

THE BROOKINGS INSTITUTION

A Brookings Institution/Institute of
Governmental Studies Conference:

**"COMPETITION, PARTISANSHIP, AND
CONGRESSIONAL REDISTRICTING"**

Panel 2: The Impact of Technology

William Frenzel and **Thomas E. Mann**, Co-Chairs

Kimball Brace, Election Data Services
Clark Bensen, POLIDATA

Friday, April 16, 2004

8:30 a.m. to 4:00 p.m., EDT

The Brookings Institution
Falk Auditorium
Washington, D.C.

[TRANSCRIPT PREPARED FROM AUDIOTAPE RECORDINGS.]

P R O C E E D I N G S

MR. FRENZEL: Thank you very much for your speedy recovery.

Panel No. 2 is, again, manned by a solo star, Kim Brace of Election Data Services, again, with a bio in your packet, and he is going to talk about the impact of technology on redistricting.

For those of you who came in early, you did not find his paper on the desk outside the door. It is now out there, sufficient copies for all of you. So don't fail to pick it up when you leave.

Kim?

MR. BRACE: Thank you, Congressman.

Yes. The paper is out there, thanks to Kinko's finally getting the thing done this morning.

I also brought, for any of you who don't have it, copies of our poster. We are the company that puts out the poster that comes out immediately after the election and has since 1988, but there are copies of the most recent one back there for people who want it.

I am going to talk about technology in redistricting, and I am going to talk about it from a personal perspective because I have been involved with

redistricting, the actual task of doing redistricting, since 1979.

I have gotten all of this gray hair because of it, and my company, Election Data Services, is probably the only company that continues to do redistricting work throughout the decade, be it court cases or be it smaller redistrictings, but it seems like there is always activity going on.

In fact, as we speak, right now there is a court hearing up in the City of Boston, that actually I should have been at, on their legislative redistricting, that I testified on that one.

This paper that I presented--and am presenting today and providing copies of--is based on personal observations and involvement of many of the states that were cited. The paper is organized historically, so that you can see the change that has occurred over the past 30 years that I have been involved with it.

I became involved in it back in the late 1970's when I was actually doing a different project for the Federal Elections Commission, and one day working with the prime contractor. It is the late '70s, and he said, "There is this thing called 'redistricting' coming up, and we have this computer program that we have developed with Dr.

Stewart Nagel of the University of Illinois in Champaign at the time that did simulation, that did the line-drawing itself." The computer program could be programmed and was flexible, so that it would generate district configurations.

So Jack Moshman said, "Why don't you take this program and see what you can do with it? We have a staff person that can help you out, and see whether or not it can be sold to different states." So we decided that we would put together a test example of the usefulness of this program.

We chose the State of Massachusetts to do this experiment with, because the 359 townships provided convenient building blocks for the state in drawing its congressional districts. Population numbers and estimates were readily available. Election returns were available at the township level, and the early population projections in the late '70s indicated that the State of Massachusetts was due to lose a congressional district because of reapportionment.

So what we did is we let the computer run, and we cranked out nearly 100 different scenarios using this simulation program. Even though we changed criteria and modified compactness requirements and pushed alternative

factors in terms of their importance, every computer run generated the same result.

The automated program constantly pointed to the Eighth Congressional District in Massachusetts as the one most likely to be eliminated.

Now, how many people remember who represented the Eighth Congressional District? Some of you.

It was a guy named Tip O'Neill, small Speaker of the House of Representatives, and sure enough as we took this program out on the road, people became interested in what our results were. The media picked it up. I, in fact, met with Tip at one point in time in terms of the results.

It soon taught me one of the most cardinal elements of redistricting, that despite all what is apparent in data and information, politics plays a role. Sure enough, in 1980 the congressional district of Tip O'Neill was not the one that was eliminated when Massachusetts--
[audio break].

MR. BRACE: We ended up taking this program and using it for the City of Houston in their redistricting, but what we found is that it created beautiful snake districts.

The simulation program, despite compactness being a significant factor, failed to create usable districts that people would vote for. So that program was retired, and we

ended up changing focus because we found that the most important element in working with computer programs is their adding-machine capabilities.

In 1980, when we were doing the redistricting, one of the first states that we were employed by was the State of Illinois. In Illinois, we did not have personal computers. In 1980, personal computers were not even in existence at that point in time. Everyone used the mainframe computers.

Mainframe computers were great as adding machines, but they didn't have a geographic component. So there was not really a GIS, as it became known, usable at that point in time.

What we did is make use of paper maps. One of the biggest commodities in importance in doing the 1980 round of redistricting was large wall space. The minority leader's office in Springfield, Illinois, was a two-story-high office, two-story ceiling. It was great. We could put the entire City of Chicago on one wall, and that is how we drew its districts.

We were able to take all the Census maps, mount them up on the wall, put up acetate overlays--rolls and rolls of acetate overlays were used. In fact, we bought out

the entire State of Illinois' acetate supply both in St. Louis and in Chicago in order to help draw districts.

What we ended up doing was utilizing the wall space, so that we could end up seeing the small senseless block numbers that were in the maps that the Census Bureau had generated for the states in 1980. These maps were lovely maps.

Right now I am exposed to a coffee stain here on the table and the aroma is very much so, but these maps in 1980 were made from ammonia. Needless to say, everybody doing redistricting in 1980 had to make sure they had open windows in the offices.

[Laughter.]

MR. BRACE: But we were able to make use of our 2-foot-high ceilings in many instances. One of the things that we ended up doing in creating the databases, we did an early element of what the Census Bureau did of letting states define precinct boundaries.

We created this for the State of Illinois in an unusual way because, of course, there was no GIS. We took every single block in the State of Illinois, over 100,000 blocks in the State, and punched them onto the old IBM keypunch cards or punch cards, one block for each card. Those were the white cards.

We had 11,000 pink precinct header cards, and the job of the entire summer of 1980 was spent in a union hall in Springfield on the floor with these lovely ammonia-filled maps in equating the precinct map and Census blocks and putting the white cards behind the red headers. There were 50 boxes of white cards and 10 boxes of pink cards, 60 boxes of cards in order to do this.

Yes, indeed, we did drop some, and we had to do them over again, but that was the way that the databases were put together back in 1980. We didn't have GIS to let us see where the maps were.

For that round of redistricting, using our 2-foot-high ceilings and our database that we created of the election returns of the Census data, we would end up every day climbing up the ladders onto the acetate and using magic markers to draw in the map. We would call down to the person standing below us what Census block and Census tract we wanted to assign to which district.

They would code up code sheets and do this all day. At 6:00 p.m. each day, the coders went over to the computer, the mainframe computer where we had rented space. It was the largest bank in Illinois. That was the only place we could find mainframe time from, and they keypunched these assignments from 6:00 p.m. until 9:00 p.m. At 9:00

p.m., the bank let us use their computer, and we started up a computer run that went all night.

About 4:00 or 5:00 in the morning, about a 2-foot-high printout of the results of that effort, that day's effort, would start printing, and by 6:00, we would take this 2-foot-high stack of paper back over to the minority leader's office and do it all again. This was day after day after day in creating the district configurations. That was modern technology in 1980, paper and pencils.

We also were employed by the State of Michigan to create and help them on their redistricting effort. We created one uniqueness in the database up there. We actually had worked with Matt Reese, Matt Reese and Associates, who undertook a cluster-based survey of the State of Michigan, and we incorporated those results into our redistricting database. So that when we drew districts and tallied them up, we could not only see how much African-American population there was, how much Hispanic, what was the political makeup, but we also had the results of the survey. We could tell whether or not the district was pro-busing or anti-busing, pro labor or anti-labor, the kinds of issues that were important up in the State of Michigan at that time. It was an early attempt at looking at

communities of interest and using another dataset to help define that.

Even in the 1980's and later on in the decade, we still didn't have PCs until about '83 and '84. We didn't have the GIS mapping system. So hand-colored maps had to be produced. As we dealt with court cases around the country, we inevitably took upon law clerks that were working in the law offices and had them hand-color with colored pencils maps of different demographics or political data.

Inevitably, it took a day to do, for example, for the whole City of Chicago, and inevitably, at the end of the day, we would take a look at the map and say, "Well, it just doesn't show the right thing. So let's change the break points of the data and do it again the next day," again, modern technology, hard at use in the redistricting process early on.

In the paper, I also end up going through a little bit of history in terms of what the Census Bureau has done in terms of the redistricting process. Cathy McCully and Marshall Turner in the back were key components of getting all of that data for use in the redistricting process.

Many states used it, but a number of states discovered that the precinct boundaries that were being delineated didn't follow exactly the precinct boundaries,

and it could cause problems on your racial block voting analysis, and secondly, they were only a single precinct point in time.

If you work with election results as I have for 30 years, one sees that precinct boundaries do tend to change quite a bit, particularly in suburban communities of the country as growth takes place. The importance of accurately depicting the precinct configurations at the time of the election was one of the key components of any database that we ever built in looking at those changes over time and getting that equivalency correct for each election.

That process was helped immensely by the time we got into the 1990 round of redistricting and the Census Bureau's efforts with the redistricting data program, which I outline in the program, but probably one of the key components that took place during the '80s in preparation for 1990 was the Census Bureau's creation of a uniform map of the United States called TIGER. It is still in use today, and it is the most important component that brought about change in technology in redistricting, because, for the first time, one could see electronically the map of where people were, where geography was located, and more importantly, where concentrations of different groups were located.

The 1990's round of redistricting, we ended up working with a gentleman named Don Cook who has a company called Geographic Data Technology who developed a system that he referred to as the spatial spreadsheet. It was the first linkage of a spreadsheet with the mapping data.

We now, for anybody that has done it in 2000, know that that is a fundamental part of all the redistricting software now, but Don Cook developed one of the first components, and we ended up helping to market that program and used it in a number of different states.

In 1990, while we did have PCs, the PCs were not very fast. In Illinois, we made use of 25-megahertz machines. Those were the speediest machines there were. Because Illinois is so big, we had to tie two of them together to provide sufficient horsepower to run the State of Illinois. It was a PC-based operating system and a PC-based mapping system, but it was still slow.

One of the uniquenesses of the program allowed you to re-tally your data only for the geography that is on the screen as opposed to the entire state, which many users found to be very useful because it would give you immediate results as you move geography, but if you did want to do the entire state, it would take for the State of Illinois about an hour and a half to run through and give you the results.

Now with 2000, the software and the hardware allowed those kind of results to take place-- [snaps fingers]--like that.

So what we found in 1990 and in 2000 was that TIGER did provide a very good useful component for things such as compactness.

We were involved and we set up the computer system in both 1990 and 2000 for the State of Iowa, and we worked with the staff and the State to help them in the redistricting process.

One of the key components was, in fact, the compactness criteria that is in the State of Iowa what they have to draw their districts for, but what turned out was that the use of TIGER, which was much more accurate, proved a little bit overbearing for their compactness. Anybody that knows compactness knows that most scores are measured from zero to one. Well, the exactness of TIGER was generating some results at a little bit above one, which was an interesting circumstance, but compactness was a key component that was used there, and TIGER was a critical element that helped that calculation.

In 2000, we had newer technology, as I said, newer PCs, faster PCs, and we had some new players on the market. Caliper Corporation of Massachusetts used its own GIS-based

package to develop a program called Maptitude for Redistricting, and Digital Engineering Corporation of Maryland built its redistricting program called AutoBound on the core GIS package of ArcView from ESRI.

Both companies developed side programs that helped states in the development of databases, similar to what we had developed, but what we found in 2000 was that the price of software dramatically decreased. Software that in 1980 that was selling for \$60- to \$75,000 to a state went for \$20,000 in 1990 and just for \$3,000 in 2000. So there was a dramatic decrease in cost that allowed more people to buy it.

What we found in 2000 was that, in fact, indeed, a lot more people got into the game of redistricting because of the technology and because of the TIGER and the GIS software that was available.

What we found also in 2000 was that the database was still a crucial element of any redistricting process, and in fact, the Census data made the database in 2000 a little bit more dicey and iffy for everyone.

The Census, the PL file, was composed of approximately 12 columns of data in 1990. Because in 2000 people were allowed to check off more than one race, the Census file that was provided to the state suddenly had, I

think, 265 columns of data, an enormous amount more data. Some of it was empty cells, but a lot of data just was coming from the Census Bureau.

What was interesting is that in 2000, there was a lot of effort and a lot of discussion in the redistricting field on how to define communities of interest. Everyone had their own viewpoint of communities of interest. Many people ended up looking at racial components as defining communities of interest, but because one of our justices, Sandra Day O'Connor, failed to really define "communities of interest," it was left for everyone to figure out on their own.

We were involved in many instances in many states where efforts were made to try to define "communities of interest." We ended up incorporating cluster data into databases to help define "communities of interest," but inevitably, when people were drawing districts, they came back to the Census data and they came back to the election returns.

So, in conclusion, I look at technology used in redistricting as having changed dramatically in the past 30 years. Personal computers are now commonplace, and their speed and storage capabilities have grown in leaps and bounds, but the databases used in the process have also

grown in size and complexity. If they are not put together right, they will bring down a plan, no matter how nice the software functions.

Yet, for all the improvement and changes, the words of a dear friend and a fellow redistricter still ring true, the late George Meier of Florida once said, "All the software are just tools. It is the hands and the mouse and the mind behind the plan that will determine whether or not you are successful." That hasn't changed in 30 years.

Thank you.

MR. FRENZEL: Thank you very much, Kim.

I wonder, is there anyone on the panel who would like to have a question of Kim?

Oh, I'm sorry. Is Clark with us? Bless your heart. Clark is our discussant, Clark Bensen from POLIDATA. Excuse these failing eyes.

MR. BENSEN: No problem.

As Kim said, one of the things that hasn't changed about the process over the last 30 years is that you still have tools. Tools are developing over time, and as each new generation of the tools comes about, we get more ability to look at different things, but in essence, the basic problem is still that they are tools and just as with the hammer can be a very useful tool, obviously, in the right hands.

Unfortunately, even in the right hands at times, you can mash your thumb, and of course, if it is not in the right hands, it could be a murder weapon.

Well, in actuality, redistricting is fairly similar to that because it could be a murder weapon to certain incumbents. It could be the law of unintended consequences. There may be certain incumbents whose districts are inadvertently messed up, shall we say, from the perspective of the incumbent.

So you have got to look at it from the standpoint that we have more ability. We have gotten a lot more flexibility to look at plans.

For those who don't quite understand the real feeling for what Kim was talking about, about putting maps on the floor, this is actually from the 2000 Census. Just so you get a feel for it, this is just one map that is part of the Census tract.

Well, a typical State has 20,000 Census tracts. This is showing about--oh, I don't know--500 blocks or something, and there were hundreds of these. As Kim said, it was either on the floor or on the wall or wherever. You can imagine the whole process had several basic problems from a logistical and infrastructure standpoint.

First off, you had to find a place to do it. Second off, you had to find the people to do it. Well, nowadays, obviously for the \$3,500 it costs you to buy the software and the \$3,000 it costs you to buy the machine, you have beaten the barrier or entry in the whole process. In fact, as Kim said, there have been many more people involved in the process in the 2000 cycle than before, because, of course, it is actually possible for them to draw plans.

Many who have been in drawing plans, even congressional plans for years, understand it is really not as simple a process as you might think abstractly.

First off, from the standpoint of when you had to deal with the maps like this, obviously there are only going to be so many players in the process regardless, just because of the [inaudible]. Well, obviously that has changed. So, therefore, theoretically, more people can come.

I think the other aspect of it, of course, as Kim was saying and pointed out, is that the different elements of the process that have been looked into have become available for analysis throughout the generations of technology. Again, you started off with communities of interest. Well, when you were doing everything by hand, communities of interest was a very vague concept, and that

meant whatever the incumbent wanted, that was the community of interest because you didn't have time to do anything else.

Then, as we got into the racial aspect, we had to look at that. Obviously, we got new data. In 1980, we had some more breakdowns. In 1990, we had some more. One of the best aspects I think of the change in technology, of course, is it has given us better data overall.

In most cases, it has given us better flexibility to use data effectively in analyzing tools. In some degree, it has given us data that are, in my mind, of not very great utility.

For instance, my point is that the multi-race data, as Kim alluded to, the multiple combinations of data tabulations would have never been available during the 1990 process because it would never have survived an environmental impact statement for the number of trees that would have to be killed to print things.

The publications that the Bureau put out with just 12 variables of just the racial breakdown was significant enough. Multi-race, obviously, as I said--it also would not have been possible in 1990 to have it because computers, even though the data are filled with zeroes, still have to go through that. Nowadays, it is not as much of a hassle.

It was a nuisance, shall we say, but it was not an incredible problem.

The other aspect is that data has given us, again, the ability to have more analytical reviews of it. It has also allowed from a commercial standpoint, since the 1982 Karcher case--it has allowed us the ability to actually come up with congressional districts that have basically no deviation in population.

I have forgotten the numbers, but after the 1990 cycle, there are at least a dozen states that had congressional districts where the deviation in people between districts was zero. Karcher basically says if you can draw a district with a zero people deviation, that means zero. It doesn't mean zero percent. It means an actual zero.

This time, that was obviously repeated and increased the number of states. What is more so, what has happened in the 2000 cycle--and I realize this is a congressional focus--but what has happened at the legislative level is that several states, in fact, adopted the model of going for zero deviation in their districts and applied it to legislature as well.

There are several states--I think California and I know one house in Florida and, in fact, Illinois--came up

with districts for their legislatures that have zero people deviation as well. A handful of other states have adopted the model that since population deviation at the legislative level, which can be higher, is a potential tool for gerrymandering, they have come up with tight restrictions on deviation and said basically that you can't have more than plus or minus 1 percent or plus or minus 2 percent at the legislative level.

Congressional, the whole point is you were supposed to aim for zero and you better beat zero, and there are a couple of cases that basically have been fought over, either 90 people in Pennsylvania or 72 people in Georgia. It is a de minimis thing that you think of, but the point is it adds a huge complication.

That brings us to the other technological aspect, which has been largely, as Kim was mentioning, from the Census Bureau. The Bureau had this project called Block Boundary Suggestion Project which was to allow people in the states to participate in how the Census Bureau defined a census block boundary.

Sitting here, we are in this block because it is easily bounded. Well, it is probably not a safe thing to say with all the alleys around here, but let's assume that there are four streets around here. You get in the rural

part of the country, and of course, it is much more difficult to define a block. You get into a suburban area, and then you run into the problem where precinct boundaries don't match the Census boundaries. As Kim said in his paper, one of the key things about the precinct level is politicians understand precincts.

Back in the good old days when they walked precincts, they actually had some clue where they were, but the other perspective is, of course, you have election data for precincts. What this has meant is that the building block for any political database as well as Census database in redistricting is now the Census block.

It was nice when we had only precinct data in a sense because we could match up the data very easily, as Kim was saying, in Massachusetts. Townships were used in precincts. Well, they changed a little in suburban areas. They didn't change much in Boston because it was a ward kind of operation, but of course, once you got past that and once you had much more dynamic population growth, precinct boundaries change constantly in some states.

There are a handful of states where precincts hardly ever change and they are considered sacrosanct to those on the ground, but the only way to keep track of these

changes in the precinct boundaries is to use the building block of the Census.

Arizona has about 125,000 blocks, and Georgia has twice that: 250,000. I think California has about twice that: maybe half-a-million. That is a lot of data to move.

Now, it doesn't take hours and hours to run the numbers, obviously, with today's technology, but it does take a huge investment in the infrastructure throughout the decade both from the Bureau's perspective and from the stakeholder's perspective.

The Census, of course, gives you the total numbers. It is people like Kim and I who have to deal with the people in the states to develop the political numbers throughout the decade. That is one of the things that is still a barrier to entry in many states because they can sit there and get Census numbers and they can draw districts blind, theoretically, but they don't have the political data.

Of course, what has happened is that this has meant that there has been an extra focus on the political standpoint in the drawing of plans because it is very easy to sit down and run analyses on plans. We do it all the time, and the point is it is not like you sit down and do the very fundamental thing--it is going to be five

Republicans or three Democrats or whatever--but you actually try and figure out what the dynamics of each plan are vis-a-vis the entire partisan perspective. You don't just look at a simple little count.

Well, the other advantage of that, as Kim said, even back in 1970, I guess it was--well, the Massachusetts plan where you could run hundreds of scenarios. Well, now you can run many more, but you still have that nasty aspect involved in the whole process which unfortunately has not changed throughout the 30 years, which is those of us who sit there and draw the redistricting lines still have to deal with incumbents and other stakeholders in the process, and they have, perhaps, a different perspective on drawing lines than the line-drawer may.

The beauty of the process now is that you do have better analysis. You have better data. You have the ability to look at other elements of bringing people into the process, too, which is another thing. The Internet is just a fabulous way if you want to get people involved in the process to at least disseminate the information. It is much, much more convenient to that.

There are, in fact, Internet modules for redistricting as well, so people can participate in that aspect of it as well.

The bottom line is that we have better data combined from the Bureau's data, political data that we have developed over time. We are able to look at plans much more intricately.

How do I classify this? An objective observer said a basic problem in the 1990 and 2000 cycles is that we have so many good tools and we have so many experienced people working with all this good data that, of course, from a partisan perspective we are much better off than we used to be.

MR. FRENZEL: Thank you very much.

As the crowd gets warmed up, Tom has a question for both of the gentlemen here.

MR. MANN: Kim and Clark, I would like, basically, to press you to carry this forward one level.

Technology and data sources have changed dramatically over 30 years. Partisanship has strengthened, presumably, therefore, increasing the accuracy of one's ability to predict voting behavior.

Has the conjunction of those two factors enhanced the capacity of those redrawing district lines to achieve their political objectives, and has the widespread availability of this equipment and data and the transparency

of the process associated with it in any way limited that capacity to achieve their objectives?

MR. BRACE: Well, the availability of data, particularly the election returns, has made it a much more sophisticated process in order to draw districts. However, I would counter that. That data isn't always available to everyone.

Inevitably, what you find is that tracking down the election returns for the 1996 U.S. Senate race in Oshkosh County is a difficult process because the county clerk has thrown those out, and what you end up finding is that building up those databases is where most of the effort now takes place in putting together the redistricting exercise in any particular state.

If they are not going to have political data, then certainly that is alleviated, but the database itself is still the crucial element and trying to track down some of that information, both the returns and the precinct maps that correspond to those returns, is very difficult.

Inevitably, like in the City of Chicago, as they change precincts over time, they reuse the same numbers. In one year, you could have Precinct Four sitting in a Hispanic area, and 2 years later Precinct Four is sitting over in an African-American area. If you don't know that, all your

data is crap, and that is why getting that information and getting those kind of precinct boundaries is time-consuming.

MR. FRENZEL: Clark?

MR. BENSEN: Obviously, I went over some of this during my little talk, but I think that the limiting factor, when you ask the question, Tom, has this actually been a deterrent, shall we say, from the gerrymandering standpoint, I would say generally no because largely of what Kim said. Even though I say a lot more people can be involved, they don't necessarily have the political data.

Well, a caveat to that, first off, is this is similar to a requirement that you draw plans and you don't look at political data. There are certain situations where I am sure many practitioners could draw good partisan districts without any partisan data because they know the generic aspect of the areas. Of course, on the Republican side, a perfect proxy to know where solid Democrats are is the race data. So, right away, we have an advantage that the Democrats wouldn't have in that sense. But it is not just that.

The limiting factor, though, I think does come into play when you get into litigation because then you have the aspect of--in most of the court cases I am involved in, it is what is called an impasse situation. Basically, the

redistricting phase of the apportionment process is broken down because, say, the governor is Republican and the legislature is Democratic or something, and they can't agree. They can't come up with a plan. So, if someone goes to court, the court has to either adopt a plan, draw a plan of its own or whatever.

In that sense, you do actually have a limiting factor, because then, of course, you have competing plans, and the court in that situation is going to most likely pick a plan that is, more or less, neutral. That is, more or less, the theory of the court in that situation. In that sense, it comes into play that you can't necessarily get away with it.

The other aspect, again, is just simply that it isn't, as in 1990 in a few states, that only one party had good data. Now both parties will have good data. So there is a check-and-balance on it in that regard.

MR. FRENZEL: Are there questions? Can you shout while the microphone is coming?

[Laughter.]

MR. CAIN: I just wanted to say to Kim and Clark, that what would be interesting to hear based on your experiences is: what effect did the heightened participation and transparency have on negotiations, and specifically in

your experience of the states that you covered, were there more submissions from outside groups in the 2001 redistricting than in the past--plan submissions--and were any of those submissions taken seriously by the legislatures as they were drawing lines? Did it in any way, shape, or form change the final outcome in any way that was measurable, so that we could say that technology led to more transparency and participation which then led to altered outcomes? Can you make that linkage, or is it not possible to make that linkage, in which case the impact of technology on negotiations is left to anecdote or to suggestion?

MR. BRACE: I guess my experience has been that, yes, there were slightly more plans submitted from outside groups. There tended to be just a few, however.

MR. CAIN: Between 1990 and 2000?

MR. BRACE: That is correct.

But, inevitably, they didn't have as much a role in the ultimate plans that were created in many of the states that I was involved with.

What we did find--for example, I was involved up in the State of Rhode Island where I actually staffed the commission that was created by the legislature to do the redistricting process. We ended up having several special interest groups, minority groups, become involved. We set

up a public terminal, so that they could come in and make use of the same computer system that the State had, but what was the most intriguing about the State of Rhode Island and the factor that caused more normalcy to take place in the redistricting was the fact that the state in 1994 approved a constitutional amendment that downsized its legislature.

It went from 100 House Members to 75 and from 50 Senators to 38. That was a dramatic impact, and for all those that would like to have reform in the redistricting process, so that maybe incumbents wouldn't have as much sway, my suggestion to you would be to do something like what Rhode Island did.

What was the most intriguing thing about Rhode Island was that inevitably I met with every single legislator, and when they walked in the door, the very first thing I asked them was would you like to volunteer. Inevitably, they would look at me, they would think about it, and then they would get what I was saying, "Oh, my God, I am not going to volunteer to retire. Are you kidding?"

Unfortunately, I had one guy who walked in and said, "Sure, I volunteer for everything. What do you want me to do?" It floored the heck out of me. I didn't know how to respond to it, but the downsizing that took place in the State of Rhode Island actually gave us more flexibility

to put some normalcy back into the process, to look at towns and communities of interest and those kind of things in the 2000 round of redistricting than we ever had, and I have been doing Rhode Island's redistricting since 1980.

MR. BENSON: I would say that in most cases, there was much more transparency; more people understood what was going on. I would say there weren't really all that many public plans.

I worked in about 20 states, and I don't remember too many actually being submitted, and I think one of the problems was that in most cases, members of the public that submitted a plan in either legislative or congressional only submitted partial plans. They only did their county, their area. Those were pretty much dismissed out of hand.

The other aspect of it--and this goes back to the earlier panel where we were talking about competitive districts and such--competitive districts from the standpoint of, especially, stakeholders in congressional elections--have a different perspective I think than competitiveness in the legislative elections. If plans came in that were designed to draw competitive congressional districts, they were pretty much given short shrift because most of the actual stakeholders in the congressional

redistricting process don't want that because they wanted to do two things.

Of course, just from an operational campaign standpoint, they want to have "districts, we know we can win," "districts, we know we can't," and then something in the middle. Now, how big that middle is, of course, is the big question.

In a smaller state, of course, their whole point is they don't want to have everything turn over in one election because then the chairman of the House Transportation Committee or whatever is gone. They lose something in their state. So I think it has a much bigger impact in a small state where they feel that their only presence on the national stage is that they have got their Member.

On the other hand, you could have something like a Washington. What was it, in '94 when Foley lost? What will happen there? Well, theoretically, they were doing competitive districts. It was good. It was responsive, but that was a significant change, notwithstanding that '94 was an aberration, anyway.

I would say, generally speaking, the transparency increased. To me, it was actually sort of a surprise that there weren't more plans.

MR. CAIN: What about in the legislature itself or within the congressional delegations? Were there more plans coming from individual Members?

MR. BENSEN: Most definitely, yes.

MR. CAIN: And did that affect the negotiation? So, even if the public submissions didn't matter--

MR. BENSEN: Yes. And that goes back to your initial point; I forgot about negotiations.

MR. CAIN: Right.

MR. BENSEN: I mean, negotiation by itself automatically limits the number of people involved. The public are not involved in negotiations. The public may be involved in litigation, but they are not involved in the negotiation aspect, and you had many, many more, in my mind, internal plans by Members or just the committee that was responsible for working it out. Of course, they had resources, so they could do full plans, and those were seriously considered at least initially.

MR. CAIN: Does that make it harder to come to a resolution?

MR. BENSEN: I am not sure it was harder to come to a resolution as much as it was harder to winnow out the ones that really mattered.

The hard-ball negotiation still is going to take place. For instance, in Connecticut, which has kind of a fall-back commission perspective in place, the whole fight there was over Nancy Johnson's versus Maloney's in that district. Alternative plans were bandied about every hour, and it really just came down to: are we going to go to court and take a crap shoot, or are we just going to hold our cards here and go for it, and I think that is one of the elements of the whole negotiating aspect of a commission standpoint. Somebody has really got to make the decision, but the question is: is it going to be the court or is it going to be before you get to court?

MR. CAIN: I would add one thing. My experience has been that the longer the time that goes on during the negotiation, the stronger held the views, and inevitably, what took place in my experiences was that as people got more involved with drawing plans and more plans, they began to see what their position could be, and that became more cemented. So I think at least in some of my experiences, it was the case that there was less likelihood of a negotiated plan.

Part of it may have been because the technology made it possible for people to design their ideal circumstance, and that is what they wanted to stay with.

MR. FRENZEL: Thank you very much.

I think we are going to have to stop here. We are running a bit behind. We would like to proceed with the next panel. . . .