk	37433	4.23%
Seventh Norfolk	36522	1.69%
Fifth Norfolk	35189	-2.02%
Third Norfolk	35148	-2.14%
Sixth Norfolk	35052	-2.40%
Second Norfolk	34934	-2.73%
Ninth Norfolk	33525	-6.65%
Eleventh Norfolk	33328	-7.20%
First Norfolk	32833	-8.58%
Thirteenth Norfolk	32451	-9.64%
Twelfth Norfolk	32127	-10.55%
PLYMOUTH COUNTY		
Fourth Plymouth	39582	10.21%
First Plymouth	38836	8.13%
Tenth Plymouth	38394	6.90%
Ninth Plymouth	37785	5.21%
Third Plymouth	37588	4.66%
Seventh Plymouth	37435	4.23%
Fifth Plymouth	35869	-0.13%
Sixth Plymouth	35083	-2.32%
Twelfth Plymouth	34101	-5.05%
Eighth Plymouth	32941	-8.28%
Eleventh Plymouth	32758	-8.79%
Second Plymouth	32374	-9.86%
SUFFOLK COUNTY		
Ninth Suffolk	38701	7.76%
Second Suffolk	38585	7.43%
Seventh Suffolk	37563	4.59%
Thirteenth Suffolk	36823	2.53%
Eighth Suffolk	36813	2.50%
Tenth Suffolk	36117	0.56%
Fifth Suffolk	36080	0.46%
Fourteenth Suffolk	35670	-0.68%
Eighteenth Suffolk	35613	-0.84%
Nineteenth Suffolk	35568	-0.97%
Sixteenth Suffolk	35492	-1.18%
Twentieth Suffolk	35378	-1.50%
Seventeenth Suffolk	35282	-1.76%

District		% Deviation From Inhabitants Redistricting Norm
SUFFOLK COUNTY		
Eleventh Suffolk	35132	-2.18%
Fifteenth Suffolk	35045	-2.42%
Fourth Suffolk	34827	-3.03%
Twelfth Suffolk	34516	-3.90%
First Suffolk	34286	-4.54%
Sixth Suffolk	34218	-4.73%
Third Suffolk	34199	-4.78%
WORCESTER COUNTY		
Third Worcester	39576	10.19%
Fourth Worcester	39298	9.42%
Twelfth Worcester	39079	8.81%
Sixth Worcester	39049	8.73%
First Worcester	38966	8.50%
Tenth Worcester	38083	6.04%
Seventh Worcester	37608	4.71%
Fifth Worcester	36639	2.02%
Second Worcester	36259	0.96%
Eighth Worcester	35973	0.16%
Eleventh Worcester	35730	-0.52%
Seventeenth Worcester	35694	-0.62%
Fourteenth Worcester	35303	-1.70%
Fifteenth Worcester	35206	-1.97%
Thirteenth Worcester	34094	-5.07%
Ninth Worcester	33736	-6.07%
Sixteenth Worcester	33671	-6.25%
Population Total	5746440	

APPENDIX D

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Eighty-Seven.

AN ACT DIVIDING THE COMMONWEALTH INTO ONE HUNDRED AND SIXTY
STATE REPRESENTATIVE DISTRICTS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 57 of the General Laws is hereby
2 amended by striking out section 4, as appearing in the 1986
3 Official Edition, and by inserting in place thereof the following
4 section: —

5 Section 4. For the purpose of choosing representatives in the
6 general court until the next decennial division of the common-
7 wealth into representative districts, the commonwealth is divided,
8 conformably with Article CI of the Articles of Amendment of the
9 Constitution, into the one hundred and sixty following
10 representative districts: —

11 *Barnstable and Islands*

12 *First Barnstable.* — Consisting of the towns of Brewster,
13 Dennis and Yarmouth, all in the county of Barnstable.

14 *Second Barnstable.* — Consisting of the town of Barnstable, in
15 the county of Barnstable; and the town of Nantucket, in the county
16 of Nantucket.

17 *Third Barnstable.* — Consisting of the towns of Bourne,
18 Mashpee and Sandwich, all in the county of Barnstable.

19 *Fourth Barnstable.* — Consisting of the towns of Chatham,
20 Eastham, Harwich, Orleans, Provincetown, Truro and Wellfleet,
21 all in the county of Barnstable.

22 *Fifth Barnstable.* — Consisting of the town of Falmouth, in the
23 county of Barnstable; and the towns of Chilmark, Edgartown,
24 Gay Head, Gosnold, Oak Bluffs, Tisbury and West Tisbury, all
25 in the county of Dukes County.

26 *Berkshire*

27 *First Berkshire.* — Consisting of the towns of Adams, Cheshire,
28 Clarksburg, Florida, Peru, Savoy and Windsor, and the city of
29 North Adams, all in the county of Berkshire.

30 *Second Berkshire.* — Consisting of the towns of Dalton,
31 Hancock, Lanesborough, New Ashford and Williamstown, and
32 all precincts of wards one and two and precinct C of ward seven,
33 of the city of Pittsfield, all in the county of Berkshire.

34 *Third Berkshire.* — Consisting of all precincts of wards three,
35 four, five, and six and precincts A and B of ward seven, of the
36 city of Pittsfield, in the county of Berkshire.

37 *Fourth Berkshire.* — Consisting of the towns of Alford,
38 Becket, Egremont, Great Barrington, Hinsdale, Lee, Lenox,
39 Monterey, Mount Washington, New Marlborough, Otis,
40 Richmond, Sandisfield, Sheffield, Stockbridge, Tyringham,
41 Washington and West Stockbridge, all in the county of Berkshire.

42 *Bristol*

43 *First Bristol.* — Consisting of the towns of Easton and
44 Mansfield, both in the county of Bristol; and precincts one and
45 two, of the town of Foxborough, in the county of Norfolk.

46 *Second Bristol.* — Consisting of the city of Attleboro, in the
47 county of Bristol.

48 *Third Bristol.* — Consisting of all precincts of ward one,
49 precinct B of ward two, precinct A of ward three, and all precincts
50 of wards four, five, six, seven and eight, of the city of Taunton,
51 in the county of Bristol.

52 *Fourth Bristol.* — Consisting of the towns of Norton,
53 Rehoboth and Seekonk, all in the county of Bristol.

54 *Fifth Bristol.* — Consisting of the towns of Dighton, Somerset
55 and Swansea, all in the county of Bristol.

56 *Sixth Bristol.* — Consisting of precinct C of ward four and all
57 precincts of wards seven, eight and nine, of the city of Fall River,
58 in the county of Bristol.

59 *Seventh Bristol.* — Consisting of all precincts of wards one,
60 two and three and precincts A and B of ward four, of the city
61 of Fall River, in the county of Bristol.

62 *Eighth Bristol.* — Consisting of all precincts of wards five and
63 six, of the city of Fall River, and the town of Westport, all in the
64 county of Bristol.

65 *Ninth Bristol.* — Consisting of the towns of Berkley,
66 Dartmouth and Freetown, all in the county of Bristol.

67 *Tenth Bristol.* — Consisting of the town of Fairhaven, in the
68 county of Bristol; and the towns of Lakeville, Marion,
69 Mattapoisett and Rochester, all in the county of Plymouth.

70 *Eleventh Bristol.* — Consisting of the town of Acushnet and
71 all precincts of ward one and precincts C, D, E and G of ward
72 two, of the city of New Bedford, all in the county of Bristol.

73 *Twelfth Bristol.* — Consisting of precincts A, B and F of ward
74 two, all precincts of ward three, precincts C, E, F and G of ward
75 four, and precinct G of ward five, of the city of New Bedford,
76 in the county of Bristol.

77 *Thirteenth Bristol.* — Consisting of precincts A, B and D of
78 ward four, precincts A, B, C, D, E and F of ward five, and all
79 precincts of ward six, of the city of New Bedford, in the county
80 of Bristol.

81 *Fourteenth Bristol.* — Consisting of precincts three, four and
82 five, of the town of Foxborough, and the town of Plainville, all
83 in the county of Norfolk; and the town of North Attleborough,
84 in the county of Bristol.

85 *Essex*

86 *First Essex.* — Consisting of the towns of Amesbury and
87 Salisbury, and the city of Newburyport, all in the county of Essex.

88 *Second Essex.* — Consisting of ward three of the city of
89 Haverhill, and the towns of Georgetown, Groveland, Merrimac,
90 Newbury, Rowley and West Newbury, all in the county of Essex.

91 *Third Essex.* — Consisting of all precincts of wards one, two
92 and four, of the city of Haverhill, in the county of Essex.

93 *Fourth Essex.* — Consisting of the towns of Boxford, Essex,
94 Hamilton, Ipswich, Topsfield and Wenham, all in the county of
95 Essex.

96 *Fifth Essex.* — Consisting of the city of Gloucester, and the
97 towns of Manchester and Rockport, all in the county of Essex.

98 *Sixth Essex.* — Consisting of the city of Beverly, in the county
99 of Essex.

100 *Seventh Essex.* — Consisting of the city of Salem, in the county
101 of Essex.

102 *Eighth Essex.* — Consisting of the towns of Marblehead and
103 Swampscott, all in the county of Essex.

104 *Ninth Essex.* — Consisting of precincts one, two and three of
105 ward one, of the city of Lynn, and the town of Saugus, all in the
106 county of Essex.

107 *Tenth Essex.* — Consisting of precinct four of ward one, and
108 all precincts of wards two, three and four, of the city of Lynn,
109 in the county of Essex.

110 *Eleventh Essex.* — Consisting of all precincts of wards five, six
111 and seven, of the city of Lynn, and the town of Nahant, all in
112 the county of Essex.

113 *Twelfth Essex.* — Consisting of all precincts in wards one, two,
114 three, four and five, of the city of Peabody, in the county of Essex.

115 *Thirteenth Essex.* — Consisting of the towns of Danvers and
116 Middleton and all precincts in ward six, of the city of Peabody,
117 all in the county of Essex.

118 *Fourteenth Essex.* — Consisting of precincts two, four and five
119 of ward E and all precincts of ward F, of the city of Lawrence,
120 and the town of North Andover, all in the county of Essex.

121 *Fifteenth Essex.* — Consisting of the town of Methuen, in the
122 county of Essex.

123 *Sixteenth Essex.* — Consisting of all precincts of wards A, B
124 and C and precincts two, three, four and five of ward D, of the
125 city of Lawrence, in the county of Essex.

126 *Seventeenth Essex.* — Consisting of the town of Andover, and
127 precinct one of ward D and precincts one and three of ward E,
128 of the city of Lawrence, all in the county of Essex.

129 *Franklin*

130 *First Franklin.* — Consisting of the towns of Ashfield,
131 Buckland, Charlemont, Colrain, Conway, Deerfield, Hawley,
132 Heath, Monroe, Montague, Rowe, Shelburne, Sunderland and
133 Whately, all in the county of Franklin; and the towns of
134 Chesterfield, Cummington, Goshen, Huntington, Middlefield,
135 Plainfield, Williamsburg and Worthington, all in the county of
136 Hampshire.

137 *Second Franklin.* — Consisting of the towns of Bernardston,
138 Erving, Gill, Greenfield, Leverett, Leyden, New Salem,
139 Northfield, Orange, Shutesbury, Warwick and Wendell, all in the
140 county of Franklin.

141 *Hampden*

142 *First Hampden.* — Consisting of the towns of Brimfield,
143 Holland, Palmer and Wales, all in the county of Hampden; the
144 towns of Belchertown and Ware, both in the county of Hampshire;
145 and the town of Hardwick, in the county of Worcester.

146 *Second Hampden.* — Consisting of the towns of East
147 Longmeadow, Hampden and Longmeadow, all in the county of
148 Hampden.

149 *Third Hampden.* — Consisting of the towns of Agawam,
150 Blandford, Chester, Granville, Montgomery, Russell, Southwick
151 and Tolland, all in the county of Hampden.

152 *Fourth Hampden.* — Consisting of the city of Westfield, in the
153 county of Hampden.

154 *Fifth Hampden.* — Consisting of precinct B of ward one, and
155 all precincts of wards three, four, five, six and seven, of the city
156 of Holyoke, in the county of Hampden.

157 *Sixth Hampden.* — Consisting of precinct A of ward one, and
158 all precincts of ward two, of the city of Holyoke, and the town
159 of West Springfield, all in the county of Hampden.

160 *Seventh Hampden.* — Consisting of the town of Ludlow,
161 precincts B and C of ward four, and all precincts of wards five
162 and six, of the city of Chicopee, all in the county of Hampden;
163 and the town of Granby, in the county of Hampshire.

164 *Eighth Hampden.* — Consisting of all precincts of wards one,
165 two and three, precinct A of ward four, and all precincts of wards
166 seven, eight and nine, of the city of Chicopee, in the county of
167 Hampden.

168 *Ninth Hampden.* — Consisting of precincts A, B, C, D, E and
169 F of ward one, and all precincts of ward two, of the city of
170 Springfield, in the county of Hampden.

171 *Tenth Hampden.* — Consisting of precincts G and H of ward
172 one, precincts A, B, C, D and E of ward three, precincts A, B,
173 C, D, E, F and G of ward six, and precinct A of ward seven, of
174 the city of Springfield, in the county of Hampden.

175 *Eleventh Hampden.* — Consisting of precincts B, C, D, E, F
176 and G of ward five, and all precincts of ward eight, of the city
177 of Springfield, in the county of Hampden.

178 *Twelfth Hampden.* — Consisting of precincts F, G and H of
179 ward three, all precincts of ward four, precincts A and H of ward

180 five, and precinct B of ward seven, of the city of Springfield, in
181 the county of Hampden.

182 *Thirteenth Hampden.* — Consisting of precinct H of ward six
183 and precincts C, D, E, F, G and H of ward seven, of the city of
184 Springfield, and the towns of Monson and Wilbraham, all in the
185 county of Hampden.

186 *Hampshire*

187 *First Hampshire.* — Consisting of the towns of Hatfield,
188 Southampton and Westhampton, and the city of Northampton,
189 all in the county of Hampshire.

190 *Second Hampshire.* — Consisting of the towns of Easthamp-
191 ton, Hadley and South Hadley, all in the county of Hampshire.

192 *Third Hampshire.* — Consisting of the towns of Amherst and
193 Pelham, both in the county of Hampshire.

194 *Middlesex*

195 *First Middlesex.* — Consisting of the towns of Ashby, Ayer,
196 Dunstable, Groton, Pepperell and Townsend, all in the county
197 of Middlesex.

198 *Second Middlesex.* — Consisting of the towns of Littleton,
199 Shirley and Westford, all in the county of Middlesex; and the town
200 of Harvard, in the county of Worcester.

201 *Third Middlesex.* — Consisting of the towns of Boxborough,
202 Hudson and Stow, all in the county of Middlesex; and the towns
203 of Bolton and Lancaster, both in the county of Worcester.

204 *Fourth Middlesex.* — Consisting of the city of Marlborough,
205 in the county of Middlesex; and the town of Berlin, in the county
206 of Worcester.

207 *Fifth Middlesex.* — Consisting of the towns of Natick and
208 Sherborn, both in the county of Middlesex.

209 *Sixth Middlesex.* — Consisting of precincts one, two, three,
210 four, five, six, seven, eight, nine and ten, of the town of Fram-
211 ingham, in the county of Middlesex.

212 *Seventh Middlesex.* — Consisting of the town of Ashland, and
213 precincts eleven, twelve, thirteen, fourteen, fifteen, sixteen and
214 seventeen, of the town of Framingham, all in the county of
215 Middlesex.

216 *Eighth Middlesex.* — Consisting of the town of Holliston, in
217 the county of Middlesex; and the towns of Medfield, Medway and
218 Millis, all in the county of Norfolk.

219 *Ninth Middlesex.* — Consisting of all precincts of wards one,
220 two, three and four, precinct one of ward six, and all precincts
221 of ward seven, of the city of Waltham, in the county of Middlesex.

222 *Tenth Middlesex.* — Consisting of precincts one and four of
223 ward one, precinct one of ward two, and precincts one, three and
224 four of ward three, of the city of Newton, and all precincts of ward
225 five, precinct two of ward six, and all precincts of wards eight and
226 nine, of the city of Waltham, all in the county of Middlesex.

227 *Eleventh Middlesex.* — Consisting of precincts two and three
228 of ward one, precinct two of ward two, precincts one and four
229 of ward six, all precincts of ward seven, and precincts one, two
230 and four of ward eight, of the city of Newton, in the county of
231 Middlesex.

232 *Twelfth Middlesex.* — Consisting of precinct three of ward two,
233 precinct two of ward three, all precincts of wards four and five,
234 precincts two and three of ward six, and precinct three of ward
235 eight, of the city of Newton, in the county of Middlesex.

236 *Thirteenth Middlesex.* — Consisting of the towns of Maynard,
237 Sudbury and Wayland, all in the county of Middlesex.

238 *Fourteenth Middlesex.* — Consisting of the towns of Acton,
239 Carlisle and Concord, all in the county of Middlesex.

240 *Fifteenth Middlesex.* — Consisting of the towns of Lexington
241 and Lincoln, both in the county of Middlesex.

242 *Sixteenth Middlesex.* — Consisting of the towns of Chelmsford
243 and Tyngsborough, both in the county of Middlesex.

244 *Seventeenth Middlesex.* — Consisting of the town of Dracut,
245 and precinct one of ward one, precincts two and three of ward
246 five, and all precincts of ward nine, of the city of Lowell, in the
247 county of Middlesex.

248 *Eighteenth Middlesex.* — Consisting of precincts two and three
249 of ward one, all precincts of ward two, precincts two and three
250 of ward four, and all precincts of wards ten and eleven, of the
251 city of Lowell, in the county of Middlesex.

252 *Nineteenth Middlesex.* — Consisting of all precincts of ward
253 three, precinct one of ward four, precinct one of ward five, and

- 254 all precincts of wards six, seven and eight, of the city of Lowell,
255 in the county of Middlesex.
- 256 *Twentieth Middlesex.* — Consisting of the town of Tewksbury,
257 and precincts one, two, four, five and six, of the town of
258 Wilmington, all in the county of Middlesex.
- 259 *Twenty-first Middlesex.* — Consisting of the towns of North
260 Reading and Reading, and precinct three of the town of
261 Wilmington, all in the county of Middlesex.
- 262 *Twenty-second Middlesex.* — Consisting of the town of
263 Lynnfield, in the county of Essex; and the town of Wakefield, in
264 the county of Middlesex.
- 265 *Twenty-third Middlesex.* — Consisting of the towns of Bedford
266 and Burlington, both in the county of Middlesex.
- 267 *Twenty-fourth Middlesex.* — Consisting of the town of
268 Billerica, in the county of Middlesex.
- 269 *Twenty-fifth Middlesex.* — Consisting of precincts five, seven,
270 eight, nine, ten, eleven, twelve, thirteen, fourteen, fifteen, sixteen,
271 seventeen, eighteen, nineteen, twenty and twenty-one, of the town
272 of Arlington, in the county of Middlesex.
- 273 *Twenty-sixth Middlesex.* — Consisting of precincts one, two,
274 three, four and six, of the town of Arlington, and the town of
275 Belmont, all in the county of Middlesex.
- 276 *Twenty-seventh Middlesex.* — Consisting of precincts three and
277 four of ward seven, and all precincts of wards eight, nine, ten
278 and eleven, of the city of Cambridge, in the county of Middlesex.
- 279 *Twenty-eighth Middlesex.* — Consisting of precincts two, three
280 and four of ward two, precinct four of ward three, all precincts
281 of wards four, five and six, and precincts one and two of ward
282 seven, of the city of Cambridge, in the county of Middlesex.
- 283 *Twenty-ninth Middlesex.* — Consisting of all precincts of ward
284 one, precinct one of ward two, and precincts one, two and three
285 of ward three, of the city of Cambridge, and precincts one, two
286 and three of ward one, precincts one and two of ward two, and
287 precinct three of ward four, of the city of Somerville, all in the
288 county of Middlesex.
- 289 *Thirtieth Middlesex.* — Consisting of precinct three of ward
290 two, all precincts of ward three, precincts one and two of ward
291 four, all precincts of ward five, and precincts two and three of
292 ward six, of the city of Somerville, in the county of Middlesex.

293 *Thirty-first Middlesex.* — Consisting of the city of Everett, in
294 the county of Middlesex.

295 *Thirty-second Middlesex.* — Consisting of the town of
296 Watertown, in the county of Middlesex.

297 *Thirty-third Middlesex.* — Consisting of the city of Woburn,
298 in the county of Middlesex.

299 *Thirty-fourth Middlesex.* — Consisting of precincts two, three,
300 four and six, of the town of Stoneham, and the town of
301 Winchester, all in the county of Middlesex.

302 *Thirty-fifth Middlesex.* — Consisting of the city of Melrose, and
303 precincts one and five, of the town of Stoneham, all in the county
304 of Middlesex.

305 *Thirty-sixth Middlesex.* — Consisting of all precincts of wards
306 one, two, three, four, five and six, of the city of Malden, in the
307 county of Middlesex.

308 *Thirty-seventh Middlesex.* — Consisting of precincts two, three
309 and four of ward three, all precincts of wards five and six, of the
310 city of Medford, precinct one of ward six, and all precincts of ward
311 seven, of the city of Somerville, all in the county of Middlesex.

312 *Thirty-eighth Middlesex.* — Consisting of all precincts of wards
313 one and two, precinct one of ward three, and all precincts of wards
314 four and seven, of the city of Medford, in the county of Middlesex.

315 *Norfolk*

316 *First Norfolk.* — Consisting of precincts three and four of ward
317 three, precincts one, three and four of ward four, precinct five
318 of ward five and all precincts of ward six, of the city of Quincy,
319 in the county of Norfolk.

320 *Second Norfolk.* — Consisting of all precincts of ward one,
321 precincts two and five of ward three, precinct two of ward four,
322 and precincts one, two, three and four of ward five, of the city
323 of Quincy, in the county of Norfolk.

324 *Third Norfolk.* — Consisting of all precincts of ward two,
325 precinct one of ward three, and precinct five of ward four, of the
326 city of Quincy, and precincts five, six, nine, twelve and sixteen,
327 of the town of Weymouth, all in the county of Norfolk.

328 *Fourth Norfolk.* — Consisting of precincts one, two, three,
329 four, seven, eight, ten, eleven, thirteen, fourteen, fifteen, seventeen
330 and eighteen, of the town of Weymouth, in the county of Norfolk.

331 *Fifth Norfolk.* — Consisting of the town of Braintree, in the
332 county of Norfolk.

333 *Sixth Norfolk.* — Consisting of the town of Canton, and
334 precincts one, two, three, four and five, of the town of Randolph,
335 all in the county of Norfolk.

336 *Seventh Norfolk.* — Consisting of the town of Milton, and
337 precincts six, seven and eight, of the town of Randolph, all in the
338 county of Norfolk.

339 *Eighth Norfolk.* — Consisting of the towns of Sharon and
340 Stoughton, both in the county of Norfolk.

341 *Ninth Norfolk.* — Consisting of the towns of Norfolk, Walpole
342 and Wrentham, all in the county of Norfolk.

343 *Tenth Norfolk.* — Consisting of the towns of Bellingham and
344 Franklin, both in the county of Norfolk; and the town of
345 Blackstone, in the county of Worcester.

346 *Eleventh Norfolk.* — Consisting of the town of Dedham and
347 precincts one, two and three, of the town of Westwood, all in the
348 county of Norfolk.

349 *Twelfth Norfolk.* — Consisting of the town of Norwood, and
350 precinct four, of the town of Westwood, all in the county of
351 Norfolk.

352 *Thirteenth Norfolk.* — Consisting of the towns of Dover and
353 Needham, both in the county of Norfolk.

354 *Fourteenth Norfolk.* — Consisting of the town of Wellesley, in
355 the county of Norfolk; and the town of Weston, in the county
356 of Middlesex.

357 *Fifteenth Norfolk.* — Consisting of precincts one, two, three,
358 four, six, seven, eight, nine, ten and eleven, of the town of
359 Brookline, in the county of Norfolk.

360 *Plymouth*

361 *First Plymouth.* — Consisting of the town of Plymouth, in the
362 county of Plymouth.

363 *Second Plymouth.* — Consisting of the towns of Middlebo-
364 rough and Wareham, both in the county of Plymouth.

365 *Third Plymouth.* — Consisting of the town of Cohasset, in the
366 county of Norfolk; and the towns of Hingham and Hull, both in
367 the county of Plymouth.

368 *Fourth Plymouth.* — Consisting of the towns of Marshfield
369 and Scituate, both in the County of Plymouth.

370 *Fifth Plymouth.* — Consisting of the towns of Hanover,
371 Norwell and Rockland, all in the county of Plymouth.

372 *Sixth Plymouth.* — Consisting of the towns of Duxbury,
373 Hanson and Pembroke, all in the county of Plymouth.

374 *Seventh Plymouth.* — Consisting of the town of Holbrook, in
375 the county of Norfolk; and the towns of Abington and Whitman,
376 both in the county of Plymouth.

377 *Eighth Plymouth.* — Consisting of the town of Bridgewater,
378 in the county of Plymouth; and the town of Raynham, precinct
379 A of ward two and precinct B of ward three, of the city of Taunton,
380 all in the county of Bristol.

381 *Ninth Plymouth.* — Consisting of all precincts of ward one,
382 precincts C and D of ward two, all precincts of ward three, and
383 precinct A of ward four, of the city of Brockton, in the county
384 of Plymouth.

385 *Tenth Plymouth.* — Consisting of precinct B of ward two,
386 precincts B, C and D of ward four, all precincts of ward five, and
387 precinct B of ward six, of the city of Brockton, and the town of
388 West Bridgewater, all in the county of Plymouth.

389 *Eleventh Plymouth.* — Consisting of the town of Avon, in the
390 county of Norfolk; and precinct A of ward two, precincts A, C
391 and D of ward six, and all precincts of ward seven, of the city
392 of Brockton, in the county of Plymouth.

393 *Twelfth Plymouth.* — Consisting of the towns of Carver, East
394 Bridgewater, Halifax, Kingston and Plympton, all in the county
395 of Plymouth.

396 *Suffolk*

397 *First Suffolk.* — Consisting of all precincts of ward one, of the
398 city of Boston, in the county of Suffolk.

399 *Second Suffolk.* — Consisting of all precincts of ward two, of
400 the city of Boston, and the city of Chelsea, all in the county of
401 Suffolk.

402 *Third Suffolk.* — Consisting of all precincts of ward three, and
403 precincts one, two and three of ward eight, of the city of Boston,
404 in the county of Suffolk.

405 *Fourth Suffolk.* — Consisting of all precincts of ward six,
406 precincts one, two, three, four and five of ward seven, and
407 precincts four, five, six and seven of ward eight, of the city of
408 Boston, in the county of Suffolk.

409 *Fifth Suffolk.* — Consisting of precincts six, eight, nine and ten
410 of ward seven, precincts one, two, four, five, six, eight and nine
411 of ward thirteen, and precincts one, two, three, four, five, seven
412 and nine of ward fifteen, of the city of Boston, in the county of
413 Suffolk.

414 *Sixth Suffolk.* — Consisting of precincts two, four, five, seven,
415 eight, nine, ten, eleven, twelve, thirteen and fourteen of ward
416 fourteen, precincts one and five of ward seventeen, and precincts
417 two, three and twenty-one of ward eighteen, of the city of Boston,
418 in the county of Suffolk.

419 *Seventh Suffolk.* — Consisting of precincts three, four and five
420 of ward nine, all precincts of ward twelve, and precincts one, three
421 and six of ward fourteen, of the city of Boston, in the county of
422 Suffolk.

423 *Eighth Suffolk.* — Consisting of precincts one, three, four, five,
424 six, seven, eight, nine and ten of ward five, of the city of Boston,
425 in the county of Suffolk.

426 *Ninth Suffolk.* — Consisting of precincts one, two, three, four,
427 five, six, seven, eight and nine of ward four, precinct two of ward
428 five, precincts one and two of ward nine, and precinct one of ward
429 twenty-one, of the city of Boston, in the county of Suffolk.

430 *Tenth Suffolk.* — Consisting of precincts two, three, five, seven,
431 eight, nine, ten, eleven, twelve, thirteen, fourteen, fifteen, sixteen,
432 seventeen, eighteen, nineteen and twenty of ward twenty, of the
433 city of Boston, in the county of Suffolk.

434 *Eleventh Suffolk.* — Consisting of precincts one, four and six
435 of ward twenty, and precincts twelve, thirteen and fourteen of
436 ward twenty-one, of the city of Boston, in the county of Suffolk;
437 and precincts five, twelve, thirteen, fourteen, fifteen and sixteen of
438 the town of Brookline, in the county of Norfolk.

439 *Twelfth Suffolk.* — Consisting of all precincts of ward eleven,
440 and precincts six, seven, eight, nine, ten, eleven, twelve and
441 thirteen of ward nineteen, of the city of Boston, in the county of
442 Suffolk.

443 *Thirteenth Suffolk.* — Consisting of precincts six, eight and
444 eleven of ward sixteen, precincts four, seven, eight, nine, ten,
445 eleven, twelve, thirteen and fourteen of ward seventeen, and pre-
446 cincts one, four, five, six and seven of ward eighteen, of the city
447 of Boston, in the county of Suffolk.

448 *Fourteenth Suffolk.* — Consisting of precinct seven of ward
449 seven, precincts three, seven and ten of ward thirteen, precincts
450 six and eight of ward fifteen, precincts one, two, three, four, five,
451 seven, nine, ten and twelve of ward sixteen, and precincts two,
452 three and six of ward seventeen, of the city of Boston, in the county
453 of Suffolk.

454 *Fifteenth Suffolk.* — Consisting of precincts eight, nine, ten,
455 eleven, twelve, thirteen, fourteen, fifteen, sixteen, seventeen,
456 eighteen, nineteen, twenty, twenty-two and twenty-three of ward
457 eighteen, of the city of Boston, in the county of Suffolk.

458 *Sixteenth Suffolk.* — Consisting of precinct ten of ward four,
459 all precincts of ward ten, and precincts one, two, three, four and
460 five of ward nineteen, of the city of Boston, in the county of
461 Suffolk.

462 *Seventeenth Suffolk.* — Consisting of precinct three of ward
463 one, precinct one of ward three, all precincts of ward four,
464 precincts one and two of ward five, and all precincts of ward six,
465 of the city of Revere, all in the county of Suffolk; and all precincts
466 of wards seven and eight, of the city of Malden, in the county
467 of Middlesex.

468 *Eighteenth Suffolk.* — Consisting of precincts four, six, seven,
469 eight, nine, ten, eleven and fifteen of ward twenty-one, and
470 precincts two, three, six, nine and ten of ward twenty-two, of the
471 city of Boston, in the county of Suffolk.

472 *Nineteenth Suffolk.* — Consisting of precincts two, three, five
473 and sixteen of ward twenty-one, and precincts one, four, five,
474 seven, eight, eleven, twelve and thirteen of ward twenty-two, of
475 the city of Boston, in the county of Suffolk.

476 *Twentieth Suffolk.* — Consisting of precincts one and two of
477 ward one, all precincts of ward two, precincts two and three of
478 ward three, and precinct three of ward five, of the city of Revere,
479 and the town of Winthrop, all in the county of Suffolk.

480

Worcester

481 *First Worcester.* — Consisting of the towns of Athol, Holden,
482 Hubbardston, Phillipston, Princeton, Rutland and Westminster,
483 all in the county of Worcester.

484 *Second Worcester.* — Consisting of the towns of Ashburnham,
485 Royalston, Templeton and Winchendon, and the city of Gardner,
486 all in the county of Worcester.

487 *Third Worcester.* — Consisting of the city of Fitchburg, in the
488 county of Worcester.

489 *Fourth Worcester.* — Consisting of the city of Leominster and
490 the town of Lunenburg, both in the county of Worcester.

491 *Fifth Worcester.* — Consisting of the towns of Barre,
492 Brookfield, East Brookfield, New Braintree, North Brookfield,
493 Oakham, Paxton, Petersham, Spencer, Warren and West
494 Brookfield, all in the county of Worcester.

495 *Sixth Worcester.* — Consisting of the towns of Charlton,
496 Dudley, Southbridge and Sturbridge, all in the county of
497 Worcester.

498 *Seventh Worcester.* — Consisting of the towns of Auburn,
499 Millbury and Oxford, all in the county of Worcester.

500 *Eighth Worcester.* — Consisting of the towns of Douglas,
501 Hopedale, Mendon, Millville, Uxbridge and Webster, all in the
502 county of Worcester.

503 *Ninth Worcester.* — Consisting of the towns of Grafton,
504 Northbridge, Sutton and Upton, all in the county of Worcester.

505 *Tenth Worcester.* — Consisting of the town of Hopkinton, in
506 the county of Middlesex; and the towns of Milford and
507 Southborough, both in the county of Worcester.

508 *Eleventh Worcester.* — Consisting of the towns of Shrewsbury
509 and Westborough, both in the county of Worcester.

510 *Twelfth Worcester.* — Consisting of the towns of Boylston,
511 Clinton, Northborough, Sterling and West Boylston, all in the
512 county of Worcester.

513 *Thirteenth Worcester.* — Consisting of all precincts of ward
514 one, precinct eight of ward seven, and all precincts of ward nine,
515 of the city of Worcester, in the county of Worcester.

516 *Fourteenth Worcester.* — Consisting of all precincts of wards
517 two and three, and precinct four of ward ten, of the city of
518 Worcester, in the county of Worcester.

519 *Fifteenth Worcester.* — Consisting of all precincts of ward four,
520 precinct five of ward five, precinct three of ward eight, and
521 precincts one, two, three, five, six and seven of ward ten, of the
522 city of Worcester, in the county of Worcester.

523 *Sixteenth Worcester.* — Consisting of precincts one, two, three
524 four, six and seven of ward five, all precincts of ward six, and
525 precinct four of ward eight, in the City of Worcester, in the county
526 of Worcester.

527 *Seventeenth Worcester.* — Consisting of the town of Leicester,
528 and precincts one, two, three, four, five, six and seven of ward
529 seven and precincts one, two, five, six, seven and eight of ward
530 eight, of the city of Worcester, in the county of Worcester.

