

**TESTIMONY OF REP. MARK B. COHEN BEFORE THE HOUSE STATE  
GOVERNMENT COMMITTEE ON LEGISLATIVE REDISTRICTING  
(RECONSTITUTED FROM NOTES AND MEMORY), MARCH 13, 2008**

Madam Chairman Josephs, fellow members of the State Government Committee, members of general public, I am pleased to have the opportunity to be here today.

I am reminded of the story of William Penn and his friend who wanted to know why he proposed religious freedom for all instead of just religious freedom for Quakers in an era in which religious freedom was a new and somewhat radical idea. Penn explained to his friend that Quakers were only a minority of Pennsylvania and that as time went on they would likely be an even smaller minority.

"If we just provided religious freedom for Quakers", Penn said "then the rest of Pennsylvania would not be interested in religious freedom. But by providing religious freedom for everyone, we guarantee that there will be religious freedom for Quakers for many years to come."

We have had discussions this morning about protection of dissident members of the General Assembly in redistricting. The only way to protect dissident members is to protect every member. If we set up a system in which any member can have his or her career ended by a redistricting plan, then it is highly likely that dissident members will be the most likely to be victimized by such a situation.

As one with experience in the redistrictings of 1971, 1981, 1991 and 2001, I am here to testify against proposals for radical change of the current system. The current system is reform produced by the Constitutional Convention of 1967 and 1968, and it should not be replaced by a blind redistricting system no matter how one is constituted.

The legislative process is about governing responsibly. Governing responsibly means dealing with underlying problems. Proposals to have a redistricting in which decision makers are people without any base of knowledge and are precluded from making decisions using relevant information will only further increase the cynicism and anger of the public if enacted. We are not told generally that reducing the expertise of decision makers is a good idea, and it is not a good idea in redistricting.

**THE LEGISLATURE SHOULD ONLY DELEGATE ITS DECISION – MAKING  
POWER WHEN ONE OR BOTH OF THE FOLLOWING TWO CONDITIONS IS MET:**

- (1) THE NEW DECISION MAKER HAS CONSIDERABLY MORE EXPERTISE  
THAN THE LEGISLATURE DOES, AND**
- (2) THE NEW DECISION MAKER HAS CONSIDERABLY MORE  
ACCOUNTABILITY THAT THE LEGISLATURE DOES.**

**DELEGATING TO PEOPLE WHO HAVE NO EXPERTISE AND NO ACCOUNTABILITY IS A FORMULA FOR INCREASING PUBLIC ANGER AND DISILLUSIONMENT.**

I would like to address some misconceptions about the redistricting process. I have been active in the redistricting process as a citizen complainant in 1971, as a legislature and an aggrieved litigant in 1981, as a satisfied legislator in 1991, and as the Democratic point person for Philadelphia house redistricting in 2001. I also played a minor role in some line drawing in Southwestern Pennsylvania in 1991, and in the Scranton and Erie areas in 2001.

First, redistricting does not guarantee safe seats. The performance of incumbent legislators may create safe seats. Examples of this abound at both the State and Federal levels. No one was more active in the legislative districting process than Senator Fumo, who withdrew his candidacy for re-election yesterday. In Illinois, US House Speaker Dennis Hastert, a Republican, was extremely active in drawing Illinois Congressional district lines; the Democrats took his seat in a special election last Saturday. In 2006, a Democratic candidate also took the seat of Republican Majority Leader Tom Delay, who was charged with notorious and illegal actions in connection with the Texas Congressional redistricting.

Getting back to Pennsylvania, three of the most active legislative redistricters, besides Senator Fumo, were Senate President Bob Jubilerer, Senate Majority Leader Chip Brightbill, and House Democratic Whip, Mike Veon. All three of them were defeated in 2006 due to complaints about their performance.

Second, the redistricting process does not maintain party control. In the 1971 – 1981 cycle, a Democratic Majority in the House shifted to a Republican Majority in the House. In the 1981 – 1991 cycle, a Republican Majority shifted to a Democratic Majority. In the 1991 – 2001 cycle, a Democratic Majority shifted to a Republican Majority. In the first seven years of the current cycle, from 2001 to 2008, the Republican Majority has shifted to a Democratic Majority.

Third, the public is not demanding to be represented by legislators it does not want. The goal of making every district a competitive district is impossible to achieve. But putting aside that reality, the public does not want to have the situation where all winners win with 51% of the vote or less. If all winners win with 51% or less that would mean that 49% or more of the public was dissatisfied with their legislator. The public does not want a nearly 50% chance of being dissatisfied with their legislators.

This fundamental fact – that the key goal of many of the reformers is opposed by the public – helps explain why redistricting reform was defeated decisively by the voters in both California and Ohio. In California, Republicans pushed redistricting reform and saw the proposal not only lose among the voters but run far below normal Republican voting strength. In Ohio, Democrats pushed redistricting reform and saw the proposal

not only lose among the voters but run far below normal Democratic voting strength. People are simply not demanding a 50/50 chance of having a legislator they do not want.

Fourth, what is labeled incumbent protection is merely the process of seeing that only one incumbent is in each district and that the constituents, to the degree possible, are the kinds of people the incumbent is skilled and experienced at representing. It is not outrageous to assign a university professor a university community, to give a person with a professional background communities with many professionals, or to give a person with experience in the inner city constituents in the inner city.

One can easily create districts that ignore the experience and expertise of individual members of the legislature, but what is the point in doing so? Are people generally demanding to be represented by those with little knowledge of their lives? The answer is clearly no.

Fifth, a blind redistricting system undermines collegiality and trust in the legislature because it creates a situation in which any of us may be thrown together and be placed in an elimination contest. Pennsylvania's one year residency requirement for state legislators means that a legislator who learns for the first time that his residence will no longer be in his district with the final plan will find it impossible to establish residence in any other district.

In Iowa, held up as a model by reform groups, there is no such residency requirement and legislators frequently move from one district to another after the plan is issued. Even the current national chair of Common Cause, former Rep. James Leach, had to move from his long time Congressional District after the last redistricting.

Who gets elected to the legislature is important only to the extent that the legislature is important. Already this year, after we have enacted reforms to slow things down, two freshman members have declined to seek re-election, saying they couldn't get enough done to justify their presence here. Creating a legislature in which many members are in a continuous state of jockeying against each other in anticipation of potential future elections in which they are forced to run against each other will only serve to further increase frustrations and decrease genuine achievements.

For all these reasons and more, I strongly urge that extensive further hearings be held on the subject. We need to hear from geography based groups – neighborhood associations, local political organizations, and the like – to find out what they look for in a representative and whether they want their elected representatives to be shut out of the process of determining the composition of their districts.

I know of no geography based organization that supports blind redistricting. Since redistricting is all about geography, the fact that geography based organizations do not support these proposals is highly relevant.

Everything that exists in Pennsylvania is not wrong. The redistricting reforms of the Constitutional Convention of 1967/1968 are not outdated, irrelevant, or counterproductive. The purpose of redistricting is to equalize population. It is to treat people fairly. It is about people much more than it is about vague concepts or principles.

The purpose of redistricting is not to purge incumbents. Even the US Supreme Court has repeatedly recognized that drawing district lines so that each incumbent has his or her own district is perfectly legitimate and is a "traditional redistricting criteria."

Those who wish to purge incumbents should directly enter the political fray and become active in campaigns to do so. When large numbers of people seek to be umpires instead of competitors as is the case now, incumbents often run unchallenged.

There is widely held bipartisan agreement in Pennsylvania that there is little purpose in challenging incumbents who will win anyway. The era in which people received patronage jobs for running against incumbent legislators is over. The era in which people are fired from jobs for purely political reasons is over. As a result of these good government reforms, the pool of prospective candidates is far smaller than it used to be.

Shortly I was first sworn in as a member of the House in June of 1974, Rep. Peck Foster of York County, now long retired from the legislature but currently serving as the York County Republican Chair, gave me some homespun political advice.

"There was never a horse that couldn't be rode," he said, "and there was never a rider that couldn't be thrown." It's time for us to face that reality and keep the system that we have in place in the interests of a more responsive, more competent, and more collegial legislature.