

ninth congressman. Under the constitutional language here and under the acts of the Congress, the State would have to be redistricted. We could not have this ninth congressman if we got him to run at large. We would have to have districts throughout for all congressional seats.

Addressing myself now to the question of continuity—

THE CHAIRMAN: Delegate Gallagher, I think it might be helpful if we take up the questioning on each of the three subjects because they are so diverse.

Are there any questions of the Committee Chairman with respect to congressional districting? Delegate Gilchrist.

DELEGATE GILCHRIST: Mr. Chairman, is there any real necessity for the inclusion of a congressional districting provision in our constitution?

DELEGATE GALLAGHER: I think the necessity arises from the woeful lack of success which the General Assembly has enjoyed, or not enjoyed, in its past attempts. I think if we provide them with guidelines that one would anticipate that if they acted at all they would act within the constitutional realm which hopefully would keep them out of the courts. I think that would be the purpose.

THE CHAIRMAN: Delegate Gilchrist.

DELEGATE GILCHRIST: Is it not true that Article I, section 4, of the federal Constitution places the entire responsibility for congressional districting in the legislature subject to guidelines which may be laid down by Congress, itself?

DELEGATE GALLAGHER: I think the language which you refer to can be interpreted that way. However, I do not read the Constitution of the United States as prohibiting Maryland from putting into its constitution what we attempt to do here.

Congress apportions and the State districts, and it appears to me that a state may set down constitutional guidelines not inconsistent with Congress' or in areas where Congress has not preempted the field. As you suggest, if Congress should pass statutory legislation covering these areas, these constitutional areas would fall.

THE CHAIRMAN: Delegate Gilchrist.

DELEGATE GILCHRIST: Would we not then be better off if we did not write a provision which had the potentiality of

being inconsistent with congressional action?

DELEGATE GALLAGHER: We might, but the point was made during earlier debate that if we do not put constitutional provisions in, then what we are trying to do, or what we will allow the General Assembly to do is to pass the least acceptable kind of congressional redistricting. This would be an attempt to hold them up to a higher level of performance than might be expected of them if there were no state constitutional standards.

THE CHAIRMAN: Delegate Gilchrist.

DELEGATE GILCHRIST: But it still remains a strong possibility that the standards which are set forth in this section may be totally inconsistent with standards which are adopted by Congress.

DELEGATE GALLAGHER: You are quite right. I would say this, however, that since there has been nothing of significance in the field since 1929, in the Congressional Redistricting Act, thirty-eight years have gone by with Congress failing to act and there has been a continuous effort since 1951 on the part of Congressman Celler to do something. But nothing significant has been done there, and nothing would have been done at all, it seems to me, without the decision of the Supreme Court in *Westbury v. Sanders*, where it was held that the populations of the Congressional Districts had to be substantially equal.

THE CHAIRMAN: Delegate Marion.

DELEGATE MARION: Delegate Gallagher, you point out that Congress has just enacted a law which would prohibit at-large congressional districts, at least for the State of Maryland. It does not apply to every single state, I take it; is that correct?

DELEGATE GALLAGHER: That is correct. Originally they exempted Hawaii and New Mexico specifically, but dropped them out eventually.

THE CHAIRMAN: Delegate Marion.

DELEGATE MARION: If that law should subsequently be repealed so that there is no federal prohibition against an at-large congressional district, would it be your understanding that the language provided in section 3.03(b) would so prohibit in Maryland an at-large congressional district?

DELEGATE GALLAGHER: That would be my understanding.

THE CHAIRMAN: Delegate Marion.