The Committee agreed that except in rare and isolated circumstances a fifteen percent deviation, a total of fifteen percent in the aggregate, in either direction from the ideal, would be the maximum deviation allowable. This represented a consensus in the Committee between those who wanted to write into the constitution a specific maximum allowable deviation in population between districts, and those who wanted to use the more general terminology such as "substantially equal" or "in effect equal," or "as equal as possible," or "as equal as practicable"; so we decided to use in the constitution the more general description of "substantially equal", but, at the same time, to define that insofar as we were concerned as a 15 percent maximum deviation between the lowest and the highest deviation in any redistricting scheme.

I might say here that the Supreme Court has not as yet indicated what is or is not constitutionally permissible in the way of deviation. That particular subject matter is still in limbo, and one of the arguments which persuaded the Committee on the Legislative Branch to avoid setting of a specific mathematical number in the constitution was the argument that the Supreme Court could come in later and adopt some arithmetical formula which was different from and which might therefore be in violation of the state constitutional mathematical deviation maximum. In that case the state constitution figure would fall unless, of course, the state constitution figure was more restrictive than the federal finding in this area, in which case no doubt the state figure would apply, because it would fall within the general mandate of the Supreme Court. Nevertheless, we are still waiting for the Supreme Court to come upon and to fix once and for all, and for all time, what the figure ought to be, and because it has not done so, we felt that using the language "substantially equal" was a better thing to do.

I might say here also that you do not find in LB-2 any reference whatsoever to how congressional districts shall be set up, and I think it is important to note that this was specifically avoided by the Committee on the Legislative Branch, even though the Commission on the Constitutional Convention did decide in its draft that it was going to provide for congressional districting.

We did not approach the problem of the constitutionality of congressional districts because of the extremely flexible situation which exists in the Congress of the United States today.

An examination of the past will indicate that Congress has from time to time decided for itself what the test will be for proper Congressional redistricting, and at one time the Congress required that there could not be any at large congressional districts, that the districts had to be compact, and that they had to be contiguous. They were tests which the Congress applied up until about 1929. In 1929 the Congress in effect either repealed or ignored these prior congressional tests for proper state redistricting, and since that time has been experimenting without arriving at any final conclusions as to what the proper tests for congressional districting ought to be. Here I should say that in recent weeks Congress has been working on the problem of whether or not it will allow or disallow Congress running at large, and the House has adopted one version, and the Senate the other, and they have not as yet come to a common conclusion.

We felt under all the circumstances that it was best not to get into this in the federal Constitution. Admittedly, the job of drawing the districts is that of the legislature and will remain that of the legislature, but Congress does have the power, when it decides to preempt the field, to tell the legislatures of the states how they shall do the redistricting of the congressional districts.

Consequently, we have avoided that in its entirety, but I should note that the power does remain in the General Assembly by virtue of the Constitution of the United States.

Now, we have provided further that there shall be redistricting consistent with the standards provided in section 3.02 prior to the statewide general elections in 1970 and every twenty years thereafter, and prior to the statewide general elections in 1982 and every twenty years thereafter; thereby providing for an average of one redistricting minimum every ten years during any twenty year period.

The reasons for these convolutions were attempts to force the General Assembly to redistrict prior to the 1970 election, because if it did not do so, then there would be no statewide general election using the new constitutional standards until 1974, because 1970 federal census figures would not be available in time to apply to the 1970 elections.

We could, as Judge Henderson had suggested, use the 1960 figures, but we felt on the basis of population information which had been made available to us that these