

Does method matter in congressional redistricting?

Can U. S. House election results to a significant degree be predicted by the states' choice of redistricting method?

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Abstract

In most states, the decennial redistricting is done through a legislative process. This means that lawmakers decide on how electoral districts are formed. This also means that the lawmakers get to choose or reject their electors, which is not compatible with several definitions of democracy. In some states reforms are implemented either through ballot initiatives or court actions. Scholars have demonstrated that removing the control of this redistricting process from the lawmakers will increase electoral competition. There are, however, those who argue — before the U. S. Supreme Court — that such instances of direct democracy is against the intents of the Founding Fathers and thereby unconstitutional.

This thesis explores the origins and development of partisan redistricting, the undemocratic aspects of it, and whether such an increase in electoral competition is traceable in the 2012 election to the U. S. House of Representatives. It shows that there is a very small difference between reelection rates in legislature-drawn districts and in districts drawn by commissions. An argument is made, that revising the redistricting process is a matter of political culture more than of constitutional law, and that the strongest arguments for a revision of state redistricting procedures are normative — not numerical. The analysis of election results in states with different redistricting procedures indicates that there is not any statistically significant difference in incumbent reelection rates, but that the dataset is too small to lend serious weight to any side of the argument.

Preface

“You can find it all online.” How right, and how very wrong!

Yes, much could be found online — one fragment here and another there — but rarely exactly what I was looking for. This has been a meticulous search for and retrieval of a myriad of information-fragments, combined with reading the works of historians and political scientists dating back to 1787 and forward to amicus briefs presented to the U. S. Supreme Court early March 2015.

This thesis has become timelier than I intended or expected it to be one year ago. While this thesis is being finalized, the U. S. Supreme Court justices read fresh analyses by scholars whose early work triggered this thesis. In the weeks between this thesis’ submission and its grading, the court may halt, reverse or support the popular redistricting-reform movements I have attempted to describe. Whatever the U. S. Supreme Court justices decide, hopefully, the thesis is so broadly scoped that it remains relevant, but still so specific that is worth reading.

Some acknowledgements are due.

To Elisabeth, whom I hope to spend more time with than I have during the last five years; to my supervisor, David C. Mauk, my other teachers and fellow NORAM-students; to all nameless idealists who have filled and maintain the online databases of The Brennan Center and Ballotpedia; to the anonymous law students who keep a watchful eye on the U. S. Supreme Court and maintain the SCOTUS-blog; to the redistricting professionals of the Iowa Legal Services Agency, who between redistricting cycles found the time to answer queries from a Norwegian student:

Thank you.

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Introduction

1.1 Thesis question

1.1.1 Overview

Does method matter? In congressional redistricting, it does. Every ten years, following the decennial census, most of the borders around congressional districts in the United States are redrawn. It is the privilege of the legislators for the individual states to decide in what manner and where the borders around their respective congressional districts are redrawn.¹ This privilege is most often used in the most blatantly partisan ways to secure that those in power remain in power. The habit has been criticized by leading scholars as unconstitutional, unfair and harmful for the political process, but it has also been vehemently defended by other scholars, and although redistricting plans very often end up in the courts, the bigger picture shows that the U. S. Supreme Court has not found legal grounds to interfere unless a racial bias have been obvious or districts within a state are indefensibly unequal in population.² Redistricting is seen as an activity primarily within the political realm, and conflicts within that realm are to be settled primarily with political means, not through judicial processes.

Those seeking reform seem to be gaining greater acceptance, as several states have been moved to reform their redistricting processes, either by popular initiative or by court action, releasing the legislature's grip and delegating the work to more or less independent, neutral, non-partisan or bi-partisan groups. This thesis investigates the arguments for and against such moves and attempts to deduce from the 2012 congressional election results whether the states' method of redistricting can be detected in election results through the differences in the rate of reelection of incumbents.

¹ Section 4, clause 1 of the U. S. Constitution says "The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Places of choosing Senators." In an amicus brief to the U.S. Supreme Court March 2015, Stanford Law Professor Nathan Persily incepts the idea that this may not actually cover redistricting as such. This will be described in detail in chapter 3.6.2.

² The most influential cases, *Baker v. Carr* (1962) and *Shaw v. Reno* (1993) will be explored in more detail in chapter 3.

1.1.2 Rooted in the American studies

This thesis builds upon – or suffers — from its origin, the American studies. It has emerged from reading Professor William E. Hudson’s *American Democracy in Peril*.³ Among the eight challenges to America’s future he lists “Elections without the people’s voice” as one. Admittedly, Hudson does not dwell much on the redistricting process as a major problem; he rather points to the system of single-member plurality elections as the original problem, which inherently leads to gerrymandering. He does, however, point (lending support from the French theorist Jean-Jacques Rousseau) to a lack of accountability through competitive elections — which gerrymandering contributes to — as a major obstacle to a representative democracy.⁴ Even in the most voter-relaxed of his four democracy models, the pluralist democracy, competitive elections is an absolute prerequisite.

Interdisciplinarity is a central aspect of this thesis, and any suffering will originate from what Philip Deloria in his address to the American Studies Association called the initial framing of their academic field; it was what they refused to exclude rather than what they chose to include.⁵ In this thesis, congressional redistricting will be examined as a historical phenomenon, as a normative question and as a matter of statistics. A risk of overreaching is admittedly present, but even a quick glance at redistricting, gerrymandering all the polarization, all the court cases, all the public activity it leads to and the voluminous academic literature will tell an observer that this subject is too multi-faceted to be examined from one angle alone.

A mild warning against deep-diving into numbers is detectable in another cornerstone of the American studies syllabus. Towards the end of University of Maryland Professor Gene Wise’s “Paradigm dramas of the American Studies”, he tells the story of how academic greats like Henry Nash Smith and Leo Marx scoffed at quantitative questions and how the “counting fad (...) waned.”⁶ Nevertheless, because elections, come Election Day, is all about numbers, which do provide a useful check of theories, a deep dive into the numbers is a major part of this thesis.

³ William E. Hudson. *American Democracy in Peril: Eight Challenges to America's Future*. Los Angeles: CQ Press, 2013.

⁴ Hudson. 43.

⁵ P.J. Deloria. "Broadway and Main: Crossroads, Ghost Roads, and Paths to an American Studies Future." [In English]. *American Quarterly* 61, no. 1 (Mar 2009): 1-25.

⁶ Gene Wise. "'Paradigm Dramas' in American Studies: A Cultural and Institutional History of the Movement." *American Quarterly* 21, no. 3 (1979): 293-337.334.

1.1.3 Method

The thesis examines the balance of power in each state by checking who controls the state house of representatives, the state senate and the governorship.⁷ If partisan redistricting affects competition in politics, the rate of incumbents being reelected should — when adjusted for other factors — be higher in states where the incumbents' party controls the legislature and the elected politicians themselves take care of the redistricting. States with an independent body handling the redistricting should —again, adjusted for other factors — have a lower rate of reelection.

The immediate problem at hand is *how* to adjust for those other factors, such as all the advantages at hand for incumbents: The backing of a national party, name recognition, an experienced staff, a full time job on the political arena and several statistics showing a more than ninety percent chance of reelection — which may keep financial supporters from betting on the opposition. The complexity of quantifying such an adjustment is way beyond a master's thesis and quite possibly beyond more extensive research, since the unknown factors are many and the applicability of the end result may be of little practical use. This has not hindered several scholars in establishing a cause-effect relationship between redistricting method and the level of electoral competition. Professors Jamie L. Carson, Michael H. Crespin and Michael McDonald have all published research showing this, and their works are referenced in greater detail throughout this thesis.

While being aware of those other factors, we will build a matrix of who controls the house, the senate, the governorship, the redistricting and if there is an incumbent running for reelection. With those data at hand, we will see whether to what degree we can predict the outcome and we will check this prediction against the election results.

1.1.4 Significance, a definition

A definition on “significance” is due. In statistical terms, “significant” signals that ninety-five percent of the data is within the expected range, a confidence level of 0.05. Here, we can almost dismiss that before even looking at reelection rates. We have so few relevant data points that one single fluke election result will tip the scales. Nevertheless, we *will* do the math. Outside chapter 4.6, in which we check the numbers, “significant” is used

⁷ The official name of the lower house of the forty-nine states with bicameral legislatures varies. In this thesis “state assembly” and “house of representatives” are used interchangeably.

according to the Oxford Dictionaries' definition: "sufficiently great or important to be worthy of attention."

1.1.5 The division line in the academic field

In 2002, in a much-cited *Harvard Law Review* article — which is examined more closely in chapter 2 — Professor Samuel Issacharoff of Columbia Law School applied a consumer/market-approach to the process of redistricting as a way of moving past “the morass” created by Supreme Court in *Shaw v. Reno* (1993).⁸ He argued that the American tradition of gerrymandering stifles competition in a way that would trigger anti-trust measures if performed by Coca Cola Company and PepsiCo. Issacharoff argued that even bipartisan compromises are subject to scrutiny for the same reason; they are market actors dividing turf for their own good, effectively disenfranchising voters. He proposed that in order to restore competition and end racial gerrymandering political insiders should lose the right to control the redistricting process.

The article was met by an array of opponents, most notably Nathaniel Persily, then Assistant Professor of Law at University of Pennsylvania. In his “In defense of Foxes Guarding Henhouses: The Case for Judicial Acquiescence to Incumbent-Protecting Gerrymanders” in *Harvard Law Review* he lauded Issacharoff’s initiative and “good normative arguments,” but disagreed with both his premises and proposed solutions.⁹ According to Persily, there *is* plenty of turnover in the House, districts are indeed competitive, a low level of competition is not necessarily an evil and there are other factors more important than gerrymandering causing this high rate of reelection. This discussion is still ongoing among scholars, but the main division lines in the debate remain the same as between Issacharoff and Persily, who did, however, agree on one subject: States which outsource the redistricting process to a more or less independent body have lower litigation expenses related to redistricting than those who do not. Fourteen years later, however, now Stanford Professor Persily warmly defended removing redistricting from legislators in an amicus brief before the U. S. Supreme Court. That will be explored in detailed in chapter 3.6.2, which concerns the redistricting reforms in Arizona. Recent events in Arizona may demonstrate that now, even commission-states may risk high litigation expenses.

⁸ Samuel Issacharoff. "Gerrymandering and Political Cartels." *Harvard Law Review* 116, no. 2 (2002): 593-648.

⁹ Nathaniel Persily. "In Defense of Foxes Guarding Henhouses: The Case for Judicial Acquiescence to Incumbent-Protecting Gerrymanders." *Harvard Law Review* 116, no. 2 (2002): 649-83.

Seven states need no redistricting in congressional elections, as they have only one representative in the House, but the 43 others have chosen widely different methods for handling the redistricting process. These may be divided into groups according to several criteria, which will be explained more in detail in chapter 1.3. The most common method is legislative redistricting, in which a redistricting plan is proposed, voted upon, signed by the state governor and enacted in the same manner as any other state law. Other states delegate it to a more or less independent, neutral, partisan or bipartisan commission. The lines between these groups are not always razor-sharp, their alleged neutrality may be questioned, and we will keep that in mind when analyzing the results in chapter 4.1.

The most recent national decennial census was held in 2010, and the biggest losers were Ohio and New York, which each lost two seats, while Texas was the biggest winner, gaining four seats in the U.S. House of Representatives.¹⁰ Six states gained and ten lost, but due to internal population shifts, every state had to go through the redistricting process well before the 2012 elections.

This thesis offers an examination of the results of the 2012 congressional election to see if the states' choice of redistricting method is reflected in the results. The question to be answered in this thesis is "*Can House election results to a significant degree be predicted by the states' choice of redistricting method?*" This will be attempted by looking at the rate of incumbent reelection for every state and for every category of redistricting method.

1.1.6 A slim chance

At the outset one must acknowledge that the chances of finding a definitive answer in the election results are slim. In a series of articles on the subject of redistricting and electoral competition in the *Harvard Law Review* in 2006, Assistant Professor of Government and Politics at George Mason University, Michael P. McDonald, who is clearly on Issacharoff's side of the discourse, admits that "with so few competitive districts now and few neutral redistricting institutions, it is difficult to measure the contemporary effect of redistricting institutions on competitive districts and of competitive districts on elections."¹¹ Since this thesis concerns itself with a later census than the ones McDonald analyzed, after which big states like California and Arizona have reformed their

¹⁰ Kristin D. Burnett. "Congressional Apportionment: 2010 Census Briefs." United States Census Bureau, <https://www.census.gov/prod/cen2010/briefs/c2010br-08.pdf>.

¹¹ Michael P. McDonald. "Drawing the Line on District Competition." *PS: Political Science and Politics* 39, no. 1 (2006): 91-94.

redistricting processes, the odds for finding such an effect should be somewhat better, but the reelection rate is still high and the number of competitive districts small. According to the Brennan Center for Justice, seventy-nine incumbents left the U.S. House of Representatives following the 2012 election. Of these, only twenty-six lost on Election Day.¹² The others chose not to run for reelection or lost to a challenger from their own party in the primaries. One could argue that losing to a challenger in the primary should be counted as a lost reelection, but in this thesis it is not, since in several states, only a fraction of the voters may take part in this decision. If all states had open, unified primaries, the argument for counting primary-losers would be stronger, but in fact states have closed, semi-closed, open, semi-open, blanket, nonpartisan blanket and unified primaries. Including primary-losers would add substantially to the complexity of this thesis, but not illuminate the subject to any noticeable degree, so in this thesis they are not counted.

¹² Sundeep Iyer. "Redistricting and Congressional Control Following the 2012 Election." Brennan Center for Justice, <http://www.brennancenter.org/analysis/redistricting-and-congressional-control-following-2012-election>.

1.2 What is apportioning and redistricting?

“In total, legislative redistricting is one of the most conflictual forms of regular politics in the United States short of violence.”¹³

In order to understand redistricting, one needs to understand apportioning, which is the process of dividing the seats in the House of Representatives among the states. It is rooted in the United States Constitution, Article 1, Section 2, which already in its original form stated that representatives “shall be apportioned among the several States (...) according to their respective Numbers” and mandated that the most recent federal decennial census would be the basis for apportionment.

In 1789 the first House of Representatives consisted of sixty-five members, and with every state constitutionally guaranteed at least one House representative, each House member representing a population of approximately 30,000. As the nation expanded, the number of representatives grew to 435 in 1910, when the House itself placed a limit on its membership, which resulted in an average district population of 210,328.¹⁴ The number has been kept at 435 since then, except for a brief period in 1959-1962, when Alaska and Hawaii were admitted as states and awarded one representative each. The average congressional district population, following the 2010 Census apportionment, was 710,767. The most populous state, California, currently has fifty-three representatives. There are seven states with only one representative: Alaska, Delaware, Montana, North Dakota, South Dakota, Vermont and Wyoming. Among these seven we find the districts with both the highest and lowest populations. Montana’s single district counted 994,416. Rhode Island’s two districts averaged 527,624. According to the 2010 Census, the resident population of the United States was 308,745,538.

The U. S. Census Bureau carries out the apportionment, according to “the method of equal proportions,” a formula used since 1940.¹⁵ First, every state is awarded one house seat each. The remaining 385 seats are awarded according to this formula: $PV(n) = \frac{\text{State Apportionment Population}}{\sqrt{n*(n-1)}}$. To find the priority value, PV, of a state’s second or 53rd seat, n is substituted with 2 or 53, respectively. All these priority values are sorted, and the

¹³ Andrew Gelman and Gary King. "Enhancing Democracy through Legislative Redistricting." *The American Political Science Review* 88, no. 3 (1994): 541-59. Quoted in Nathaniel Persily’s brief in support of the Arizona Independent Redistricting Commission to the U. S. Supreme Court, March 2015.

¹⁴ Kristin D. Burnett. "Congressional Apportionment: 2010 Census Briefs." United States Census Bureau, <https://www.census.gov/prod/cen2010/briefs/c2010br-08.pdf>.

¹⁵ "Computing Apportionment." United States Census Bureau, <https://www.census.gov/population/apportionment/about/computing.html>.

remaining seats in the U. S. House of Representatives are awarded to those 385 with the highest priority values. Using the formula, a 54th seat for California has a priority value of $\frac{37,341,989}{\sqrt{54*(53)}} = 698,012$. A second seat for Wyoming has a priority value of $\frac{568,300}{\sqrt{2*(1)}} = 401,849$, which means that California — which after the 2010 apportionment was awarded 53 seats — is closer to gaining its 54th seat than Wyoming is to gaining a second seat. The most populated of the single-seat states — Montana — would have a priority value of $\frac{994,416}{\sqrt{2*(1)}} = 703,158$ for its second seat, which would rank above California's 54th.

The result of the apportionment is to be delivered to the President no later than nine months after the census date, which since 1930 has been April 1. Within one week of the next congressional session, the President is to inform the Clerk of the United States House of Representatives, who then must notify the state governors within 15 days. For the 2010 census, that was January 25, 2011. How the redistricting is handled from then on, is not specified by federal law and thereby up to the individual states, which each does it in its distinctive way, but largely within a common pattern. Washington, which is one of the five states to carry out redistricting through the means of an independent or bipartisan commission, may serve as an example, since the timelines of states with other methods are largely the same.

In Washington state, the four caucuses — the Republican and Democratic groupings from the state House and Senate — each appoint a member to the redistricting commission in January.¹⁶ None of the four appointees can be politically active, hold political office, serve as lobbyists, run for public office for the next two years or have done so the last two years. Those four appointees then appoint a fifth non-voting member. At least three of the four voting members must agree on a redistricting proposal in the form of a detailed map, which is to be submitted to the state legislature by January 1 the following year. No later than the state assembly's 30th day in session – which in 2012 was February 10 – the legislature must pass the redistricting proposal. Any boundary changes require a 2/3 majority in both houses of the state legislature. If the required majorities are not met by the commission or the legislature, the Washington State Supreme Court determines the redistricting. After Legislative Day, the maps are put to use in the state primaries.¹⁷

¹⁶ Patrick McDonald. Email from Assistant to the State Secretary of Washington, July 14, 2014.

¹⁷ Patrick McDonald. "General Information on the Congressional and Legislative Redistricting Process and Timeline." Washington: Washington Secretary of State, 2010.

It must be noted that redistricting is in no way an activity limited to congressional elections. There are electoral districts to be drawn for all levels of political administration, not at least for the state house of representatives, but also for city councils, school boards, city comptrollers and a wide range of elections according to each individual state's laws and regulations. This thesis, however, will only examine elections for the U. S. House of Representatives.

1.3 How do states organize their congressional redistricting?

Seven states—Alaska, Delaware, Montana, Maryland, North Dakota, South Dakota, Vermont and Wyoming—have no need for congressional redistricting, as they have only one congressional district, due to their small populations. Classification of these processes is not a straightforward task. Different scholars and publications apply different categories. In a comparative study of processes, Professor Michael P. McDonald divides states into these four categories with regard to congressional redistricting: “Legislative process,” “Legislative process/commission,” “Commission” and “Other.”¹⁸ The electoral database website Ballotpedia operates with “Commission-based,” “Legislative-based,” and “Hybrid” for example. Professors Jamie L. Carson, Michael H. Crespin and Ryan D. Williamson use “Legislative,” “Court” and “Commission” as their categories when evaluating the 2012 elections — which may be seen as a pragmatic approach, as a considerable number of redistricting cases move from legislature to courts. It does, however, mask the negative effects of legislative processes, as most court-decided cases start out as legislative cases.¹⁹

This thesis will use neither. Professor McDonald's categories are closest to being preferred, but while reviewing the different states methods, it became evident that “commission” is a malleable term with such wide-ranging implications. Some commissions are simply advisory, and their advice is easily disregarded, as it happened in Virginia in 2011-2012.²⁰ Other commissions are only for practical, administrative purposes, as conducting public hearings, as in Iowa. Some commissions are intended to be independent legal bodies, free from bindings to the state legislature, as in Arizona, but that does not

¹⁸ L. Handley and B. Grofman (2008). *Redistricting in comparative perspective*. Oxford, Oxford University Press. 56.

¹⁹ J. Carson et al. (2014). "Reevaluating the Effects of Redistricting on Electoral Competition, 1972-2012." *State Politics & Policy Quarterly* 14(2): 165-177. 168.

²⁰ This is described in chapter 4.3.14

keep the state legislature from dragging the committee before the U. S. Supreme Court. The “Court” category used by Carson et al is a pragmatic approach, but most court-decided redistrictings are originally legislative processes — albeit failed processes, but still legislative processes. When the Texas legislature *chooses* to hand the process over to the courts, it is a politically motivated move made by the majority in the Texas state legislature in order to achieve a — for them — more desirable result.²¹ Counting these states as a separate category of “others” or “judicial” would mask the effects that this thesis attempts to unmask. Some advisory commissions are of the same nature; just false scaffolding masking a partisan, legislative process. Their existence gives some credence to the process, but their advice is neither wanted nor heeded, as in Virginia 2012.²²

We thereby are left with only two clearly defined groups. First, we have states redistricting through the legislature. Second, we have states redistricting through some sort of commission. If those commissions are not clearly independent, the process of the state in question will be classified as legislative.

1.3.1 Redistricting by Legislative Process

During the 2001 redistricting process, thirty-eight states handled redistricting as a legislative procedure, leaving it entirely up to active state politicians to control the remapping of the political landscape. In 2011 the National Conference of State Legislatures counted twenty-nine states drawing legislative districts only through state legislative authority without the help of commissions.²³ In these states a revised map of electoral districts is presented in the same way as any other legislative bill. It must first pass through the state legislature’s lower chamber, second through the upper chambers and third be approved by the state governor. If one party controls all those three branches or has a majority large enough to override a governor’s veto, the map may — and most often will — be drawn in the most partisan way legally possible. As the chair of the Texas state Republican Party, Susan Waddington, phrased it to the *Fort Worth Star Telegram* during the 2001 redistricting process: “We weren’t overly sensitive to protecting anyone in particular, and particularly not Democrats. We make no bones about that. We’re the

²¹ More details in 4.4.20

²² More details in chapter 4.3.14.

²³ Alabama, Delaware, Florida, Georgia, Indiana, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Nebraska, Nevada, New Hampshire, New Mexico, New York, North Carolina, North Dakota, Oregon, Rhode Island, South Carolina, South Dakota, Tennessee, Utah, Virginia, West Virginia, Wisconsin and Wyoming.

Republican Party.”²⁴ If a political party controls only one or two branches, either a deal is struck or the case goes to court, usually the state Supreme Court, and a bipartisan solution is more likely.

The Republicans tight grip on the pencil that draws the electoral maps is founded on a broad experience of being on the suffering side of partisan redistricting. Bill Brock, who was chairman of the Republican National Committee from 1977 to 1981, made winning control of state legislatures one of his main objectives. This, he said, he did out of fear that Democrats in control of state legislatures would lead to the GOP “being gerrymandered out of existence.”²⁵

Legislative processes are most often led by subcommittees in the state legislature. Quite frequently state legislatures fail to come up with a plan, and the redistricting is done by federal judges or experts appointed by judicial panels or by the Governor. Some legislatures may even choose to fail deliberately, in order to circumvent the pre-clearance demands posed by Section Five of The Voting Rights Act of 1965. A belief that a panel of judges may be more lenient than the Department of Justice may motivate such a move, as suspected in Texas in 2011, as described in Chapter 4.4.20.

1.3.2 Commissions

Twenty states used a commission for some function during the redistricting process following the 2010 census.²⁶ Alaska, Arizona, Arkansas, California, Colorado, Hawaii, Idaho, Missouri, Montana, New Jersey, Ohio, Pennsylvania and Washington gave commissions the primary responsibility for drawing the maps. Maine and Vermont used only advisory commissions. Connecticut, Illinois, Mississippi, Oklahoma and Texas kept commissions as backups, should the legislature fail to agree on the new maps. For several of these states, however, the commissions were used only for drawing electoral districts for the state legislature. The legislatures of Arkansas, Colorado, Missouri, Ohio and Pennsylvania remained in control of the congressional redistricting, and the one-district-states of Alaska and Montana have no need for congressional redistricting.

²⁴ Quoted in Lisa Handley and Bernard Grofman. *Redistricting in Comparative Perspective*. Oxford: Oxford University Press, 2008. 57.

²⁵ Michael McDonald. "Redistricting, Dealignment, and the Political Homogenization of Congressional Districts." *Dissertation abstracts international* 60, no. 5 (1999): 1747. 15.

²⁶ "Redistricting Commissions: Redistricting Plans." National Conference of State Legislatures, <http://www.ncsl.org/research/redistricting/2009-redistricting-commissions-table.aspx>.

It must – again – be emphasized that a “commission” is not an entity with fixed attributes. Its composition and its mandates vary widely. Some are just partisan tools for a political party. Others are bipartisan or bipartisan with a supposedly neutral tiebreaker. Some commissions aspire to be neutral. Some have only an advisory function, and others are free and mandated to present the legislature with a map to vote on. The criteria, on which those committees are supposed to base their drawing, also vary widely. In one state, Illinois, increasing competition is one criterion of several which the commission must take into account when drawing its maps. In states where the governor comes from the party controlling the legislature a commission may be instructed – on or off the record – to protect the incumbents. It is also worth noting that being bipartisan is not the same as being neutral. According to Issacharoff’s early *Harvard Law Review* initiative, bipartisan commissions tend to protect incumbents from two parties. Neutrality is protecting none.

1.3.3 Other — or simply Iowa

In Iowa, the legislators leave redistricting to professionals, but still — formally — the Iowa State legislature has the final word. There is some disagreement on whether Iowa is a commission-state, a legislature-state or something unique. This will be described in detail in chapter 3.6.3.

1.4 Overview

In chapter two we look more closely at what challenges partisan redistricting poses to a democracy, according to conflicting theories, in terms of representation, accountability and competition. We also examine the technical aspects of gerrymandering and look into packing, cracking and kidnapping as tools for gaining political power.

There is some debate on the exact meaning of “gerrymandering,” but in this thesis the terms “partisan (re)districting” and “gerrymandering” can be used interchangeably, both meaning “shaping election districts to dilute the effect of the opponents’ votes and to increase the effect of the supporters’ votes.” An overview of alternate meanings is found in chapter 2.2 - The Gerrymanderer’s Toolbox. A detailed look into the events leading to the christening of this political tool is found in chapter 3.2 - The Original Gerrymander of 1812.

The historiography section in chapter 3 aims to show that politicians gerrymandered long before Massachusetts' Governor Elbridge Gerry's name became attached to it. The chapter draws a line from the American Revolution, via the 1960s U. S. Supreme Court rulings, to current landmark court cases.

Chapter 4 is an analysis of the incumbents' reelection rate in the 2012 election for the U. S. House of Representatives. By gathering information on each individual state's redistricting method, on which party controls its one or two chambers of legislature, on which party-affiliation its governor has and on whether any incumbent U. S. House representative has run and won or lost, we check to see if there is a pattern or correlation between these factors before reaching a conclusion in chapter 5.

2 What is the problem with partisan redistricting?

2.1 Overview

The main theme in debates on redistricting is “fairness.” A debate on what is fair or unfair is bound to be a normative debate, although some attempts have been made to quantify levels of competition. Even then, if the two sides of the debate agree on how to compute the levels of competition, they do not necessarily agree on whether redistricting is the main cause — or even a significant factor— affecting the competitive levels of elections. The immediate and undisputed effect of partisan redistricting is that, given control of the redistricting process, politicians or political organizations may secure themselves representation — and thereby power — not proportional to their popular support. Fair elections are cornerstones of democracy, but political systems in general — and the American is no exception — are usually results of history, balance of power, circumstance and caught or lost opportunities. As a result, “fairness” is not a defining trait or attribute of congressional elections. Nevertheless, voters need to maintain some belief that elections are held in a fair manner. Otherwise, there would be no incentive to vote. Nor would there be any morally founded incentive to respect the institutions based on those elections.

There is no unified definition of “fairness” in electoral context, but it is reasonable to include “one person, one vote” and representation in Congress proportional to the number of votes cast as safely within most people’s criteria for fairness in elections. In her doctoral dissertation, political scientist Jenna Ashley Robinson argues that “elimination of malapportionment is not enough to ensure fairness.”²⁷ There are other, equally important factors, like fighting racial bias and historical wrongdoings. She attributes the recent electoral reforms, in which the power of redistricting is removed from legislators, to a fight for procedural fairness.²⁸

Building a normative argument for partisan redistricting — seen as an isolated phenomenon — may prove hard. Political columnist Walter Shapiro is plainspoken on that subject: “It is impossible to make a high-minded moral case for the virtues of

²⁷ Jenna Ashley Robinson. "Partisan Bias and Competition." Doctoral Thesis, Chapel Hill, 2012. 4.

²⁸ Robinson. 6.

gerrymandering.”²⁹ In politics, however, most actions are not seen as isolated. “Chicago-style politics” is used as an expression for a power-play where “right or wrong” is secondary to “in or out of political office,” and this kind of politics is in no way limited to Chicago. The following events in Illinois in 2001 illustrate both what can be achieved through redistricting and how normative arguments may lose out to political ambition.

In July 2001 an outfoxed young state senator from Chicago, Barack Hussein Obama, complained to his local newspaper, the *Hyde Park Herald*: “*The system of redistricting in the U. S. tends to allow representatives to choose people, instead of people choosing representatives.*” Obama had challenged the incumbent Bobby Rush, a seasoned political veteran, for the Illinois First District’s seat in the U.S. House of Representatives. He had caught Rush’ attention when he won almost thirty percent of the votes in the 2000 Illinois Democratic Party primaries. When the congressional voting district maps were redrawn in 2001, both Obama and another challenger found their home addresses outside the redrawn Illinois First District. This rendered their chances of winning an election slim, since carpetbaggers — opportunistic outsiders — tend to wear out their welcome, and if they win, they must move to reside within their electoral district. A spokesperson for Rush assured the *Hyde Park Herald* that the incumbent did not even know where Obama lived. Separated from his old district by only two blocks and now competing with a much more well-known name — Jesse Jackson Jr. — Obama withdrew from the congressional race before the maps were approved. So did the other challenger.³⁰

In 2001, the Illinois Democrats had won the decennial lottery which decides who gains control of the electoral map drawing.³¹ The state legislature district maps were drawn at a later date than the congressional maps. John Corrigan, the Democratic consultant in charge of redistricting has since told the story of how Obama in September of 2001 made sure that his home district, his electoral base for the state senate, was expanded northwards to encapsulate whiter, more affluent and influential neighborhoods – and also with more Republican voters. In this way Obama secured himself a broader and financially stronger home base, fit for his soon-to-follow run for the U. S. Senate and for his later and larger ambitions.³² When interviewed by his local newspaper about the Republicans’ objections to the Democrats’ blatant gerrymandering, Obama in September provided a view matured

²⁹ Walter Shapiro. "Why Gerrymandering Doesn't Explain Congressional Extremism - And Masks the Real Problems." Brennan Center for Justice, <http://www.brennancenter.org/print/10718>.

³⁰ Todd Spivak. "Rush Opponents Are Drawn out of First District." *Hyde Park Herald*, July 4 2001.

³¹ Illinois uses a commission if the legislature fails to agree on redistricting — and it has failed since 1970. The nine member bipartisan commission elects its tiebreaking 9th member by lottery.

³² Ryan Lizza. "Making It. How Chicago Shaped Obama." *The New Yorker*, July 21 2008.

since he himself was outmaneuvered in July: “For Republicans to squawk too much is inappropriate.”³³

Obama’s July argument — that politicians choose their voters — echoes the most common argument used against partisan redistricting: It goes against the idea of democratic representation. Another frequently used argument is that partisan redistricting takes away accountability. If legislators adjust districts to avoid real confrontation, voters are bereft of the right to hold their elected officials accountable. The third argument — which is often used among those campaigning for election reforms — is that drawing safe districts eliminates electoral competition, which again might result in politicians less responsive to their voters’ wishes and need. A fourth argument against partisan redistricting is the increased polarization — a more combative and less pragmatic approach to politics. This chapter examines further all those four — much overlapping — arguments: Representation, accountability, competition and polarization.

It must be noted, however, that the overall effect of partisan redistricting – on a larger scale and over time – is disputed. This was reflected in Obama’s September 2001 argument: If everybody does it, injustices and inequalities will even out over time. Even some of those arguing the dangers of partisan redistricting agree that other factors — incumbents’ financial supremacy and changes in the nation’s political geography — may contribute more to the increasing polarization and to the decreasing electoral competition than gerrymandering does. At least one paradox is apparent: If partisan redistricting stifles political competition – which scholars have successfully argued – moving the redistricting processes out of the smoke-filled backrooms and out in the open should cause a drop in the election victory margins. No such drop is noticeable. *The Washington Post* notes that in 1962 members of the U. S. House of Representatives won on average 65 percent of the votes in their electorate. This number maxed out at 71 percent in 2002 and slid back to 65 in 2012.³⁴

³³ Todd Spivak. "Democrats Would Be King under New State Remap." *Hyde Park Herald*, September 26 2001.

³⁴ Philip Bump. "Gerrymandering Matters Less Than You Might Think." *Washington Post*, August 18 2014.

2.1.1 Representation

Partisan redistricting affects both how and whether citizens are represented in Congress. This is above dispute, as it is by definition the purpose of gerrymandering. The concept of representation, however, is in itself disputed. This chapter will show that, while the most common argument is that gerrymandering skews representation, some argue that partisan redistricting actually improves representation.

In his widely debated article *How Democratic is America*, Professor Howard Zinn of Boston University argued in 1985 that representation “by its very nature is undemocratic.”³⁵ This was immediately (in the very same volume of *Points of View*) blown off as “Rosseauistic nonsense” by philosophy professor Sidney Hook of New York University. However, Zinn presented a — within a debate on redistricting and gerrymandering — seemingly valid argument when he with support from James Madison and Federalist No. 10 defended his position by arguing that “the representative tends to become a member of a special elite; he has privileges which weaken his sense of concern at others' grievances.” This was written decades before Arizona’s state legislators sued to overturn the outcome of a public ballot, but as a characterization of recent events in Arizona, it is on target.³⁶

In *Federalist no. 2*, John Jay counted “a people descended from the same ancestors, speaking the same language, professing the same religion, attached to the same principles of government” among the blessings of the young republic. While Jay’s 1787 writings in support of ratifying the United States Constitution may have bluntly disregarded the diversity of the nation’s origins, as political analysis his comment was still was precise. Besides some influence from French thinkers, the American political system is largely based on the English representative system, which predates both representative government and the concept of the sovereignty, according to Yale Professor Edmund S. Morgan.³⁷

In his 1983 book *Inventing the People: The Rise of Popular Sovereignty in England and America*, Morgan draws a line from 13th century England through the American Revolution. He argues that there was no concept of “We, the People” or of citizens’ rights. There was, however, a sovereign king acting as God’s lieutenant, with an administrative need to communicate with his subjects to ensure that his taxes and laws were accepted,

³⁵ Howard Zinn, ed. *How Democratic Is America*. edited by R. E. DiClerico and A. S. Hammond, Points of View. Reading, Massachusetts: Addison-Wesley Publishing, 1989.

³⁶ The Arizona case is described in detail in chapter 3.6.2.

³⁷ Edmund S Morgan. *Inventing the People : The Rise of Popular Sovereignty in England and America*. Kindle edition, 2013 reprint ed. New York: Norton, 1988. Location 538/6567.

collected and obeyed. The king summoned representatives from boroughs and commons to satisfy *his* needs — not the needs of his subjects. Those representatives were required to have the full power of attorney from their boroughs, so that a declaration of consent from them to the king’s orders would not need any reassurance from the local subjects.

Representation was in other words not a right claimed by the king’s subjects, but by the king or by noblemen serving their own interest by surrounding the king with controllable representatives from the noblemen’s own districts. Morgan brands it as “an obligation imposed from above.”³⁸

In a country emerged from a revolution sparked by the slogan “No Taxation Without Representation,” it may seem self-evident that the concept of representation is crucial. The most basic building block of a representative democracy is the notion that every eligible voter is actually represented by someone that the voter voted for, that his or her voice is echoed in some way in a house of representatives. Morgan’s preferred term for this notion of representation — and for other perceived notions of power balance — is “fiction.”³⁹ He also calls the king’s infallibility and sovereignty a fiction, in time to be replaced by another fiction— the belief in people’s rights. Some of these fictions, he notes, are so vital to upholding a belief-system that they are branded “self-evident” — like the assumption of the need for the consent of the governed, and the belief that all men are created equal. It must be emphasized that Morgan’s calling a phenomenon fictional does not imply that it has no real implications or is without consequence, only that it is based on perceptions of reality, which are prone to change over time.

In England, as God’s lieutenants, the thirteenth and seventeenth century kings were above criticism and beyond reproach. Even if the thirteenth century Magna Carta was aimed to protect free men from the random actions of a sovereign king, the king ruled with the blessings of the Pope in Rome as a god’s lieutenant. As a result, any opposing view had to be framed in non-confrontational universal terms. Both in the House of Lords and the House of Commons obligations and rights were claimed as universal — not as of personal interest to a particular baron or borough — even if this very well could have been the case. Out of this grew the fiction of rights and representation, argues Morgan, who finds it remarkable that “they were able to turn the subjection of subjects and the exaltation of the king into a means of limiting his authority.”⁴⁰

³⁸ Morgan. 603/6567.

³⁹ David Hume. *Essays and Treatises on Several Subjects*. 1758.

⁴⁰ Morgan. 232.

The English system of representation, matured over several centuries, was exported to the first colonies. In the 1630s, for example, King Charles awarded Lord Baltimore the right to issue laws for the British colony of Maryland, but only with the consent of the free men residing there. Morgan draws a picture of a colony in which a confusion of representation, delegation and revocation of delegated powers was common among the free men of Maryland. What is remarkable, stresses Morgan, was that representatives in all the early colonies were representatives for geographical districts, just as they were in England. They were apportioned and elected based on *geography*, not on political faction or industrial need. Founded by trading companies, Massachusetts and Virginia deviated from this principle briefly, but popular reaction put an end to that. A century later, before the American Revolution, the principles of representative democracy were widely recognized. What Morgan now brands a fiction, was by 1776 a truth held to be self-evident.

The Scottish philosopher and historian David Hume, whose writings inspired many of the Founding Fathers, also highlighted the fictional aspect — not of representation, but of government — when he in 1758 wrote that “Force is always on the side of the governed, the governors have nothing to support them but opinion.”⁴¹ While the king’s right to power was reckoned as old fiction, representative government was the vanguard of political science. In *Federalist no. 10*, Jay’s constitutional co-promoter and -writer, James Madison, made the case for a representative government. He emphasized the cooling effects of a representative system within a large republic, envisioning that it would limit the effects of hot-tempered majorities within smaller political entities and add stability in a large territory.⁴²

The very notion that one man in Congress represents another — or even a whole county — may be branded a fiction, but should that fiction lose credibility among the electorate, the very foundation of representative democracy is threatened. This was reflected in the doctoral dissertation of Elmer Cummings Griffith in 1907. He focused on representation as the foremost sufferer of gerrymandering:

⁴¹ Hume. 1758.

⁴² Hudson.5.

The gerrymander is a political device of far-reaching effect. It sets aside the will of the popular majority. It is a species of fraud, deception, and trickery which menaces the perpetuity of the Republic of the United States more threateningly than does, perhaps, the injustice [sic] of unjust taxation, for it deals more fundamentally with representative government.⁴³

Despite the moral indignation from Griffith and others, gerrymanderers were safe from any repercussions from others than the electorate — which was manipulated by the gerrymandering. The law remained silent on gerrymandering for centuries.

The first U. S. Supreme Court ruling to interfere with partisan redistricting, *Baker v. Carr* (1962) ensured that being underrepresented actually could be litigated, and *Reynolds v. Sims* (1964) and *Wesberry v. Sanders* (1964) both upheld the principle of one person, one vote. The problem with partisan redistricting is that while two votes may carry the same numerical weight, one may carry this weight in a place where it is of no use.

In a political system of single-member districts there lies an inherent risk that the number of “wasted” votes is bound to be high. Professor of Political Science, William E. Hudson makes an argument for a goodbye to the single-member pluralities of USA, since within such a system, only those who voted for the winner will actually gain any political representation.⁴⁴ With an average winning vote percentage of sixty-five to the U. S. House of Representatives, as much as thirty-five percent of the voters will be without representation.

In Nathan Persily’s 2001 rebuttal to Samuel Issacharoff in *Harvard Law Review*, he argues that the U. S. Supreme Court in *Gaffney v. Cummings* (1973) — which concludes that a redistricting plan can still be constitutional despite minor differences in population size between electoral districts — underlines that partisan redistricting used to ensure a representation roughly proportional to the electorate does not constitute an obviously “invidious discrimination.”⁴⁵ Issacharoff had in *Harvard Law Review* argued that the U. S. Supreme Court had gotten it “exactly backwards” and should worry more — not less — when political parties cooperate.

Increasing competition has been the main focus of several election reforms during the last decade, but Associate Professor Thomas L. Brunell at the University of Texas at Dallas respectfully disagrees with the emphasis on increasing the number of competitive

⁴³ Elmer Cummings Griffith. *The Rise and Development of the Gerrymander*. Chicago: Scott, Foresman & Co., 1907. 7.

⁴⁴ Hudson. 180.

⁴⁵ *Gaffney v. Cummings* (1973)

districts: “The goal of redistricting is not to maximize the number of seats that switch from one party to the other every two years; rather the goal of redistricting is for the House to pass legislation in such a way that policy preferences among the electorate are reflected in policy outputs. Drawing districts on the basis of ideology satisfies this goal, while drawing competitive districts does not.”⁴⁶

Brunell chooses representation over competition. In his 2006 article in *PS: Political Science and Politics* he notes that the data shows that voters whose preferred candidate goes to Congress are systematically happier with both their representative and the political system as such, than those who did not vote for the winner. Brunell admits that this finding “*is not especially groundbreaking*,” but his conclusion is — although clearly utilitarian — not often voiced among political scientists, as far as the research for this thesis has uncovered. He argues that like-minded voters *should* be packed in as homogenous districts as possible, thereby increasing the number of happy voters. Brunell also argues that the combined outcome of many competitive electoral battles in single-member districts may be a “*delegation to the House that is truly unreflective of the underlying partisan divisions in a state*” — which in purely mathematical terms makes sense, should one party win all the close battles. Brunell does not accept as truth the “*common wisdom among most voters and certainly among the media*” that representation will be enhanced by increased competition and declares — pointing to the Issacharoff/Persily debate of 2001 — that there is “*absolutely no evidence*” of this.⁴⁷ In 2012, Brunell and Harold Clarke in *Political Research Quarterly* repeat, support and expand on Brunell’s original criticism, observing that recent survey-data show that the consensus on competition as undisputedly good is “*largely an elite-level phenomenon*.”⁴⁸ One could argue that *any* informed debate on political theory is largely an elite-level phenomenon.

⁴⁶ Thomas L. Brunell. "Rethinking Redistricting: How Drawing Uncompetitive Districts Eliminates Gerrymanders, Enhances Representation, and Improves Attitudes toward Congress." *PS: Political Science and Politics* 39, no. 1 (2006): 77-85.

⁴⁷ Brunell. 77-85.

⁴⁸ Thomas Brunell and Harold D. Clarke. "Who Wants Electoral Competition and Who Wants to Win?". *Political Research Quarterly* 65, no. 1 (2012): 124-37.

2.1.2 Accountability

Partisan redistricting is at odds with the concept of accountability. For many voters in a representative democracy, the vote cast on Election Day is their only way to effectively evaluate and pass judgment on the performance of their elected representative. If their Congressman or Congresswoman has simply redistricted away their disgruntled constituents, and swapped them for more amiable voters, a vital part of the American system of checks and balances is rendered powerless. Professor G. Bingham Powell of University of Rochester states it most clearly:

Few contrasts between dictatorship and democracy are sharper than this one: in a democracy the citizens can vote the leaders out of office. The citizens' ability to throw the rascals out seems fundamental to modern representative democracy because it is the ultimate guarantee of a connection between citizens and policymakers. It enables the citizens to hold the policymakers accountable for their performance. Such accountability is a keystone of majoritarian democratic theory.⁴⁹

Among those quoting Powell is Professor of Law at Vanderbilt University, Rebecca L. Brown in her 1998 *Columbia Law Review* article. There she posits that accountability is a pillar of the Constitution, “similar to separation of powers, checks and balances, or federalism.”⁵⁰ There is a need to protect the people from an encroaching judiciary, she argues, and the people’s instrument for this is their elected politicians, who must be held to account by voters in order to stand up to the judiciary. There is clear support for this in the *Federalist Papers*, she argues.

In *Federalist No. 68* Alexander Hamilton warns that “the Executive should be independent for his continuance in office on all but the people themselves,” so that he not forgets whom he serves. It must be noted that, when Brown centuries later concludes that “accountability is a structural notion of blame whose final cause is liberty,” the reminiscence of the writing style found in *The Federalist Papers* is uncanny.⁵¹

While Brown and Publius focus on accountability as a cogwheel in the inner workings of the system of checks and balances, political theorist Benjamin Barber emphasizes accountability as vital for a large-scale republic to survive under federalism. Democratic representation is the device needed to combine the opposing demands of

⁴⁹ G. Bingham Powell. *Elections as Instruments of Democracy : Majoritarian and Proportional Visions*. New Haven, CT: Yale University Press, 2000. 47.

⁵⁰ Rebecca L. Brown. "Accountability, Liberty, and the Constitution." *Columbia Law Review* 98, no. 3 (1998): 531-79. 531.

⁵¹ Brown. 571.

efficient central administration and participatory self-government, and the concept of accountability is used to bridge this “widening abyss,” according to Barber.⁵² If we apply Professor Morgan’s perspective on this, the result is this: Without the fiction of accountability there would be no representative democracy, no matter whether the representation is fictional or real.

In his initial *Harvard Law Review* article, Issacharoff argues that there are “incentive structures operating to ensure the accountability of elected representatives to shifts in the preference of the electorate” and that these are skewed when politicians are allowed to redraw their own electoral districts.⁵³ His emphasis on and definition of democratic accountability is borrowed from Rebecca Brown’s recently mentioned *Columbia Law Review*-article. The people have delegated the power that once was regarded as belonging to the king, then and now as belonging to the people, to its representatives, and every Election Day they reclaim it, is Brown’s perspective — which Issacharoff builds upon. Incumbents, who redraw maps to avoid their voters’ judgment, undermine this pillar of American democracy.

In his rebuttal, Nathan Persily acknowledges Issacharoff’s normative arguments, but not Issacharoff’s application of them, and he argues that even entrenched incumbents are indeed held accountable, not at least during the primaries. Those incumbents are also the ones best known to — and of most use to — their voters, according to Persily. Measuring competition and accountability through reelection rate “ignores the fact that vulnerable incumbents often resign when they face tough challenges,” notes Persily.⁵⁴

2.1.3 Electoral competition

In discussions on what democracy is or should be, those emphasizing the competitive elements of democracy tend to borrow some of their arguments from the Austrian political scientist and economist Joseph Schumpeter and Professor of Political Science at Yale, Robert Dahl. Schumpeter has provided a working definition of representative democracy, as “that institutional arrangement for arriving at political decisions in which individuals acquire the power to decide by means of a competitive

⁵² Benjamin Barber. *A Passion for Democracy*. Princeton, NJ: Princeton University Press, 1998. Reprinted in Hess, Andreas. *American Social and Political Thought : A Reader*. New York: New York University Press, 2003. 145.

⁵³ Issacharoff. 606.

⁵⁴ Persily 2002. 659.

struggle for the people's vote.”⁵⁵ In his deliberations on polyarchy Robert Dahl echoes Schumpeter, calling democracy “a system of control by competition” in which politicians in power are strongly encouraged to modify their conduct in order to maintain their power by winning elections.⁵⁶

Among those frequently quoting Schumpeter and Dahl is Professor Michael McDonald, who has devoted much of his academic work to the subject of competition in politics, and while he in much of his research has focused on trying to quantify levels of competition under altering circumstances, he also stresses other, normative arguments and is very much in line with another Schumpeterian — William E. Hudson — and with Hudson's call for an active, public deliberation.⁵⁷ McDonald argues that competition “fosters other indicators of a healthy democracy,” such as increased, free coverage of the elections by the media, higher campaign expenditures used to inform voters, and a generally increased voter participation.⁵⁸

Only 15 of 435 seats changed party hands in the four elections to the U. S. House of Representatives from 1998-2004. Of those 15, only five were incumbents losing to challengers. Another six had been placed in the same district as other incumbents by redistricting. According to Professor Gary C Jacobson of University of California, San Diego, this prompted a revived scholarly concern about the declining competition.⁵⁹ One of the more remarkable academic debates growing from this, is reflected in *PS: Political Science and Politics* in 2006, where Professor of Political Science at Emory University, Alan Abramowitz and his two Ph.D. candidates Brad Alexander and Matthew Gunning argue against Issacharoff's coupling of partisan redistricting to lessened competition.⁶⁰ Under the title “Don't Blame Redistricting for Uncompetitive Elections” they argue that the financial advantage of incumbents is the main cause for the lack of competition, coupled with a “natural” polarization of the electorate — which is discussed further in chapter 2.1.4.

Professor McDonald refutes their claims, arguing that their numbers are wrong, and that several different methods of measuring competition show a connection between

⁵⁵ Joseph A. Schumpeter. *Capitalism, Socialism, and Democracy*. 3d ed. New York,: Harper, 1950. 269.

⁵⁶ Robert A. Dahl. "Polyarchy, Pluralism and Scale." *Scandinavian Political Studies* 7 (1984). 231.

⁵⁷ Hudson. 177.

⁵⁸ Michael McDonald and John Curtis Samples. *The Marketplace of Democracy: Electoral Competition and American Politics*. Washington, D.C.: Cato Institute, 2006. 7.

⁵⁹ McDonald and Samples. 29.

⁶⁰ Alan Abramowitz, Brad Alexander, and Matthew Gunning. "Don't Blame Redistricting for Uncompetitive Elections." *PS: Political Science and Politics* 39, no. 1 (2006): 87-90.

partisan redistricting and levels of competition. The three Emory scholars do, however, choose to take the numbers presented by McDonald as support of their findings, not as opposition. They admit that, yes, there is a lower competition, and, yes, there is a correlation between partisan redistricting and lower levels of competitions, but no, this correlation is not big enough to be deemed important when compared to the effects of campaign finances and polarization. They do admit that there is no doubt that redistricting may cause some significant short term effect, and McDonald laments that the effect of redistricting has become increasingly difficult to measure, given the low number of competitive districts and neutral redistricting institutions. All in all the opposing scholars are not significantly apart from each other's conclusion; they simply emphasize different aspects of the same political environment on their way to their respective conclusions.

2.1.4 Polarization

Whether polarization is a result of a lack of competition or a factor leading to lack of competition is no certain case; it can be both. Both ways, it is seen as an increasing problem, and the issue was raised by — among others — President Obama, talking to reporters in August 2013:

And all of you know it. I mean, I'm not telling you anything you don't know -- because it's very explicit. You report on it. A big chunk of the Republican Party right now are in gerrymandered districts where there's no competition, and those folks are much more worried about a tea party challenger than they are about a general election where they've got to compete against a Democrat or go after independent votes. And in that environment, it's a lot harder for them to compromise.⁶¹

In his original *Harvard Law Review* article, Issacharoff warned that a lack of competition removes the incentive for opposing voter groups to find common ground. He points out that the party-internal primaries favor candidates with views and politics more to the extreme right or left wings. This is, however, counterweighted in the general election — but only if there is a real competition in which politicians stances must be modified to attract voters from the opposition. Without this incentive, extremists are more likely to win and the gap between political camps widen.⁶²

⁶¹ "Press Conference by the President." The White House, Office of the Press Secretary, <http://www.whitehouse.gov/the-press-office/2013/10/08/press-conference-president>.

⁶² Issacharoff. 628.

It is interesting to observe that Issacharoff's primary opponent, Nathan Persily, in his amicus curiae brief to the U. S. Supreme Court in 2015 uses the polarization Issacharoff warned against as an argument in support of redistricting commissions. Persily warns that redistricting is a polarizing task causing lasting enmity:

“Recognizing the conflict of interest of state legislatures and the poisonous polarization that redistricting inflicts upon the legislature as an institution, many states have identified redistricting as an area where the normal process of legislation should be altered.”⁶³

This perspective is supported in 2006 in *PS: Political Science and Politics* by Professor Alan Abramowitz and his Ph.D.-candidates mentioned in chapter 2.1.3. They do not look at gerrymandering as the dominant cause for neither polarization nor lessened competition. The three Emory scholars argue that modern demography increases polarization; Americans increasingly choose to live in communities with residents of similar political affiliation. They emphasize numbers show most of the change in district partisanship to have happened *between* redistricting cycles. If partisan redistricting were the dominant cause of increased polarization, we would not see this. The polarization is also visible in another statistic, according to Abramowitz and his Ph.D.-candidates: More than before, people tend to vote for the same party in both House elections and presidential elections.⁶⁴

In June 2014, Pew Research Center reported that polarization has never been more dominant in American politics than now.⁶⁵ Voters are less likely to compromise or to change party preference, and they surround themselves more with people who share their political views. They also have increasingly unfavorable opinions about the opposing party. House representatives who come out as moderates, run an increasing risk of losing in the primaries, since the level of competition in the general election is of less importance.

Professor Hudson — who is a proponent of parliamentarianism in USA — attributes much of the polarization to the system of single-member pluralities (SMP). As long as Congress is not elected by proportional representation, members of Congress can “safely ignore the preferences, interests, and concerns of the minority party,” argues

⁶³ *Brief of Nathaniel Persily, Bruce E. Cain and Bernard Grofman as Amici Curiae in Support of Appellees*, January 22 2015. 7.

⁶⁴ Abramowitz, Alexander, and Gunning. 87-90.

⁶⁵ Carroll Doherty. "7 Things to Know About Polarization in America." Pew Research Center, <http://www.pewresearch.org/fact-tank/2014/06/12/7-things-to-know-about-polarization-in-america/>

Hudson, who notes that this does not provide legislators with much motivation to compromise and negotiate across party lines.⁶⁶

2.2 Partisan Redistricting: The Gerrymanderer's Toolbox

The exact meaning of the word “gerrymander” has varied. In 1907 Elmer Cummings Griffith lamented that the word was “one of the most abused words in the English language” as it had “been made a synonym for political inequality of every sort.”⁶⁷ He defined it as “the formation of election districts (...) with boundaries arranged for partisan advantages.” Ninety-four years later cartographer Mark Monmonier in his book *Bushmanders and Bullwinkles* acknowledged at least two definitions. For political scientists it is “deliberately increasing the number of districts in which a particular party or group is in majority”. For the media and the general public, however, “the term suggests sinister shapes that signify unfair if not illegal manipulation.”⁶⁸

This chapter will explore some of the main tools and techniques used in such manipulation. The examples are all based on figures in Monmonier's *Bushmanders and Bullwinkles*, the Brennan Center's handout *Know Your Lines* and David Doherty and Josh Ryans article in *PS, Political Science and Politics*, “Redistricting in the Classroom: A Model for Inductive Learning.”

2.2.1 The shapes of Sandra Day O'Connor



Figure 1 - Texas congressional districts 18, 29 and 30 ruled illegal in *Bush v. Vera* (1996). Scales vary.

⁶⁶ Hudson. 181.

⁶⁷ Griffith. 15.

⁶⁸ Mark Monmonier. *Bushmanders & Bullwinkles: How Politicians Manipulate Electronic Maps and Census Data to Win Elections*. Chicago: University of Chicago Press, 2001. X.

When states issue guidelines for redistricting, “compactness” is a frequently applied, but varying defined criterion.⁶⁹ In simple terms, a perfect circle would be the ideal shape of a congressional district if compactness were its only desired attribute. For several adjoining districts, the perfect shape would be a square or another regular, convex polygon. There are several formulas for calculating compactness in comparative studies, which will not be explored in detail here, since the pivotal attribute for a district is not just its shape as such, but rather its shape within a given context. Supreme Court Justice Sandra Day O’Connor has spoken out on shapes in two landmark cases. In *Shaw v. Reno* (1993) she described the highway-hugging outline of North Carolina’s 12th Congressional District (see Figure 8, page 38) as so “bizarre” that it was “unexplainable on grounds other than race” — and thereby subject to strict scrutiny.⁷⁰ In *Bush v. Vera* (1996) she branded the Texas’ 30th Congressional District as so “extremely irregular on its face that it rationally can be viewed only as an effort to segregate the races for purposes of voting, without regard for traditional districting principles.” In the same case, several other districts were just as bizarrely shaped as the 30th, but they could be explained through others contexts than racial discrimination and thereby avoided interference by the U. S. Supreme Court. O’Connor made it clear in the plurality ruling that “bizarre shape and noncompactness cause constitutional harm insofar as they convey the message that political identity is, or should be, predominantly racial.” In other words, it is not the shape itself that is unconstitutional, but when it appears as a symptom of unconstitutional acts, it may be subject to strict scrutiny.



Figure 2 - Texas congressional districts 3, 6 and 25 were left unchallenged in *Bush v. Vera* (1996) Scales vary.

If we stick with Monmonier’s definition of gerrymandering, however, even a perfectly circular district may be a result of gerrymandering if its shape is molded by partisanship and serves a partisan purpose. A wish to preserve existing county lines and

⁶⁹ Monmonier. 172.

⁷⁰ “Strict scrutiny” is a legal term with much stronger consequences than just a “closer look.” For a subject to pass strict scrutiny by the U. S. Supreme Court, it must pass three tests. It must serve a compelling governmental interest, be narrowly tailored for its purposes and be as little restrictive as possible to serve the governmental interest.

areas of common interests also appear in several redistricting guidelines. There are plenty of almost square counties and districts in the Midwestern United States, but most counties are shaped by natural borders, mountains and rivers. There are also communities of interest that defy compactness, like stretched coastal areas, mountain-ranges and riversides. Technically, a compact district may at times serve partisan purposes better than a sinisterly shaped district.

2.2.2 Packing

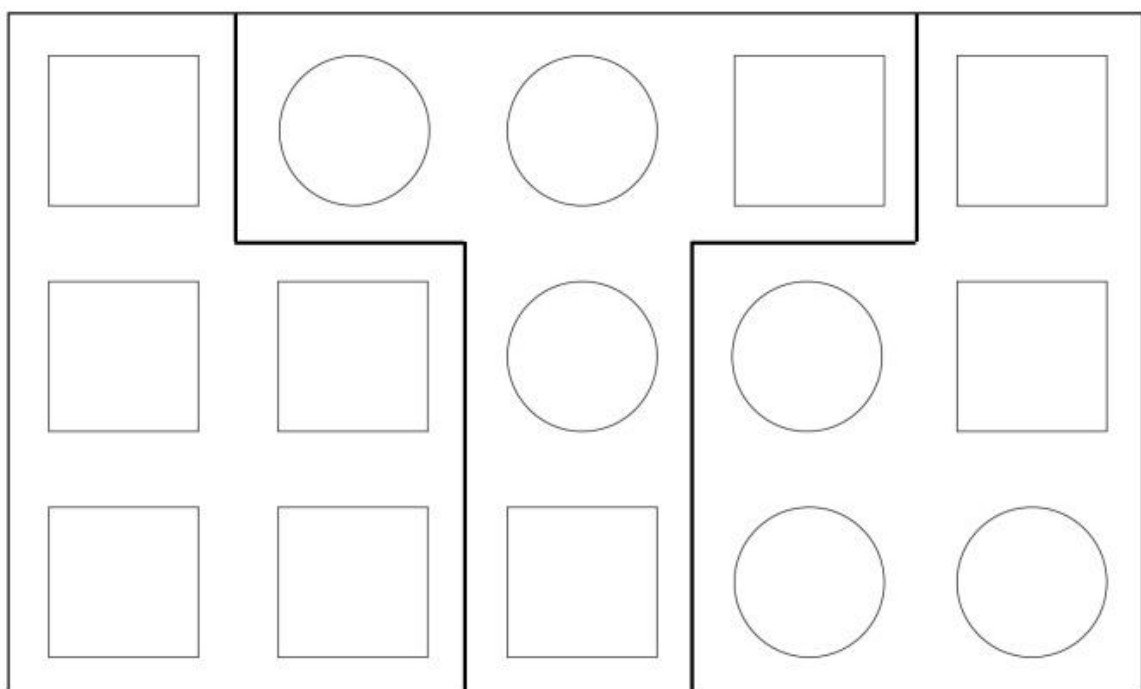


Figure 3 – An example of packing. Circles = Majority of Democrats. Squares = Majority of Republicans.

“Packing” is gathering a group which would normally be divided among two or more districts, into one electoral district. This can be done in accordance with *The Voting Rights Act of 1965* to create a minority majority to secure that a considerable minority is secured representation, as it was done in Illinois 4th District. In order to create a Hispanic majority they packed a district with Hispanics — whom if districts had been drawn compact — would have been spread over several districts.

Packing can also be used to waste votes by creating a large majority in one district and consequently removing those voters from districts where they otherwise could have secured a narrow victory. In , we see a map presumably drawn by Democrats. A large

number of Republicans are packed in the left district, thereby wasting a marginal majority and giving the Democrats a narrow victory in two of three districts, despite being a minority statewide.

2.2.3 Cracking

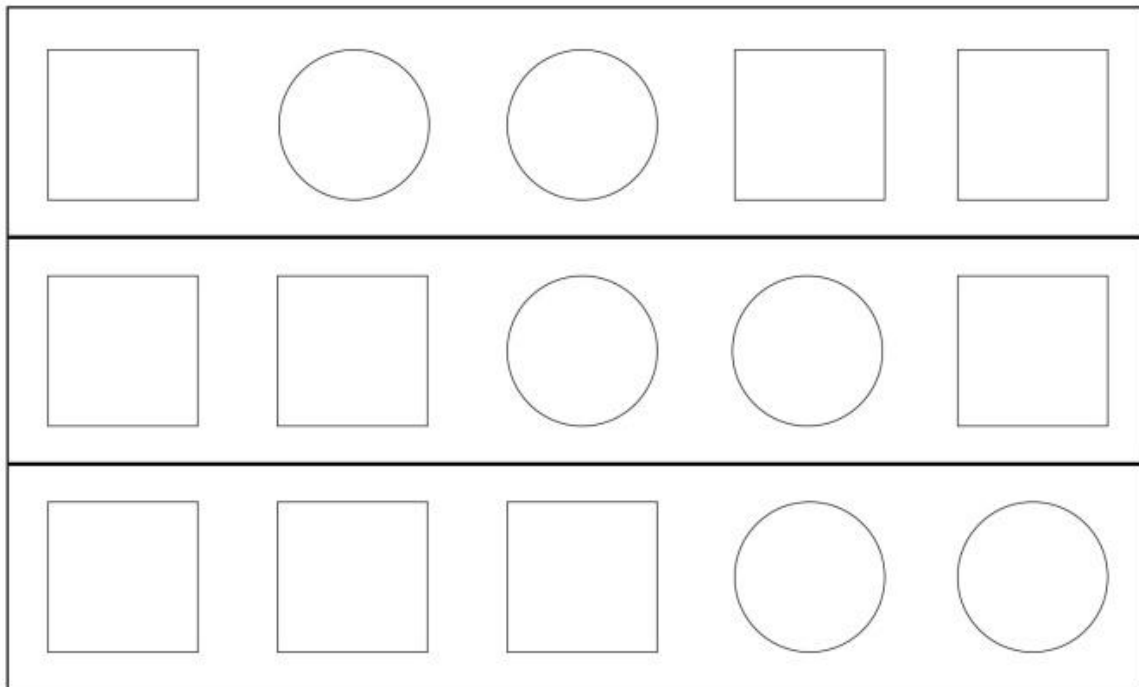


Figure 4 - An example of cracking. Circles = Majority of Democrats. Squares = Majority of Republicans.

Cracking is dividing a majority between two or more districts in which they no longer are a majority. This is a much used tactic. Although not concerning a congressional election, a redistricting of single-member districts for the election of county officers in Hinds County, Mississippi, is a visually striking example of cracking. The proposed maps split the city of Jackson and its quite concentrated black population into five separate districts in which blacks were no more than 28 percent of any.⁷¹

In we see a map presumably drawn by Republicans (squares). A substantial Democrat minority is cracked into three equal parts, all too small to win a single district.

⁷¹ Frank R. Parker. *Black Votes Count : Political Empowerment in Mississippi after 1965*. Chapel Hill: University of North Carolina Press 1990. 156.

2.2.4 Kidnapping

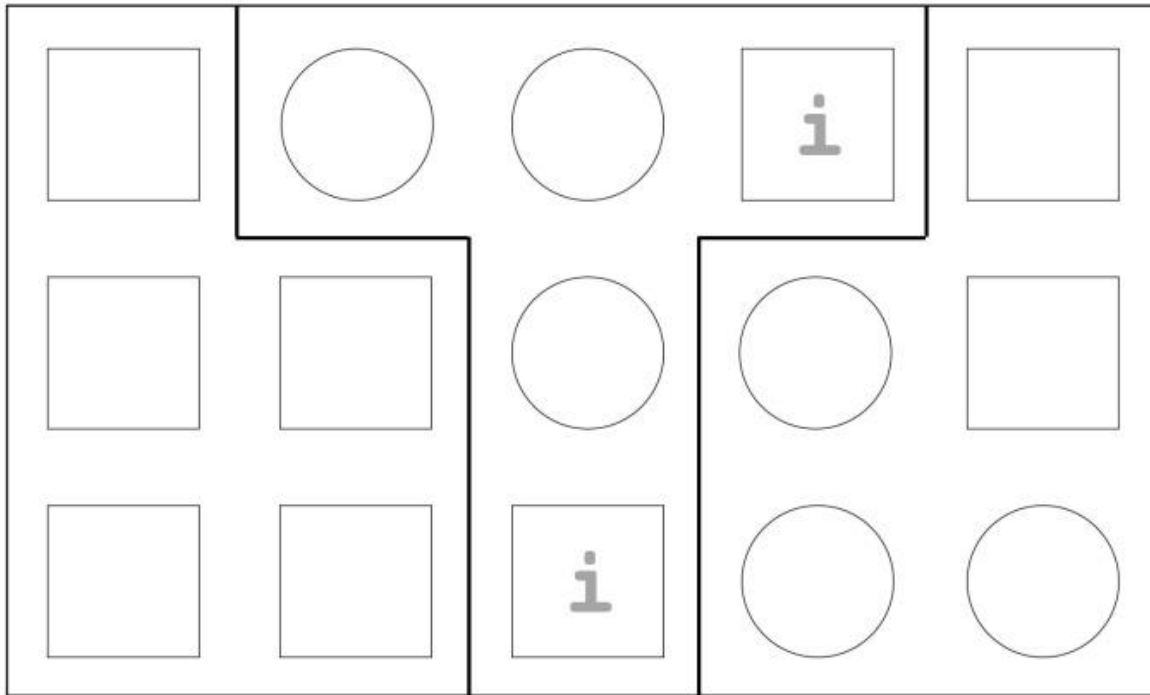


Figure 5 - An example of kidnapping. i = incumbent.

Incumbents tend to be reelected for many reasons, among them name recognition and a long relationship with their voters. These two advantages can be overcome by “kidnapping” them, which is to redraw the maps so that incumbents previously safely in the middle of their district suddenly find themselves in the outskirts of a new district and apart from their electoral base. A partisan mapmaker may also draw the incumbent in a district with a strong challenger from the opposing party, maybe even with another incumbent or even worse — with an incumbent from their own party. In Figure 5 two Republican incumbents are placed within the same district, increasing the chances for a split — and losing — Republican electorate.

The same tactic can be applied against a bothersome competitor from one’s own party, as it was done to wannabe U. S. House Representative Barack Obama in 2001.

3 Historiography of partisan redistricting

3.1 Early occurrences

Partisan districting occurred long before the U. S. Congress emerged on the political stage. In 1907 Elmer Cummings Griffith traced the earliest occurrences of gerrymandering in America back to 1709, when election districts for the Pennsylvania State Assembly were shaped to reduce the influence of the city of Philadelphia and favor the neighboring rural districts.⁷² The English concept of “rotten boroughs” or “pocket boroughs” — districts with a dwindling and controllable population, but still with representation in the House of Commons — was well known to the first Pennsylvanians.

Griffith describes gerrymandering - while not yet named - as widespread during the decades before the First Continental Congress in 1774. Districting a colony for an election was “a very common practice” when the party in control of the legislature feared the outcome of an election by general ticket, writes Griffith. He notes that several of the first states even enacted laws to limit such practices soon after gaining independence.⁷³ Yet, he points out that the potential of partisan redistricting was “little understood and consequently not feared” by the time of the American Revolution.⁷⁴ He argues that Virginia Representative James Madison overcame attempts at gerrymandering before election to the first U. S. Congress in 1788.⁷⁵ In 1812, however, then incumbent President James Madison was probably a beneficiary of the gerrymander that gave name to the term.

⁷² Griffith. 27.

⁷³ Griffith. 45.

⁷⁴ Griffith. 30.

⁷⁵ Griffith. 40.

3.2 The Original Gerrymander of 1812

These events concern an election for the Massachusetts State Senate, not for the U. S. House of Representatives, and as such, they are outside the scope of this thesis. They did, however, not only add to the political vocabulary, but also provide a very good example of both how much and of how little can be achieved through unscrupulous districting. If the general population — as claimed by Griffith — “little understood” the effects of partisan districting in the late colonial period, they did after 1812. The “Gerry-mander” was *that* remarkable in terms of name-recognition and effectivity.



Figure 6 - Illustration on page two in *The Boston Gazette* March 26, 1812

Massachusetts had been a Federalist stronghold, but the Jeffersonian Democrats gained control of all branches of the Massachusetts state government in 1811. To secure this position the Democrats redrew the electoral maps before the 1812 election, dividing Massachusetts (which at the time also included Maine) into eighteen districts represented by 40 state senators. The redistricting was also aimed to ensure more Democrats in the U. S. Electoral

College, writes Griffith, but Republicans averted this.⁷⁶ In February of 1812, Governor Elbridge Gerry signed the new districts into law.

The *Boston Weekly Messenger* printed a map of the districts, which caused a reader to suggest that the outer district only needed wings to resemble a monster. An engraver — most likely Elkanah Tisdale — gave form to the idea.⁷⁷ An editor thought it resembled a salamander, another renamed it after the governor, and the newborn creature was published on page two in the *Boston Gazette* on March 26, 1812 under the heading “The Gerry-mander. A new species of Monster.”

The drawing — and the name — caught the general public’s attention, but the numbers are just as eye-catching: On May 20 the *Columbian Centinel* reported that in a very close race 101,930 votes were cast for senators. Of these, the Federalists received 51,766. Democrats received 50,164. Yet, of the 40 senators, Federalists won only eleven. The Democrats won twenty-nine. In 1907 Elmer Cummings Griffith concluded that it was “one of the most successful instances of the gerrymander on record.”⁷⁸

While Governor Elbridge Gerry’s signing of the electoral maps into law in February 1812 secured the senate majority and may have contributed to President James Madison’s reelection, it did not help Gerry secure a gubernatorial reelection. He did, however, become

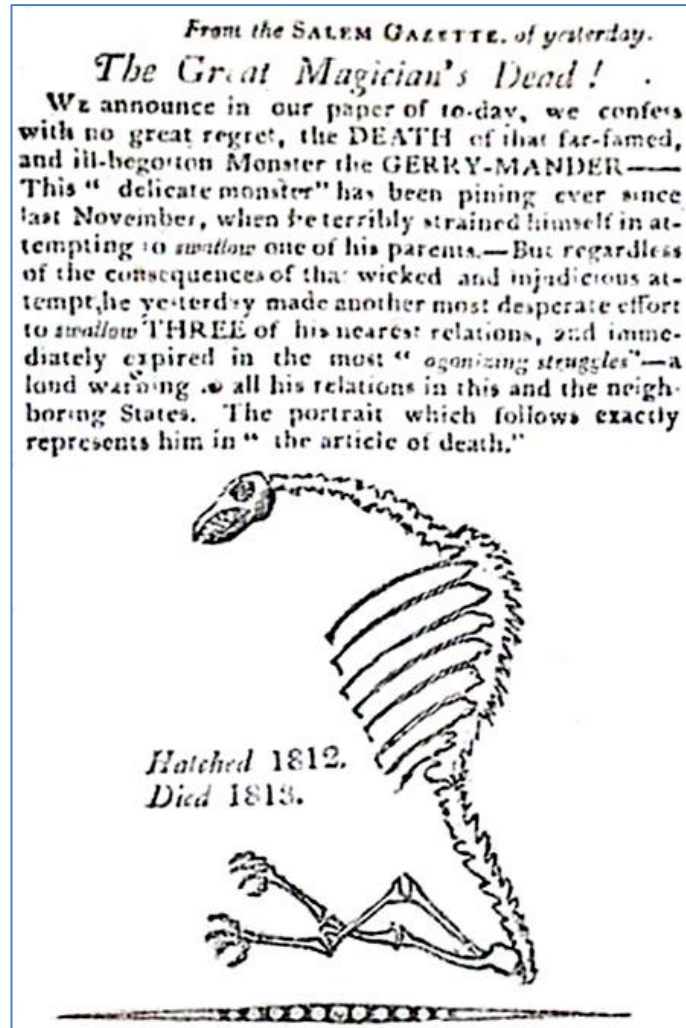


Figure 7 - *The Columbian Centinel*, April 7, 1813.

⁷⁶ Griffith. 76.
⁷⁷ Monmonier. 2.
⁷⁸ Griffith. 73.

Madison's vice-president.⁷⁹ The next election to the Massachusetts State Senate reaffirmed the Federalist majority in Massachusetts and reversed the outcome of the 1812 state senate election. Twenty-nine Federalists and only eleven Democrats were elected to the state senate, which goes to support an argument often maintained by proponents of legislative redistricting: Over time, injustices even out.

April 7, 1813 *The Columbian Centinel* printed an illustrated "obituary" for the "far-famed, and ill-begotten Monster the GERRY-MANDER". It was "Hatched 1812. Died 1813." While it was true for the specific creature twisted around the counties of Essex and Worcester, pronouncing the death of the newly named — but centuries old — species— was premature. It was alive and breeding 1946 and 1962 when it caught the attention of the U. S. Supreme Court. In the 1980s there even emerged a mutation — the computer-assisted Bushmander — which is described in chapter 3.5.

3.3 Baker v. Carr (1962) and related cases

We conclude that the complaint's allegations of a denial of equal protection present a justiciable constitutional cause of action upon which appellants are entitled to a trial and a decision. The right asserted is within the reach of judicial protection under the Fourteenth Amendment.⁸⁰

These were Justice Brennan's concluding remarks in *Baker v. Carr* (1962). It is a landmark court case for partisan redistricting, but *Baker v. Carr* did not decide on over specific electoral districts and borders. The court did, however, find that a complaint from eleven disenfranchised voters could be a matter for the courts to decide. The plaintiffs argued that their right to equal protection under the Fourteenth Amendment was violated, since the state of Tennessee had not reapportioned once since 1901 despite massive population changes, leaving them effectively without a vote and without means to right this wrong through the political realm. The Tennessee Constitution stated that they had an equal right, but the Tennessee legislature had no self-interest in righting these obvious wrongs, and the Tennessee courts would not interfere in matters so clearly within the political domain. In general, political struggles were to be settled within the political domain with political methods. Courts were reluctant to usurp powers from politicians.

⁷⁹ Governor Elbridge Gerry's surname was pronounced with a hard «g» as in «Gary». In «gerrymandering,» however, the «g» has been softened through the years and is now often pronounced as in «Jerry.» Recordings show that in the 1960s, President John F. Kennedy pronounced «gerrymandering» with a hard g.

⁸⁰ *Baker v. Carr*. March 26, 1962

Until 1962 the U. S. Supreme Court rejected several such attempts to bring injustices from redistricting before the courts. This jurisprudence was reaffirmed in 1946, when the court would not interfere on behalf of three Illinois voters from districts with populations larger than in other districts.⁸¹ Their case, a claim that the redistricting was unconstitutional, was rejected as a matter to be dealt with on the political arena — not in the courts. As part of the narrow majority, Supreme Court Justice Felix Frankfurter warned against courts “entering the political thicket” in *Colegrove v. Green* (1946). He stressed that the wrongs in the case were “wrongs suffered by Illinois as a polity” and not a private matter. Sixteen years later, the very same Frankfurter repeated that warning in his minority dissent in *Baker v. Carr*. After almost a year of deliberations, the Supreme Court found that it had jurisdiction in such matters and referred the case back to the Tennessee courts for them to decide.

Columbia Law Review found it hard in 1963 to draw conclusions from *Baker v. Carr* but posited that “its confusion will suggests that judicial self-restraint will continue to reveal itself in congressional districting cases” — which has been proved to be true.⁸² An immediate effect from *Baker v. Carr* was that a string of other redistricting cases were heard, not just by the U. S. Supreme Court, but also by lower courts. The U. S. Supreme Court under Chief Justice Earl Warren in *Reynolds v. Sims* (1964) held that districts for state legislature should have equal populations. In Alabama, where the plaintiffs in *Reynolds v. Sims* came from, some districts were 14 times the size of others. In New Hampshire, the least populated district had three people. Another had 3,244. The rule of “one person, one vote” in congressional elections was affirmed in *Wesberry v. Sanders* (1964) with little room for interpretation:

⁸¹ *Colegrove v. Green* (1946)

⁸² “Challenges to Congressional Districting - after Baker v Carr Does Colegrove v Green Endure.” *Columbia Law Review* 63, no. 1 (1963): 98-116. 102.

We hold that, construed in its historical context, the command of Art. I, § 2, that Representatives be chosen 'by the People of the several States' means that as nearly as is practicable one man's vote in a congressional election is to be worth as much as another's. (...) We do not believe that the Framers of the Constitution intended to permit the same vote-diluting discrimination to be accomplished through the device of districts containing widely varied numbers of inhabitants. To say that a vote is worth more in one district than in another would not only run counter to our fundamental ideas of democratic government, it would cast aside the principle of a House of Representatives elected 'by the People,' a principle tenaciously fought for and established at the Constitutional Convention.

This triggered a wave of reapportionments and redistricting still recurring every ten years. The U. S. Supreme Court had set a standard that all came down quantity — to numbers — which promotes competition. On August 6, 1965, President Lyndon Baines Johnson complicated matters by signing into law the Voting Rights Act, which shifted the standard towards quality — to ensure representation for groups disenfranchised by Jim Crow-laws.

3.4 The Voting Rights Act of 1965 and Affirmative Gerrymandering

No voting qualifications or prerequisite to voting, or standard, practice, or procedure shall be imposed or applied by any State or political subdivision to deny or abridge the right of any citizen of the United States to vote on account of race or color.⁸³

The Voting Rights Act of 1965 was designed to ensure racial minorities representation by enforcing the Fifteenth Amendment, which states that citizens' right to vote shall not be denied or abridged on the basis of race or color. Following the Civil Rights Act of 1964 it was part of President Lyndon B. Johnson's "Great Society" — a program to end poverty and racial injustice.

Section 2 of the Voting Rights Act — the "non-dilution provision" — outlaws electoral districts drawn to secure the political dominance of a white majority by specifically forbidding *any* discriminatory "standard, practice or procedure." Section 5 requires that some states and districts — defined in Section 4 — with a history of racial discrimination need preclearance from the Department of Justice or the Federal District

⁸³ Voting Rights Act of 1965. Section 2.

Court for the District of Columbia of any changes to electoral laws, procedures and electoral districts.⁸⁴

One effect of this was that affirmative gerrymandering was expressively encouraged by the U. S. Congress if done to secure representation for a racial minority in so-called “majority-minority” districts. If redistricting was done with intent to dilute minority voting strength, it was illegal. Simultaneously, the jurisprudence established the year before by *Wesberry v. Sanders* (1964) set heavy demands on numerical equality. Political mapmakers were forced out on a tightrope, torn between demands the Fourteenth Amendments demand for numerical equality and The Voting Rights Acts call for affirmative action. This opened for a string of cases before the U. S. Supreme Court where high court’s understanding of the mapmakers’ intents was deemed as crucial.

The most influential case was *Shaw v. Reno* (1993), which according to both Issacharoff and Persily led USA into a “legal morass.”⁸⁵ The North Carolina state legislature had, following the 1990 census and reapportionment, drawn an electoral district map made up of some remarkably odd shapes. A group of white voters claimed equal rights protection under the Fourteenth Amendment when the state of North Carolina had drawn a black minority-majority

12th District — as prescribed by the Voting Rights Act. The case ascended to the US Supreme Court as *Shaw v. Reno*.

The 12th District’s borders snaked along Interstate 85 most of the way, long, narrow and curvy. “I love the district because I can drive down I-85 with both car doors open and hit

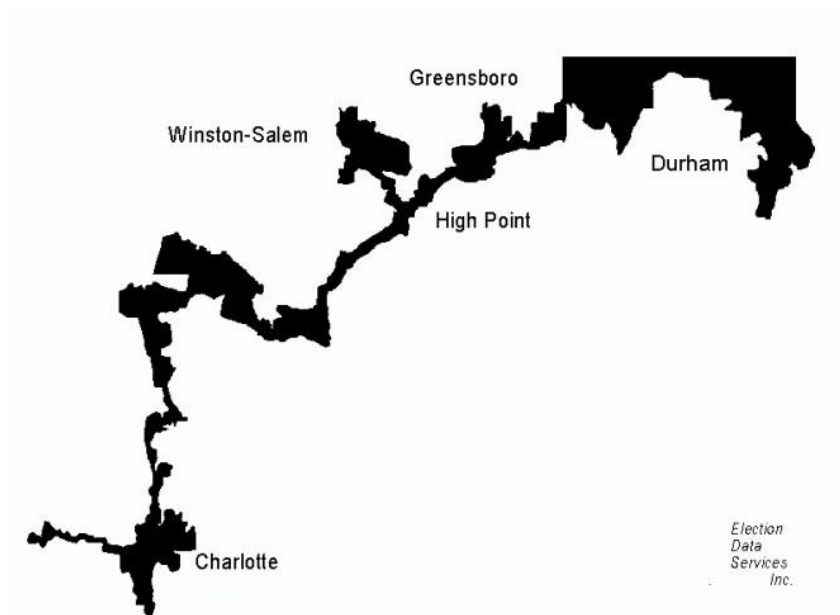


Figure 8 - North Carolina 12th District, 1993.

⁸⁴ Section 5 of the Voting Rights Act of 1965 was rendered powerless in June 2013 when the Supreme Court declared section 4 — which section 5 depends upon — unconstitutional.

⁸⁵ Issacharoff and Persily. Pages 636 and 652, respectively.

every person in the district," said Mickey Michaux, a Democrat candidate, to *The New York Times*.⁸⁶ A narrow majority in the Supreme Court held with the plaintiff. The court found that the intentions of the mapmakers might have been noble and in line with the Voting Rights Act, but that the "bizarre shape" of the district might suggest that the mapmakers had tried too hard and in the process given rise to an equal protection challenge. The case was referred back to the North Carolina District Court.

The case — and a series of legally challenged redrawn districts — then moved back and forth between the North Carolina legislature, the North Carolina District courts and the U. S. Supreme Court until 1999, when the U. S. Supreme Court — this time unanimously — reversed a district court decision, and for all practical purposes paved way for a return to the "bizarre shape" previously contested. In his book, *Bushmanders and Bullwinkles*, cartographer Mark Monmonier utters sympathy for his North Carolinian colleagues being caught in a squeeze: "North Carolina might easily feel abused — an innocent victim caught between an aggressively proactive Justice Department and an adamantly yet numerically minimal Supreme Court majority. In this sense any state compelled to create and then dismantle a minority–majority district is also a victim of fate."⁸⁷

One aspect qualifying this as a "morass" is that the high court also made it clear that the mapmakers' *intent* could cause judicial action, but their actions *alone* was not sufficient. Justice Clarence Thomas put this in writing: "our prior decisions have made clear that a jurisdiction may engage in constitutional political gerrymandering, even if it so happens that the most loyal Democrats happen to be black Democrats and even if the state were *conscious* of that fact." Even if a "high correlation between race and party preference" was evident, wrote Thomas, this would not be enough to prove that race was the motivating factor.⁸⁸

On the heels of *Shaw v. Reno* came a string of cases where some bizarrely shaped districts survived judicial inspection, while others were discarded. Persily was outspoken in his critique in 2001: "The incoherence of the Shaw doctrine and its natural consequence, acting alongside the Voting Rights Act, of forcing partisan conflict to be expressed as racial conflict led to racially charged litigation that forced courts to wallow in the political thicket for the past ten years."⁸⁹

⁸⁶ Ronald Smothers. "The 1992 Campaign: Congressional Races; 2 Strangely Shaped Hybrid Creatures Highlight North Carolina's Primary." *The New York Times*, May 3 1992.

⁸⁷ Monmonier 49.

⁸⁸ *Hunt v. Cromartie* (1999).

⁸⁹ Persily. 652.

One district in particular, the Illinois Fourth, designed to ensure representation for a Hispanic minority, survived scrutiny, even if it was as bizarrely shaped as others, earning the nickname “The Earmuff District”. Monmonier attributes the district’s survival in court not just to adherence to the law, but to “savvy political cartographers (...) carefully documenting their rationale (...) [knowing] what would raise eyebrows.”⁹⁰ In other words, the mapmakers had learned to provide either a defensible rationale for the map or no traces of ill intent.

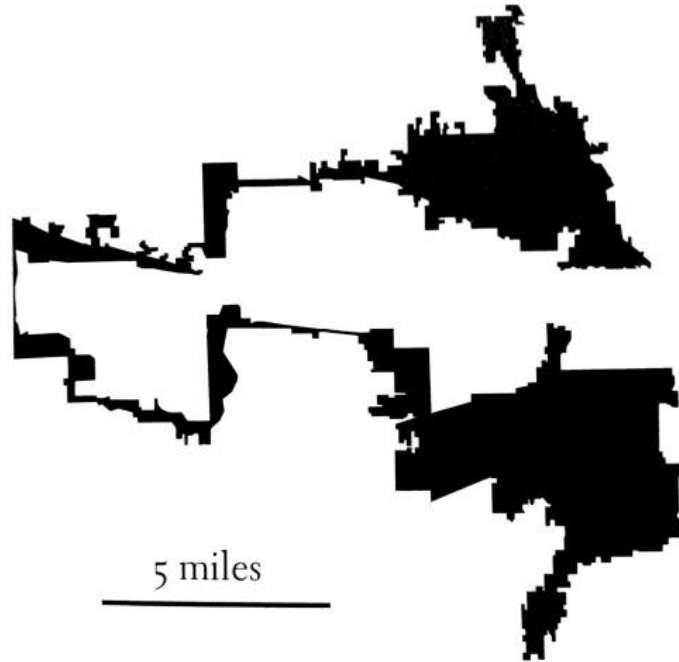


Figure 9 - Illinois 4th District

Some practical consequences for the mapmakers can be found in the educational papers distributed by The National

Conference for State Legislatures. There Minnesota Senate Counsel Peter S. Watson presents essential advice: “You may consider race in drawing districts. Avoid drawing a Racial Gerrymander. Beware of bizarre shapes. Beware of making race your dominant motive. Beware of Using Race as a Proxy for Political Affiliation.”⁹¹ In the same forum, redistricting consultant Debra A. Levine acknowledges the challenges that all redistricting professionals face: “Plan on spending money for expert witnesses. Plan on spending money for lawyers with voting rights and litigation experience! Anticipate court challenges to your plans – You will be sued! (...) Be ready to defend everything you do.”⁹²

⁹⁰ Monmonier. 50.

⁹¹ Peter S. Watson. "Drawing Maps That Will Stand up in Court." National Conference of State Legislatures, <http://www.senate.leg.state.mn.us/departments/scr/presentations/HTML/draw-Chicago/frame.html>.

⁹² Debra Levine. "Setting up Your Redistricting Operation." National Conference of State Legislatures, http://www.ncsl.org/documents/legismgt/Setting_up_Redist.pdf.

3.5 New shapes: Bushmanders, the Bullwinkle and Lower Intestines

A whole new breed of gerrymanders appeared as computers became widespread on the political arena in the late 1980s. Combined with detailed polling data, mapping party affiliations down to city-block level, computers enabled the cartographers to craft electoral districts with a precision level previously impossible. The willingness of President George H.W. Bush' Department

of Justice to give preclearance to shapes of a bizarreness hitherto unknown, led cartographer Mark Monmonier to name such creatures

“Bushmanders.”⁹³ The president's willingness may have been motivated by a will to adhere to the intentions of the Voting Rights Act of 1965, but one side-effect of packing a district with African-

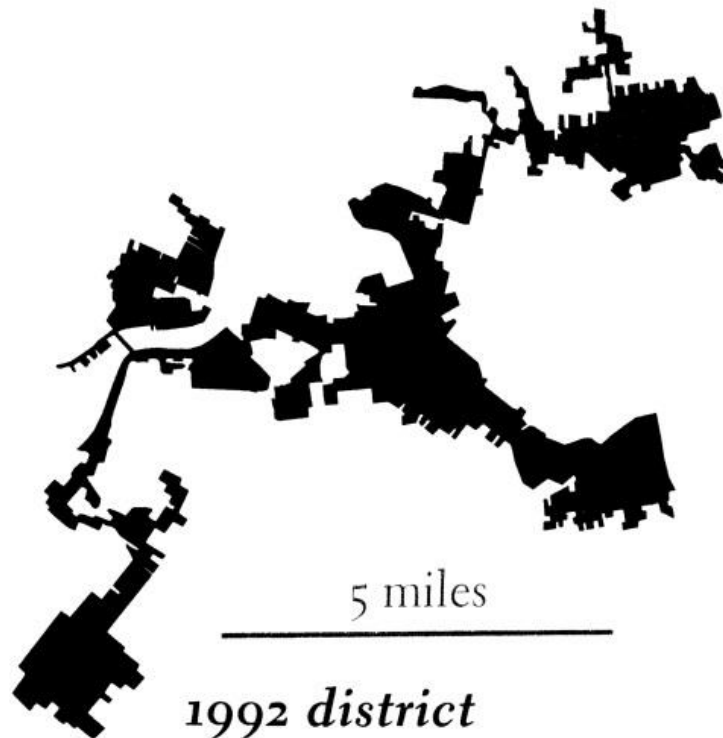


Figure 10 - New York 12th District, "The Bullwinkle"

American voters — who are most likely to vote for the Democrats — is that neighboring districts as a result will gain more white Republicans. In effect, this is gerrymandering, which Republicans at the time railed loudly against while the Republican-controlled Department of Justice was eager to give preclearance.⁹⁴

The previously mentioned Illinois 4th (The Earmuff) and North Carolina 12th (The Lower Intestines, see Figure 8, page 38) are among the many computer-drawn bug-splattered-on-windshield-shaped districts of the 90s. The most complex district, however, was New York City's District 12 — popularly named “The Bullwinkle District” — was a polygon with 813 sides. Under Section 5 of the Voting Rights Act it required — and got —

⁹³ Monmonier. 3.

⁹⁴ Monmonier. 8.

preclearance in 1992 by the Department of Justice under President George H.W. Bush. When signed into law by Governor Mario Cuomo in June 1992, its verbal description ran over 217 lines and 22 pages, reading “like the itinerary of a taxi driver trying desperately to run up the meter,” according to Monmonier.⁹⁵ Five years later, a panel of three federal judges declared the district unconstitutional, being based dominantly on race and ethnicity, and the district was redrawn.⁹⁶

Monmonier blames the Voting Rights Act of 1965 and the U. S. Supreme Court’s focus on complex qualitative issues for the bizarre shapes and for the extensive litigation that followed.⁹⁷ He maintains that “Bushmanders would be difficult, if not impossible without computers.” Those computers may also contribute to the extinction of such creatures. Since the early 1990s the lowered cost of computing power, open access to government data and the appearance of free redistricting software, redistricting projects that in the late 1980s cost millions — literally — are now available for any moderately skilled programmer.⁹⁸ This enables almost any interest group or organization to understand and evaluate the redistricting process — or even propose redistricting plans of their own.

3.6 Redistricting reforms

There is a trend toward redistricting reforms, fuelled by grassroots movements, such as The Midwest Democracy Network, aiming to end the legislators’ grip on the process.⁹⁹ Three states are the most remarkable examples of reforms: California, Arizona and Iowa. California and Arizona have both revised their respective state constitutions and formed external commissions to handle the redistricting process as a result of popular ballot initiatives. They both have faced challenges and resistance. In California their external redistricting agency is swelling beyond expectations, both in numbers and cost. In Arizona, the state legislature has gone to the U. S. Supreme Court to regain the redistricting rights which their voters revoked. Iowa is often hailed as an ideal by political scientists, but none of the states seeking election reforms have copied Iowa’s method.

⁹⁵ Monmonier. 5.

⁹⁶ Jonathan P. Hicks. "Albany Lawmakers Agree on Redrawn 12th District." *The New York Times*, July 31 1997.

⁹⁷ Monmonier. 25.

⁹⁸ The most prominent software is *DistrictBuilder* produced by The Public Mapping Project, which has support from, among others, Massachusetts Institute of Technology and scientific input from Associate Professor Michael P. MacDonald from George Mason University. <http://www.publicmapping.org/Home>

⁹⁹ <http://www.midwestdemocracynetwork.org/>

3.6.1 California: “What Kind of Democracy is That?”

California has moved from being a showcase of partisan redistricting to become “the largest laboratory of redistricting reform yet,” according to *The Almanac of American Politics*. Republicans controlled the map-drawing process in the 1940s and 1950s. Democrats were in control from the 1960s to the 1980s and perfected the craft of partisan mapmaking. In the 1984 U. S. House elections, the Democrats won only forty-eight percent of the statewide vote, but won sixty-two percent — twenty-eight of forty-five — of California’s seats in the U. S. House of Representatives. In 1994, after the next redistricting when they did not have the full control, fifty-two percent of the votes secured “only” fifty-two percent — twenty-seven of fifty-two — seats.¹⁰⁰

Several attempts to reform Californian redistricting had failed, and in the 2004 state congressional elections not one single of the 153 seats changed party hands. Republican Governor Arnold Schwarzenegger was outspoken: “What kind of democracy is that?” asked the “governator”, who warned the state legislature: "If we here in this chamber do not work together to reform the government, the people will rise up and reform it themselves. And, you know something, I will join them. And I will fight with them."¹⁰¹ He was proven right, and he stood by his promise.

November 2008, a citizen’s initiative, Proposition 11 — also called “The Voter FIRST Act” — was enacted by a narrow 51 percent majority, despite being opposed by powerful incumbents of both parties. In the 2010 documentary movie *Gerrymandering*, Kathay Feng, who was the main author of the initiative, shared that falling victim to blatant racism was what drove her to fight for reform. One major Asian community of Los Angeles was divided into separate minorities in four districts, and her representative had uttered that he would rather not have any more Asians squeezed into his district.¹⁰²

The new California redistricting process could hardly be more different than Iowa’s. Basically, Iowa lets two guys with a clear mandate draw a map, and then, after a round of public hearings, the legislature accepts it. California now showcases “a Byzantine application and lottery selection process,” according to *The Almanac of American Politics*. Proposition 11 transferred the right to redistrict from the legislature to a fourteen-member commission. Eight of the commission’s members are drawn by lottery from a pool of registered voters. Those eight then select the remaining six. Five of the fourteen must be

¹⁰⁰ Barone et al. 2014.

¹⁰¹ John Broder. "Schwarzenegger Proposes Overhaul of Redistricting." *New York Times*, January 6 2005.

¹⁰² Jeff Reichert. "Gerrymandering". USA. 2010.

from California's largest political party. Five must be from the second largest, and four must be from neither of those two parties. The commission may — and does — hire lawyers and consultants if needed. The proposition found broad support from several organizations and from fractions of both parties, but prominent politicians opposed it. Then Speaker of the U. S. House of Representatives, Nancy Pelosi (D), was against. So was the California Democratic Party. The opponents argued that the expenses were out of control, that the commission would not be held accountable to the voters and that the process was too complicated and no guarantee for the goals the supporters aimed.

The commission was not supposed to draw congressional districts, only for elections to the state legislature, but in 2010, this time with sixty-one percent of the votes in a popular ballot, the commission was mandated to redraw California — and it did. Twenty-seven incumbents were thrown into only thirteen districts. Fourteen districts had no incumbent. Among the seven incumbents who failed to be reelected was Democrat veteran Howard Berman, whose brother Michael in 2001 charged incumbents \$20,000 a piece to draw them safe congressional districts.¹⁰³ The California Democrats, who unwillingly had lost control of the redistricting, gained four seats. Sixty-one percent of the popular vote gave them seventy-two percent — thirty-eight of fifty-three — of the U. S. House seats, indicating that a change of method may indeed cause a change in election outcomes.

There was some criticism raised against the Democrats, who ran what is called an “astroturf campaign” during the hearings preceding the drawing of district borders. They sent party professionals acting as local, worried citizens into those hearings. A report made by the political news site ProPublica passes a dismal verdict on what was meant to be a step in another direction: “What emerges is a portrait of skilled political professionals armed with modern mapping software and detailed voter information who managed to replicate the results of the smoked-filled rooms of old.”¹⁰⁴

3.6.2 Arizona: The Electors vs. the Electorate.

Arizona has become the frontier of the redistricting reforms, and a short timeline of the Independent Redistricting Commission in Arizona may be appropriate. It may serve to illustrate some of the challenges a commission may face and an overview of the legal boundaries they operate within. At the time of writing this (March 2015) the GOP majority

¹⁰³ Hillel Aron. "Howard Berman's Last Stand." *LA Weekly*, May 31 2012.

¹⁰⁴ Jeff Larson and Olga Pierce. "How Democrats Fooled California's Redistricting Commission." ProPublica, <http://www.propublica.org/article/how-democrats-fooled-californias-redistricting-commission> .

of the Arizona legislature is appealing — not to its voters, but to the U. S. Supreme Court — to regain the state assembly’s authority to redistrict, which its voters revoked in a 2000 ballot initiative. When the U. S. Supreme Court reaches a decision some time this year, the case may have far-reaching consequences for all states that have reformed their redistricting processes — most notably California.

The series of events started in November 2000 when 784,282 citizens voted for and 605,094 voted against Proposition 106, an amendment to the Arizona state constitution “relating to ending the practice of gerrymandering and improving voter and candidate participation in elections by creating an independent commission of balanced appointments to oversee the mapping of fair and competitive congressional and legislative districts.”¹⁰⁵ This voter initiative took the redistricting job out of the legislature’s hands, both for state legislative districts and for United States congressional districts. According to the amendment, redistricting is left to a bipartisan commission with a chairperson “who shall not be registered with any party already represented on the independent redistricting commission.”¹⁰⁶ The lawmakers are not entirely left out of the process: Of the five commissioners, the legislature appoints four — but not the tiebreaking fifth commissioner. The fifth commissioner is appointed by the commissioners appointed by the legislators, who also get to comment on the map proposals.

During the first redistricting following the 2000 census, Democrats unsuccessfully filed suit against the commission, claiming that it had not created more competitive districts, which was one of the expressed goals of Proposition 106.¹⁰⁷ After the 2010 census, it was the Republicans’ turn to litigate. The commission did indeed create competitive districts, but the chairwoman of the commission was accused of partisanship, neglect of duty and misconduct and summarily removed from her post by Arizona governor Jan Brewer (GOP) — a decision quickly backed by a majority of the GOP-controlled Arizona State Senate. The Arizona State Supreme Court, however, ruled the governor’s and the senate’s actions unconstitutional and reinstated the chairwoman.¹⁰⁸ The commission then submitted redistricting maps to the Department of Justice for pre-clearance, as required by the amended Section 5 of the Voting Rights Act of 1965, and for the first time

¹⁰⁵ "State of Arizona Official Canvass." Arizona Secretary of State, 2000.

¹⁰⁶ "Proposition 106." Arizona: Arizona Secretary of State, 2000.

¹⁰⁷ Bob Christie. "Politics Surround Arizona’s Redistricting Process." *Washington Times*, March 31 2014.

¹⁰⁸ Colleen Coyle Mathis. "State Legislative Map Approved by the Department of Justice." News release, April 10, 2012, <http://www.azredistricting.org/News-Releases/docs/LD-Approval.pdf>.

since pre-clearance was required, it was accepted at first try.¹⁰⁹ In the 2012 election Democrats won all the three competitive districts by narrow margins.

The commission still faces several lawsuits, the most significant for congressional redistricting is a suit filed by the GOP majority in the state legislature, arguing that the commission lacks the constitutional authority to oversee the redistricting process, as the U. S. Constitution states that this shall “be prescribed in each State by the Legislature thereof” – and not a commission – regardless of the voters’ decision of November 2000. Their suit was dismissed in February 2014 by two federal judges in a panel of three at the United States District Court for the District of Arizona. The case is now appealed to the U. S. Supreme Court, which at the time of writing (March 2015) has reduced the case to two issues — whether the Arizona legislature has legal standing to bring such a suit before the courts and whether the Elections Clause of the U. S. Constitution and the U. S. Code permit Arizona’s use of a redistricting commission.¹¹⁰ The pivotal argument is whether “the Legislature” – the lawmaking body – named in the U. S. Constitution can only be interpreted as “the state senate and state house of representatives” as it indeed was interpreted by the one dissenting federal judge, or if “Legislature” can be read as “a popular vote on a ballot initiative,” which was not an option at the time the U. S. Constitution was ratified.¹¹¹

During the oral arguments in March 2015, several judges expressed doubt that “legislature” could be read as anything but “the legislative body” — not “the people” — of the state. Justice Antonin Scalia, who is a known proponent of a literal interpretation of the law, had searched in vain for any instance of the term being used as a synonym for anything other than “the state assembly.” Justice Anthony M. Kennedy warned the lawyer for the Arizona Independent Redistricting Commission: “History works very much against you,” Kennedy said, pointing to the fact that in order to reform the election of senators to the U. S. Senate in 1913, it took a constitutional amendment, not a state referendum.¹¹²

If this doubt causes the judges to support the Arizona legislators’ reclaiming of redistricting rights, it will also likely reverse California’s election reforms, an effect

¹⁰⁹ Section 5 of the Voting Rights Act was recently rendered moot, after *Shelby county v. Holder* (2013) ruled section 4 of the same act, which provides the formula that section 5 is based on, unconstitutional. This is explored further in chapter 3.8.

¹¹⁰ Lyle Denniston. "Fate of Non-Partisan Redistricting on the Line." In *SCOTUSBLOG - Supreme Court of the United States Blog*, 2014.

¹¹¹ Howard Fischer. "Redistricting Panel Urges US Supreme Court to Reject Challenge from State Lawmakers." *Arizona Capitol Times*, July 7 2014.

¹¹² Adam Liptak. "Court Skeptical of Arizona Plan for Less-Partisan Congressional Redistricting " *The New York Times*, March 3 2015.

Professor Persily and others strongly warn against. Persily points to the fact that legislators — while in the majority — seldom support election reforms, and that direct democracy has proved useful to push such reforms through. He also warns against unforeseen consequences if the Arizona legislators should win in court: “The bounds of [the] Appellant’s argument cannot be easily contained.”¹¹³

It would be easy to dismiss the gripes of the Arizona legislators as nothing more than just that — gripes. There is, however a bigger and much more wide-reaching basic issue wrapped into this conflict. The political system in the United States of America is on the state and federal level not a direct democracy. It is mainly a *representative* democracy in which presumed responsible representatives gather to make decisions on behalf of the people. The Founding Fathers agreed on several provisions to prevent the nation from being ruled by the whimsical ideas of a majority. Federalist letter author and fourth president of the United States, James Madison, made it clear that he placed no trust in direct democracy: “In all numerous assemblies, of whatever character composed, passion never fails to wrest the scepter from reason. Had every Athenian citizen been a Socrates, every Athenian assembly would still have been a mob.”¹¹⁴

In its brief in support of the commission, The Brennan Center for Justice at New York University argues that Madison not only opposed direct democracy; according to the chronicler of the 1787 Federal Convention, Madison also warned one legislative branch controlling the elections to another:

“He observed that in some of the States one branch of the Legislature was composed of men already removed from the people by an intervening body of electors (...) the people would be lost sight of altogether; and the necessary sympathy between them and their rulers and officers, too little felt.”¹¹⁵

In its brief The Brennan Center argues that, despite Madison’s mob-rule-warnings, for more than a century, citizen initiatives have regulated federal elections and Congress has approved those regulations.¹¹⁶ In 1912, Ohio reformed its constitution, and three years later a public referendum rejected a set of congressional district maps. In *Davis v. Hildebrant* (1916), the court upheld the referendum as “a part of the state Constitution and

¹¹³ Persily et al. 6.

¹¹⁴ James Madison. "The Federalist No. 55. The Total Number of the House of Representatives." *Independent Journal*, February 13 1788.

¹¹⁵ United States. Constitutional Convention (1787), and Max Farrand. *The Records of the Federal Convention of 1787*. 3 vols New Haven,: Yale University Press, 1911.

¹¹⁶ The Brennan Center for Justice. "Brief of the Brennan Center for Justice at N.Y.U. School of Law as Amicus Curiae in Support of Appellees." In *On appeal from the United States District Court for the District of Arizona*, 2015. 3.

laws.” Since 1787 popular sovereignty has become “increasingly prominent” as states have amended their constitutions: South Dakota adopted direct democracy for some electoral procedures in 1898, Utah in 1900, Oregon in 1902 and 1904, Arkansas in 1916 and Ohio in 1962 — just to mention a few. States have repeatedly made use of direct democracy to form electoral practices like establishing a primary system for all elections, for permitting the use of voting machines, for deciding on whether absentee ballots should be counted. The list goes on. During the oral arguments in the U. S. Supreme Court, Justice Elena Kagan observed that “there are zillions of these laws.”¹¹⁷ Also, when new states were admitted to the Union, several had constitutions in which the people retained the right to overturn the actions of their respective legislatures. Never did Congress protest against such state constitutions, not even against Arizona’s constitution which at the time Arizona was admitted into the Union in 1912, stated that the people “also reserve for use at their own option, the power to approve or reject at the polls any act, or item, section, or part of any act, of the legislature.”¹¹⁸

In its reply brief to the U. S. Supreme Court, the Arizona State Legislature quotes Madison’s warnings against direct democracy extensively and concludes that “the Framers were well acquainted with direct democracy, including its possible use by the states.” It goes on to argue that the Arizona Independent Redistricting Commission is “an unelected and unaccountable commission.”¹¹⁹ In contrast, the state legislature representatives are “elected, accountable and handpicked for the task by the Framers.” A warning is issued in the brief: If one was to accept the political theory of the reformers, nothing would prevent other states from leaving the task of redistricting “to an unaccountable, yet fiercely partisan, assemblage of political operatives.”

The U. S. Supreme Court will have to weigh this against warnings from several reform supporters. The Brennan Center argues that a ruling in favor of the Arizona State Legislature would “undermine the ability of citizens of the states to combat the persistent problems of gerrymandering and to enact other electoral reforms.”¹²⁰ The literal reading of “Legislature” would reverse decades of reform, The Brennan Center argues and provides a

¹¹⁷ "ARIZONA STATE LEGISLATURE v. ARIZONA INDEPENDENT REDISTRICTING COMMISSION," The Oyez Project at IIT Chicago-Kent College of Law, accessed March 15, 2015, http://www.oyez.org/cases/2010-2019/2014/2014_13_1314#argument.

¹¹⁸ The Brennan Center for Justice. 24.

¹¹⁹ Arizona State Legislature. "Reply Brief for Appellant." In *On appeal from the United States District Court for the District of Arizona*, 2015.

¹²⁰ The Brennan Center for Justice. 1.

1755 dictionary definition: “the power that makes laws.” That did not, however, move the Justice Scalia during the presentation of the oral arguments.

Literal interpretation was taken as an argument for the reformers by Nathan Persily in his brief in support of the commission. He offers an entirely different take: If one is to read the Constitution as literally as the Arizona State Legislature does, the Elections Clause does not mention redistricting at all. It says “Places and Manner of *holding* elections.” Redistricting “does not affect how, where, or whether elections are *held*,” Persily argues. It affects only *who* can run, not the places and manner. The day of oral arguments did, however, not include any discussion of that idea.

The Supreme Court is expected to rule on the case by the end of June 2015.¹²¹

¹²¹ Lawrence Hurley. "Supreme Court to Weigh Arizona Redistricting Challenge." *Reuters* (2014). <http://www.reuters.com/article/2014/10/02/us-usa-court-arizona-election-idUSKCN0HR1JQ20141002>.

3.6.3 Iowa – Often Idolized, Never Imitated

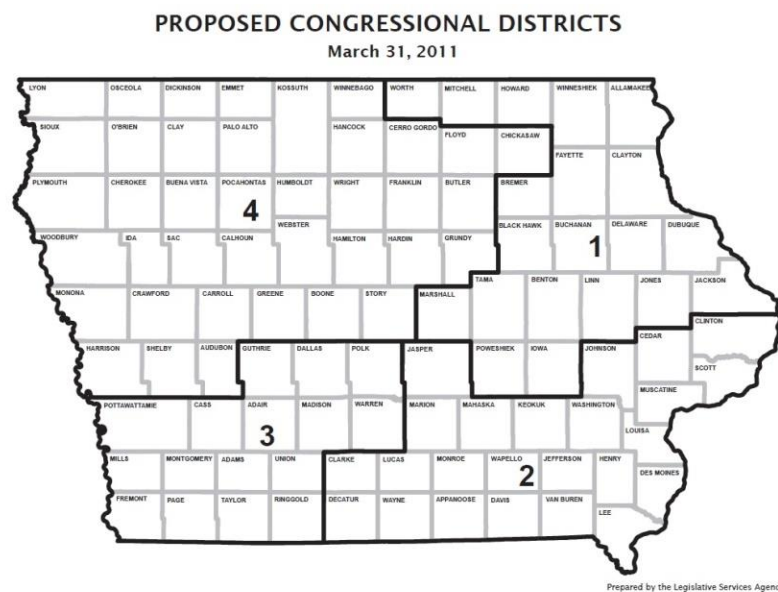
Iowa is a bastard — in part legislative, in part commission and in part external agency. When it comes to redistricting, Iowa defies strict classification. Iowa’s electoral maps are drawn by an independent external agency, overseen by a bipartisan commission, mandated by the legislature.

In 1968 the Iowa General Assembly adopted new legislative plans, but they were challenged in court and subsequently overturned by the Iowa Supreme Court. From then and during the 1970s the state high court drew the electoral maps. In 1980 the Iowa General Assembly established the process and procedures still used. Since then, no redistricting plan has been challenged in court.¹²² The assembly decided that an external, non-partisan agency should do the actual redistricting without considering any political statistics, political demographics or consequences for incumbents. Compactness, numerical equality and not splitting counties among districts are the main criteria.¹²³ The external agency was The Legislative Services Bureau, since then renamed Legislative Services Agency, and between

redistricting cycles the civil servants working there provide the Iowa state legislature with all kinds of administrative, legal and technical services.

A temporary bipartisan redistricting commission is appointed every decade to oversee the agency and to conduct

public hearings on the agency’s proposed electoral districts. The legislature *has* retained an option to amend the agency’s maps if those fail to pass legislation a third time, but this has never happened. According to the Iowa Legislative Services Agency’s legal counsel in charge of redistricting, Ed Cook, no politicians knock on their door when he and a



¹²² Ed Cook. 2007. Legislative Guide to Redistricting in Iowa. Iowa: Iowa Legislative Services Agency.

¹²³ The Legislative Services Bureau has since integrated with other services and become Iowa Legislative Services Bureau.

colleague draw the actual maps.¹²⁴ Their jobs are safe, even if powerful politicians should be threatened by the maps — as they routinely are. On that basis, classifying Iowa in this thesis as an external agency/state commission-state, can be defended, even if it technically and legally still is a legislation-state. The Brennan Center for Justice at NYU School of Law classifies Iowa as an “advisory commission”-state in its media guide, which may also technically be correct, since Iowa every decade appoint a temporary electoral commission.¹²⁵ However, that commission’s sole task is to lead public hearings on the proposed maps and to present the maps to the legislature. It plays no role in deciding how the borderlines are drawn.¹²⁶ In the 2008 book *Redistricting in Comparative Perspective* Professor Michael P. McDonald calls Iowa’s process “Commission + Legislative Process”.¹²⁷

In *State Politics & Policy* the three professors Jamie Carson from University of Georgia, Michael Crespin from University of Texas and Ryan Williamson from University of Georgia brands Iowa’s process as changing from “Legislative” to “Commission” and back to “Legislative”.¹²⁸ “Legislative” may be an acceptable label, since the legislature indeed has the legal right to reject and append the external agency’s maps. A classification as a commission-state is less understandable, due to the commission’s very limited mandate, and one simply *cannot* change Iowa’s classification from decade to decade, as Carson, Crespin and Williamson does, since the process has been unchanged since 1980.¹²⁹

Since the agency’s first redistricting in 1980, however, the Iowa legislature has shown a restraint unknown to the Arizona legislators — even if the bipartisan commission in Arizona has a stronger legal protection than the Iowa Legislative Services Agency has — and the agency has presented maps where strong incumbents have found themselves suddenly in another district than their supporters. The state legislature has the option of overriding the agency’s maps in a third legislative round, but this political safety switch has not been flipped since the agency took over this work — not even once. This division of labor is not a part of the Iowa State Constitution, so the legislators may change the process at their leisure, without asking their voters.

¹²⁴ Jeff Reichert. 2010. *Gerrymandering, USA*. Cook is interviewed in this movie.

¹²⁵ Erica Wood and Myrna Pérez. 2011. *A Media Guide to Redistricting*. New York: Brennan Center for Justice at NYU School of Law. 27.

¹²⁶ Email from legal counsel Ed Cook, Iowa Legislative Agency on August 27, 2014.

¹²⁷ Lisa Handley and Bernard Grofman. 2008. *Redistricting in comparative perspective*. Oxford: Oxford University Press. 62.

¹²⁸ Jamie Carson, Michael Crespin and Ryan Williamson. 2014. "Reevaluating the Effects of Redistricting on Electoral Competition, 1972-2012." *State Politics & Policy Quarterly* 14 (2):165-177.

¹²⁹ The authors have been questioned by email about this, but they have provided no clear explanation to their alternating classifications.

Christopher Larimer, a political science professor at Northern Iowa University offered this explanation to *US News & World Report*: “It is almost like a game of chicken. The legislators can send it [the maps] back for another draft, but then they risk it coming back worse for their party.”¹³⁰ This actually happened in 2001, when Republicans rejected the agency’s first map. They based their rejection on a claim that the population disparities were too large — the district populations varied too much to the legislators’ liking. Whether this was the real basis for their rejection or simply a convenient excuse to overturn an inconvenient redistricting plan, is beyond examination in this paper. Nevertheless, the agency returned with a new set of maps with smaller population disparities as ordered — and two Republican incumbents placed within the same district.¹³¹ This map was approved by a majority in the Iowa State Legislature. The maps following the 2000 and 2010 censuses produced several districts contested by both parties, but at both times, the legislature ratified the maps without moving a single border.¹³²

There are two aspects of Iowa which may explain this. First of all, Iowa is an exceptionally homogenous state with a largely white population, evenly sized districts and relatively high social equality. Most of all Iowa is purple — a quite even mix of Republican blue and Democrat red. Several commentators take pride in pointing out this fact. As a result, political battles are fierce and competitive, and any victory may be turned to a loss in two years. This may cause politicians to be inclined toward keeping the “redistricting-stick” out of the political arsenal, since all politicians may quickly find themselves on the receiving end.

In an interview with *Morgenbladet*, Political scientist Francis Fukuyama argues that civil servants need a certain degree of autonomy to run government offices properly.¹³³ He argues that, while Americans continuously argue the legitimacy of state government, Europeans are more ready to accept both the legitimacy of and the need for government. If we apply his perspectives to redistricting processes, Iowa comes off as more European than American, which may be one of the reasons why no other state has copied Iowa’s method.

In this thesis, Iowa will be counted among the states redistricting through a legislative process. It is tempting to place Iowa among commission-states or even in a group of its own, since it clearly has found a better method than most other states. It is,

¹³⁰ Lauren Fox. "Iowa Hosting Four Fierce Congressional Races Thanks to Redistricting." *US News & World Report*, July 5 2012.

¹³¹ Placing two incumbents in the same electoral district is close to a worst-case-scenario. It is described in detail in chapter 2.2.4

¹³² Barone et al. 31572/90879.

¹³³ Gudmund Hernes. "Og Nå: Verdensproblemer." *Morgenbladet*, December 12 2014.

however, also evident that Iowa has managed to maintain a legislative process without corrupting it. Its state constitution is not different from most other constitutions. Its political culture and tradition, however, is unique.

3.7 Hubris and Demolition: Shelby County v. Holder

Two aspects are noteworthy in *Shelby County v. Holder* (2013). First, there is a twisted line stretching back to *Baker v. Carr* (1962). In *Baker v. Carr*, the conservative minority dissented in the U. S. Supreme Court when the liberal majority held that electoral practices such as partisan redistricting — until then seen as exclusively within the political domain — could be justiciable. In *Shelby v. Holder*, it was the narrow conservative majority (5-4) that chose to upend *The Voting Rights Act of 1965* — which was repeatedly and relatively recently renewed by Congress — while the liberal minority argued for judicial restraint. Second, it chose to emphasize states' rights at the cost of civil rights.

The U.S. Supreme Court justices in *Shelby v. Holder* emphasized that the core of *The Voting Rights Act of 1965* remains unchanged; the act still outlaws discriminatory electoral practices. The court did, however, effectively end the frequently used protection awarded by Section 5. The high court held that the formula in Section 4 — which defines *which* states and districts need preclearance from the Justice Department under Section 5 — was based on bygone facts from 1965. It could no longer outweigh the Tenth Amendment, which reserves to the states all powers not specifically granted to the Federal Government, including the power to regulate elections. The Voting Rights Act “sharply departs from these principles,” noted the majority. The court invited Congress to come up with a new, up-to-date formula for Section 4, but critics found this unrealistic, given today's polarized political environment.¹³⁴ Without Section 4, no states or districts are subject to the preclearance demands in Section 5.

Congress had renewed the provisions of the Voting Right Act quite recently — in 2006. In an unusually strongly worded dissent, justice Ruth Bader Ginsburg acknowledged that the 2006 renewal was within the political domain and that the court should leave it there — or in her own words: The decision was “well within Congress's province to make and should elicit this court's unstinting approbation.” Her characterization of the Supreme

¹³⁴ "An Assault on the Voting Rights Act." *The New York Times*, June 25 2013.

Court majority leaves no room for misinterpretation: “(...) the Court’s opinion can hardly be described as an exemplar of restrained and moderate decision-making. Quite the opposite. Hubris is a fit word for today’s demolition of the VRA.”

Some of the reactions were just as blunt as Bader Ginsburg’s: “another damaging and intellectually dishonest ruling” was the verdict from the New York Times editorial writers, who concluded that the court had “usurped Congress’ power.”¹³⁵ President Obama was “deeply disappointed” and politicians expressed doubt that Congress would be able to come up with a revised Section 4 strong enough to pass the U. S. Supreme Court. When Congress reenacted the Voting Right in 2006, they produced 15,000 pages of documentation, showing the sustained need for preclearance.¹³⁶

The very same day that The U. S. Supreme Court published its decision, Texas announced its intent to implement a voter-ID law previously deemed discriminatory and blocked by the Justice Department. Other states soon followed Texas’ example. The Justice Department challenged Texas under a provision in Section 3 of The Voting Rights Act, which can be used on a case-by-case basis given a history of discrimination. Attorney General, Erik J. Holder Jr. promised that the Obama administration would “use every tool at their disposal” to fight discriminatory laws.

One year after the decision, in June 2014, The Brenner Center for Justice summarized the impact of *Shelby v. Holder*. Their main findings were that Section 5 no longer blocks or deters discriminatory voting changes, that challenging new discriminatory laws and practices had become more difficult, expensive, and time-consuming, and that the public now lacks critical information about new voting laws.¹³⁷

The Brennan Center also issued a warning, that the effects may be “felt most acutely at the local level,” which is doubly troublesome, since most of the discrimination takes place on the local level where there are least resources to fight it. A similar warning also came from Richard L. Hasen, professor of law and political science at the University of California. He noted that if the reality indeed was as described by Chief Justice John G. Roberts Jr, it was so because The Voting Rights Act worked and needed no revision.¹³⁸ Hasen was also skeptical to the Attorney General’s “clunky” use of the remaining parts of

¹³⁵ "An Assault on the Voting Rights Act." *The New York Times*, June 25 2013.

¹³⁶ Jackie Calmes, Robbie Brown, and Campbell Robertson. "On Voting Case, Reaction from ‘Deeply Disappointed’ to ‘It’s About Time’." *The New York Times*, June 25 2013.

¹³⁷ Thomas Lopez. "'Shelby County': One Year Later." New York: Brennan Center for Justice at New York University School of Law, 2014.

¹³⁸ Richard L. Hasen. "The Chief Justice’s Long Game." *The New York Times*, June 25 2013.

The Voting Rights Act. Both the professor and the Attorney General urged Congress to revive Section 4 with more general preclearance requirements.¹³⁹

¹³⁹ Adam Liptak and Charlie Savage. "U. S. Asks Court to Limit Texas on Ballot Rules." *The New York Times*, July 25 2013.

4 Do election results depend on the redistricting method?

4.1 Apportionment, Redistricting and Election Results, State by State

In this chapter we look into who was in power when the congressional district borders were drawn and decided, which method they used to decide those borders, and what the election outcome was.

Following the 2010 census, the apportionment results were handed to the state governors by January 24, 2011, as described in detail in chapter 1.2. The detailed census data were distributed to the respective states through February and March. Then the states could start revising their congressional maps. Before the first state primaries and caucuses in August 2012 the congressional district maps must be made official.

This implies that in order to establish any causal relationship between method and effect, we must look into the balance of power in each state in the late summer of 2012 when the maps were finalized. We must also establish who controlled the governorship in 2011 and 2012 and who had won the most recent state legislature elections and thereby controlled the state house and the state senate in 2012 when the maps were finalized.¹⁴⁰ Most states elect state house representatives every two years, but some states elect every four years, so we must check election outcomes from 2010 – and in some cases from 2008. New Jersey and Virginia had state legislature elections in 2009. We must check each district to find if the incumbent of the 112th U. S. Congress ran for reelection in November 2012 to the 113th U. S. Congress and whether they succeeded or failed. Then we will group the states according to their chosen methods and see if their reelection rates correlate to their chosen method.

With two exceptions, the congressional district boundaries remained the same for the 109th to the 112th Congress. Georgia and Texas redrew their maps between the 109th and the 110th Congress. For this thesis, the shorter lifespan of Georgia's and Texas' map should not be significant.

¹⁴⁰ Nebraska is the only state without a bicameral legislature.

Reference books and websites are full of useful statistics and facts on American politics, but — sadly — research for this thesis have not come up with any single source providing the information needed. Much is found and entered into the spreadsheets shown in the appendices titled State overview and Electoral district details.

The names and numbers in this chapter and the appendices are mostly from the 2012 and 2014 editions of *The Almanac of American Politics*, from the extensive databases of Ballotpedia and from numerous articles provided by The Brennan Center for Justice.¹⁴¹ Most of these data are presented without any other attribution than this one. This is solely due to the fact that they are too numerous. The names and numbers from these sources are found as tables in the appendices, and conclusions in this chapter are based on those tables.

4.1.1 Conventions used in this chapter

When 2012 is the given date, it means late spring and summer 2012 during the 112th Congress, when the next congressional district maps were finalized, before the election to the 113th Congress.

When November 2012 is the given date, it is used about the outcome of the November election to the 113th Congress.

(R) = Republican. (D) = Democrat. (I) = Independent.

“Incumbency reelection rate” will in the following chapter refer to the number of incumbents winning, as a percentage of the number of incumbents running.

“Majority reelection rate” is the same number, but only for the candidates representing the largest party in state legislature. Note that this is not always the party winning the most seats in U. S. Congress.

“Minority reelection rate” is the same number for the smaller party, but not necessarily the smallest party in the state legislature, which in some states are independents.

“Total reelection rate” is the total number of reelected incumbents, as a percentage of the total number of congressional districts in the respective states. Note that if a district has two incumbents – as some do after redistricting – the district is counted only as one won by an incumbent.

All percentages are rounded to the nearest integer.

¹⁴¹ <http://ballotpedia.org> and <http://www.brennancenter.org/analysis/national-overview-redistricting-who-draws-lines>

If districts are redrawn, we count incumbents from a previously otherwise numbered district as incumbents in their new districts, since they still retain the incumbent's advantages of name recognition and financial resources. In some redrawn districts, most notably in California, a single district may have several incumbents running.

If an incumbent drops out before Election Day or is beaten in a primary election, he or she will be counted as not running.

If an incumbent after redistricting runs for election in another district, he or she will still be counted since an incumbent.

Candidates who already served in Congress, due to special midterm elections, are all counted as incumbents, no matter how short their times in office were.¹⁴²

¹⁴² There is one single exception to this rule. Suzan DelBene of Virginia's First District won a special election on Election Day, November 2012, to fill the vacant position of Jay Inslee, who ran for U. S. Senate. This means she served from November 2012 to January 2013. She did not, however, serve before Election Day, so her incumbency has no relevance to this thesis.

4.2 States redistricting by independent commission

4.2.1 Arizona

The 2011 reapportionment awarded Arizona a new, ninth district and triggered a serious redistricting. Establishing the incumbents' reelection rate is not straightforward in this state and election. Four of eight incumbents ran in the 2012 election. Two of them ran in other districts, new, but overlapping with the old districts they won in 2010. Because they still had the incumbent's advantage and faced no other incumbent in their respective districts, we will count their wins as both incumbents and as party keeps.

The Republican Party controlled House, Senate and governorship, but the redistricting was controlled by an external, independent commission. Incumbents ran for reelection in four of nine districts, winning all races. The incumbents' reelection rate was 100% (5/5). The majority (R) party's incumbents' reelection rate was 100% (3/3). The minority party incumbents' reelection rate was 100% (2/2). The total reelection rate was 56% (5/9). The revised and contested redistricting process in Arizona is described in detailed in chapter 3.6.2.

4.2.2 California

California's redistricting was the most radical of all following the 2010 census, both in terms of ends and of means. In the decade following the 2001 redistricting, only one single of the Golden State's fifty-three seats the U. S. House of Representatives changed party hands. After the drastic 2011 redistricting, executed by a public commission – as described in detail in chapter 3.6.1 – California's Congressional district borders were completely redrawn. As a result, fourteen districts had no incumbent running and thirteen newly formed districts shared twenty-seven incumbents.

The California State Assembly and the State Senate were both controlled by the Democrats, and a Democrat governor was elected 2010. Incumbents ran for reelection in forty-four of fifty-three districts, winning thirty-nine of those races. The incumbents' reelection rate was 89% (39/44). The majority (D) party's incumbents' reelection rate was 93% (27/29), losing two races to new Democrats. The minority party incumbents' reelection rate was 80% (12/15). The total reelection rate was 74% (39/53).

4.2.3 Hawaii

Hawaii is a Democrat stronghold with two seats in the U. S. House of Representatives, the same as before the 2011 redistricting. Hawaii uses a nine-member bipartisan commission for redistricting. Two members each are appointed by the President of the Hawaii State Senate, the Speaker of the Hawaii House of Representatives, the Hawaii State Senate Minority Leader and the Hawaii House of Representatives Minority Leader. The commission Chair is appointed by Hawaii State Supreme Court. The commission is mandated to draw compact, contiguous districts and preserve socio-economic communities where practicable. In 2011, the Hawaii State Supreme Court overturned the redistricting plans for State Legislature, but the congressional maps were accepted.¹⁴³

Incumbents ran for reelection in one of two districts, winning the one. The incumbents' reelection rate was 100% (1/1). The majority (D) party's incumbents' reelection rate was 100% (1/1). The minority party incumbents' reelection rate was 0. The total reelection rate was 50% (1/2).

4.2.4 Idaho

Redistricting in Idaho – where Republicans have 80% of the state House and Senate seats – is described by the Almanac of American Politics as 'to simply shift the Boise dividing line between the First and Second districts a mile or two west every ten years.'¹⁴⁴ Nevertheless, on September 15, 2011 the bipartisan redistricting commission failed to come up with a unified redistricting plan within its 90-day deadline. The Idaho State Secretary promptly appointed a new commission, which with four votes for and two against adopted a new plan on October 17.

Incumbents ran for reelection and won in both districts. The incumbents' reelection rate was 100% (2/2). The majority (R) party's incumbents' reelection rate was 100% (2/2). The minority party incumbents' reelection rate was 0. The total reelection rate was 100% (2/2).

¹⁴³ "Redistricting and Apportionment." State of Hawaii Office of Elections, <http://hawaii.gov/elections/reapportionment/>.

¹⁴⁴ Barone et al. 25952/90879

4.2.5 New Jersey

Since 1995 a commission has handled New Jersey's redistricting. In 2011 they had lost one seat in the U. S. House of Representatives. Six Democrats and six were appointed by the State House, and those twelve elected a thirteenth member as chairperson and a presumably neutral tie-breaker. The independent chairperson sided with the Republicans, and the commission came up with a plan pitting two incumbents against each other in one district. The Democrat in question chose not to run for reelection.

Incumbents ran for reelection and won in all twelve districts. The incumbents' reelection rate was 100% (12/12). The majority (D) party's incumbents' reelection rate was 100% (6/6). The minority party incumbents' reelection rate was 100% (6/6). The total reelection rate was 100% (12/12).

4.2.6 Washington

Since 1983, Washington has appointed a bipartisan commission to draw the electoral maps. In case of deadlock, the Washington State Supreme Court will take over, and the legislature has retained the option of overriding the commission, but that would require a majority of two thirds in both chambers of the legislature. Unlike the commissions in Iowa and California, the commission is allowed to actively protect incumbents – and it does.

Incumbents ran for reelection in seven of ten states and won all. The incumbents' reelection rate was 100% (7/7). The majority (D) party's incumbents' reelection rate was 100% (2/2). The minority party incumbents' reelection rate was 100% (5/5). The total reelection rate was 70% (7/10).

4.3 States without one-party control, redistricting by legislature

4.3.1 Colorado

The Colorado state legislature has twice failed to push a redistricting plan through house, state and governor. In 2001 Republicans lacked a single seat in the State Senate to push their plan through. In 2011 Democrats faced the same dilemma. They had the governor and a State Senate majority, but they lacked one single seat in the State House.

Both times, judges chose to apply Democrat-drawn maps in order to make one district more competitive. Nevertheless, in 2012, all seven incumbents won reelection, four of them Republicans.

All reelection rates were 100%.

4.3.2 Indiana

If the Indiana State Legislature cannot agree on a redistricting plan, a five-member bipartisan commission is appointed. The Governor appoints the tiebreaking fifth member. The governorship secured redistricting-control for Democrats in 2001 despite Republican majority in the Indiana State Senate. In 2011 Republicans had secured control of House, Senate and governorship. They weakened the Democrat base of the Indiana Second District in which the incumbent Joe Donnelly chose to run — successfully — for U. S. Senate.

Incumbents ran for reelection in six of nine districts and won all six. The incumbents' reelection rate was 100% (6/6). The majority (R) party's incumbents' reelection rate was 100% (4/4). The minority party incumbents' reelection rate was 100% (2/2). The total reelection rate was 67% (6/9).

4.3.3 Iowa

In 2011, Iowa lost its fifth seat in the U. S. House of Representatives. The maps sent by The Iowa Legislative Agency for approval by the Iowa State House and Senate included one district with two Democrat incumbents pitted against each other and another with two Republican incumbents. The maps were accepted almost unanimously by all three levels of state legislature. Two of the four U. S. House representatives moved to new districts. One of those was Republican Tom Latham, who beat the 78 year-old eight-term incumbent Leonard Boswell (D) in the Third District. Boswell's win had been narrower than Latham's in 2010, and the 2011 redistricting worked in Boswell's disfavor.

Incumbents ran for reelection in four of four districts and won all. The incumbents' reelection rate was 100% (4/4). The majority (R) party's incumbents' reelection rate was 100% (2/2). The minority party incumbents' reelection rate was 67% (2/3). The total reelection rate was 100% (4/4).

Iowa's redistricting process is described in detail in chapter 3.6.3.

4.3.4 Kentucky

Democrats have more registered voters than Republicans in The Commonwealth of Kentucky, but Republicans control the Kentucky State Senate and have more seats in the U. S. House of Representatives. The Governor is a Democrats, and legislators agreed on fairly non-partisan maps in 2001 and 2011.

Incumbents ran for reelection in five of six districts and won four. The incumbents' reelection rate was 80% (4/5). The majority (D) party's incumbents' reelection rate was 50% (1/2). The minority party incumbents' reelection rate was 100% (3/3). The total reelection rate was 80% (4/6)

4.3.5 Louisiana

All seven incumbents ran for reelection, even though The Pelican State kept only six seats in the U. S. House of Representatives after the 2011 reapportionment. Louisiana redistricting plans needed preclearance by the Department of Justice under Section 5 of the Voting Rights Act of 1965. A long battle between politicians promoting several different alternatives was fought before the plans were submitted in April 2011. In the spring of 2011 Democrats had a slim majority in the State House, a solid majority in State Senate, but the Republicans had the Governor – and thereby veto power over redistricting plans.

Incumbents ran for reelection in six of six districts and won all. The incumbents' reelection rate was 100% (6/6). The majority (D) party's incumbents' reelection rate was 50% (1/2). The minority party incumbents' reelection rate was 100% (5/5). The total reelection rate was 100% (6/6).

4.3.6 Minnesota

Republicans were a majority in both State Senate and State House, but not large enough to override the May 19, 2011 veto from the Democratic-Farmer-Labor Governor Mark Dayton, who refused to sign any redistricting plan presented to him without bipartisan support. The case then went to the Minnesota State Supreme Court, which formed a five-judge panel – as it had done ten years before. The rules set down by the panel were largely the common ones: Compactness, contiguity and preserving community interests, but its carefully weighted words on incumbent protection is worth repeating here:

“Congressional districts shall not be drawn for the purpose of protecting or defeating

incumbents. But the impact of redistricting on incumbent officeholders is a factor subordinate to all redistricting criteria that the panel may consider to determine whether proposed plans result in either undue incumbent protection or excessive incumbent conflicts."¹⁴⁵ The ruling guidelines mention neither stimulating nor stifling competition, so while incumbency protection is expressly the least important factor, increased competition is not a goal at all for Minnesotans.

February 21, 2012, after hearings and reviewing submissions of map proposals from Republicans, Democrats and some other groups, the judicial panel published the finalized maps for elections to both U. S. House of Representatives and Minnesota State Legislature. The congressional district map was not drastically different from the initial Republican alternative, but it pitted the quite recent presidential candidate and very conservative U. S. House incumbent Tea Party Republican Michele Bachmann against the more popular Democrat Betty McCollum in District Four. Bachmann had by then already decided to run in District Six, which she won by an inch (51% vs 49%).

Incumbents ran for reelection in all eight districts and won seven. The incumbents' reelection rate was 88% (7/8). The majority (R) party's incumbents' reelection rate was 75% (3/4). The minority party incumbents' reelection rate was 100% (4/4). The total reelection rate was 88% (7/8).

4.3.7 Mississippi

In the Magnolia State redistricting is a legislative process — in principle. Several factors complicate the process. For one, Mississippi is one of the four states to hold state legislature elections in 2011, which leaves little time for redistricting, and its House representatives serve for four years, as do the state senators. Before the 2011 elections — and since Reconstruction — Democrats ruled the Mississippi House of Representatives with sixty-eight seats vs. the Republicans' fifty-four. In 2011 Republicans won the House with a narrow sixty-three to sixty-nine majority. In the same election, Mississippi Republicans widened their narrow majority in the State Senate from twenty-seven vs. twenty-four to thirty-one vs. twenty-one. It was, however, the legislature elected in 2007 which decided to leave the redistricting process to a panel of federal judges, arguing that the legislature hardly was able to agree over maps in time to prepare for a proper election. The same

¹⁴⁵ "Order Stating Redistricting Principles and Requirements for Plan Submissions." State of Minnesota Special Redistricting Panel. Minnesota: Minnesota Office of Appellate Courts, 2011.7.

happened in 2001. Mississippi was subject to pre-clearance under the Voting Rights Act of 1965, and the legislators doubted that they could draw maps that survived departmental scrutiny. When federal judges drew electoral maps, however, the DOJ had no mandate to overrule their decision.

Incumbents ran for reelection and won in all four districts. The incumbents' reelection rate was 100% (4/4). The majority (R) party's incumbents' reelection rate was 100% (3/3). The minority party incumbents' reelection rate was 100% (1/1). The total reelection rate was 100% (4/4).

4.3.8 Missouri

In 2011, *The Show Me State* showed the world how color may trump party-affiliation. Republicans controlled both chambers of the state legislature, but their partisan redistricting plan was “halfheartedly” vetoed by the Democrat Governor Jay Nixon, according to the *Almanac of American Politics*.¹⁴⁶ A gubernatorial veto may be overridden by a two-thirds majority in Missouri, but the Republicans lacked four seats in the House of Representatives to do so. Come voting day, State House Representative Leonard “Jonas” Hughes IV (D) – with tears in his eyes – explained that pressure from the U. S. House Representative Emanuel Cleaver (D) made him break ranks and voted against his own party helping Republicans override the veto. Cleaver was leader of the Black Caucus in U. S. House of Representatives, and the Republican plan secured a black minority-minority district at the cost of weakening the Democrats chances to win a second seat. The Republican plan worked.¹⁴⁷

Incumbents ran for reelection in seven of eight districts and won all seven. The incumbents' reelection rate was 100% (7/7). The majority (R) party's incumbents' reelection rate was 100% (5/5). The minority party incumbents' reelection rate was 100% (2/2). The total reelection rate was 88% (7/8).

4.3.9 Nevada

Having gained a new seat in the U. S. House of Representatives four decades in a row, the Nevada legislature in 2011 drew a congressional district map with one safe

¹⁴⁶ Barone et al. 46613

¹⁴⁷ Aaron Blake. "Missouri Map Set after State House Overrides Nixon's Veto." *The Washington Post*, http://www.washingtonpost.com/blogs/the-fix/post/missouri-map-set-after-state-house-overrides-nixons-veto/2011/05/04/AFRJcboF_blog.html.

Republican seat, one safe Democrat seat and two Democrat-leaning. Governor Brian Sandoval (R) vetoed the maps drawn by the legislature's Democrat majority, and Judge James Todd Russell of the Nevada First Judicial District Court appointed a panel of three men who drew a map which contributed to a draw, two Democrats and two Republicans.

Incumbents ran for reelection in two of four districts and won both. The incumbents' reelection rate was 100% (2/2). The majority (D) party's incumbents' reelection rate was 0. The minority party incumbents' reelection rate was 100% (2/2). The total reelection rate was 50% (2/4).

4.3.10 New Hampshire

The New Hampshire Second District counted only 498 citizens more than the First, so the legislators in The Granite State could have gotten away with not adjusting congressional district borders at all. Still, the Republicans – who had both seats in U. S. House of Representatives and a bicameral majority – came up with new maps which moved 19,000 voters between the districts. Then they lost both seats. In the First District, the Republican incumbent lost by less than 13,000 votes.

Incumbents ran for reelection in both districts and lost. The incumbents' reelection rate was 0. The majority (R) party's incumbents' reelection rate was 0. The minority party incumbents' reelection rate was 0. The total reelection rate was 0.

4.3.11 New Mexico

Democrats controlled the legislature, which created a plan vetoed by the Republican governor. Then, State Supreme Court appointed a retired judge to decide on the redistricting.

Incumbents ran for reelection and won in two of three districts. The incumbents' reelection rate was 100% (2/2). The majority (D) party's incumbents' reelection rate was 100% (1/1). The minority party incumbents' reelection rate was 100% (1/1). The total reelection rate was 67% (2/3).

4.3.12 New York

Law Professor Nathan Persily is quoted repeatedly in this thesis. In 2011 he had to put action behind his words – more than once. As in Connecticut, Persily ended up drawing

the final congressional districts in the Empire State. New York was subject to pre-clearance under the Voting Rights Act of 1965 and run by Democrat Governor Mario Cuomo, a Democrat-led State Assembly and a slim Republican State Senate majority. Cuomo had threatened to veto any gerrymandered maps, and as time ran for any chance of a unified plan coming from the legislature, a federal three-judge panel appointed a judge to run the redistricting – and she hired Professor Persily.

Incumbents ran for reelection in twenty-four of twenty-seven districts and won twenty-two. The incumbents' reelection rate was 92% (22/24). The majority (D) party's incumbents' reelection rate was 95% (17/18). The minority party incumbents' reelection rate was 83% (5/6). The total reelection rate was 83% (22/24).

4.3.13 Oregon

Beating expectations, the divided legislature of Oregon – the only West Coast state without a redistricting commission – came up with a new set of maps with only small adjustments, maintaining the status quo. Incumbents ran for reelection and won all five districts.

The incumbents' reelection rate was 100% (5/5). The majority (D) party's incumbents' reelection rate was 100% (4/4). The minority party incumbents' reelection rate was 100% (1/1). The total reelection rate was 100% (5/5).

4.3.14 Virginia

An independent advisory commission to oversee the redistricting process was announced January, 2011 by Virginia's Republican Governor Bob McDonnell. The commission's advice was, however, neither needed nor heeded. An incumbent-friendly-drawn map originated among Republicans in the Virginia House of Delegates, and that map found some Democrat support.¹⁴⁸ That support was not enough to win legislation in the legislature in 2011. However, Virginia (and New Jersey) held state legislature elections in 2011, and come January, 2012, the newly elected state representatives agreed on the incumbent-friendly map – in time for the 2012 election. Since then, a panel of federal

¹⁴⁸ Richard E. Cohen. "Va. House Delegation Protects Itself." *Politico*, <http://www.politico.com/news/stories/0311/51212.html>.

judges has ruled the maps unconstitutional, so they must be redrawn before the 2015 elections.

Incumbents ran for reelection and won all eleven districts. The incumbents' reelection rate was 100% (11/11). The majority (R) party's incumbents' reelection rate was 100% (8/8). The minority party incumbents' reelection rate was 100% (3/3). The total reelection rate was 100% (11/11).

4.4 States with one-party control, redistricting by legislature

4.4.1 Alabama

In 2010, Democrats lost their grip on Alabama redistricting when Republicans gained control of both chambers in the state legislature for the first time since the Reconstruction, 136 years earlier. While the map drawn in 2001 by Democrats was branded “fairly partisan,” the GOP-drawn map in 2011 effectively secured Republican representation in six of seven districts by packing Democrats into the 7th District, which covers Montgomery and parts of Birmingham.¹⁴⁹ Alabama’s whites are 69% of the state population, while the blacks are 27%. In the 7th District, the numbers are almost reversed: 34% vs. 64%.

State Representative Craig Ford (D) proposed handing the redistricting process over to a neutral body, a nine-member citizens panel appointed by both parties in the Alabama State Legislature. An editorial in *The Huntsville Times* drily commented: “It was a sound idea. So why didn’t Democrats promote this when their party controlled the redistricting process?”¹⁵⁰

After the 2011 reapportionment Alabama kept all seven seats in the U. S. House of Representatives in the 113th Congress. Alabama redistricts strictly through a legislative process. The Alabama Constitution obligates the legislature to preserve county boundaries where possible and to draw compact districts. The redistricting plans are subject to veto by the governor. Alabama was in 2012 still subject to pre-clearance under Section 5 of the Voting Rights Act of 1965.

The redistricting process was controlled by one party, and the incumbency reelection rate was 100% (7/7). Majority (R) reelection rate was 100% (6/6). Minority reelection rate was 100% (1/1). The total reelection rate was 100% (9/9).

4.4.2 Arkansas

Arkansas kept her four seats in the U. S. House of Representatives, following the 2011 apportionment. Democrats lost control of State House and State Senate in the election

¹⁴⁹ The Almanac of American Politics 2013. Location 1106.

¹⁵⁰ John Peck. "Alabama Redistricting Efforts Stirs Concerns of Political Gerrymandering." *The Huntsville Times*, May 12 2011.

following the redistricting process, but Democrats were in control of both - and the governorship - during the redistricting process. Nevertheless, they lost their one remaining seat in 2012, and in November 2014, Republicans won the gubernatorial election, too.

Incumbents ran for reelection in three of four districts, winning all races. In the Fourth District the Democrat incumbent dropped out late in the primaries, unsuccessfully seeking the position of governor rather than reelection. The incumbents' reelection rate was 100% (3/3). The majority (D) party's incumbents' reelection rate was 100% (3/3). The minority party incumbents' reelection rate was 0% (0). The total reelection rate was 75% (3/4).

4.4.3 Connecticut

Connecticut has a legislative process, but it uses a bipartisan commission to run the redistricting process. The Governor of Connecticut has no veto rights over redistricting plans, and the redistricting plans require a two thirds majority to pass legislation. Two majority and minority representatives are appointed from both chambers of the Connecticut State Congress. Those eight select a ninth commissioner to act as a tiebreaker. This worked fine in 2001, but in 2011 they failed to agree on a map, and the state court system took over and appointed Professor Nathan Persily — who also drew New York's districts — as a “special redistricting master.”¹⁵¹

Incumbents ran for reelection in four of five districts, winning all four. The incumbents' reelection rate was 100% (4/4). The majority (D) party's incumbents' reelection rate was 100% (4/4). The minority party incumbents' reelection rate was 0. The total reelection rate was 80% (4/5).

4.4.4 Florida

The tensions that created the Bushmanders of the 1990s – described in chapter 3.5 – were very much apparent in The Sunshine State's 2012 election, and they still are. Florida is controlled by Republicans, who have House and Senate majority and the governorship. The Governor of Florida has no veto rights in this matter, though. Its redistricting was subject to pre-clearance by the U. S. Justice Department under Section 5 of the Voting Rights Act of 1965. To complicate matters further, the Florida State

¹⁵¹ Barone et al. 1609/90879.

Constitution was amended November 2010 by a ballot initiative – Fair Districts – which demanded that legislators draw compact districts using city, county and geographical boundaries and look away from political statistics and incumbents’ residences.¹⁵²

Despite broad popular support (63%), the amendment faced resistance, not only from the Governor and from state legislators reluctant to cede power, but also from some blacks and Hispanics in U.

S. Congress, arguing that the amendment was irreconcilable with Section 5 of the Voting Rights Act of 1965.

There are minority-majority districts in Florida, some sinisterly shaped, but drawn with the blessings of the U. S. Justice Department in order to secure

representation for significant majorities. A week after the Fair Districts initiative won the election, the two U. S. House Representatives Corrinne Brown and Mario Diaz-Balart, filed suit in a U. S. District court to have the amendment declared unconstitutional. They worried that it would effectively reduce the number of blacks and Hispanics in Congress.

Brown’s district, Florida Third Congressional District, was in 2010 said to be “scrupulously drawn to be 51 percent African-American.”¹⁵³ In a joint statement, the two argued that “certainly, minority communities do not live in compact, cookie-cutter like neighborhoods, and so district “compactness” would defeat the ability of the state Legislature to draw access and majority-minority seats, since minority communities would become fragmented across the state.”¹⁵⁴



Figure 11 - Florida's Fifth District. Source: The Washington Post.

¹⁵² Ballotpedia.

http://ballotpedia.org/Florida_Congressional_District_Boundaries,_Amendment_6_%282010%29.

¹⁵³ Brent Batten. "Fight over Amendments 5, 6 Heads to Court." *Naples Daily News*, November 8 2010.

¹⁵⁴ Ben Smith. "Florida Districting Fight Heads to Court, as Expected." *Politico*, http://www.politico.com/blogs/bensmith/1110/Florida_districting_fight_heads_to_court_as_expected.html?showall.

Brown was in an unusual alliance of Republicans and black Democrats, as she had been since the 1990s, when her district was drawn.¹⁵⁵ Florida Republicans agreed in 1991 to draw a black majority to secure African-American representation. This did not go well with other Florida Democrats, since securing Brown her district meant depleting the neighbor districts of predominantly Democrat-leaning blacks – thus securing Republican wins. It was a blatant gerrymander, but done according to the spirit of The Voting Rights Act of 1965, and therefore it survived strict scrutiny. In three elections – 2004, 2006 and 2008 – Brown ran unopposed.

Despite the amended Florida Constitution, three oddly shaped districts survived the Republican-controlled redistricting. The Florida Third District was left largely unchanged, but renumbered as the Fifth District for the 2012 election. The existing map is, however, still subject to court actions. In 2014, a Florida judge declared the Fifth District unconstitutional and ordered it and the neighboring Tenth District redrawn.¹⁵⁶ The case is expected to appear before the Florida Supreme Court and quite possibly the U. S. Supreme Court before the district borders are finalized – and then the next redistricting round will probably draw close.

Incumbents ran for reelection in twenty-two of twenty-seven districts, winning all but two. The incumbents' reelection rate was 91% (20/22). The majority (R) party's incumbents' reelection rate was 88% (14/16). The minority party incumbents' reelection rate was 100% (6/6). The total reelection rate was 74% (20/27).

4.4.5 Georgia

The Peach State has a rich history of partisan redistricting by the state legislature. The 2001 round was controlled by Democrats, who drew some bizarrely twisted districts, but to no avail. In 2012 Republicans controlled State House, State Senate and the governorship. They kept some of the minority majority districts and made sure they won the newly apportioned seat in the U. S. House of Representatives. They drew the maps aiming to win the Twelfth District by drawing Democrat voters out. This failed in 2012, but succeeded it in 2014.

¹⁵⁵ Alex Leary. "Democrat U. S. Rep. Corrine Brown Again Aligns with GOP in Florida Redistricting Battle." *Tampa Bay Times*, <http://www.tampabay.com/news/politics/national/democrat-us-rep-corrine-brown-again-aligns-with-gop-in-florida/1169453>.

¹⁵⁶ Frank James. "Florida Ruling Is a Primer on Redistricting Chicanery." *National Public Radio*, <http://www.npr.org/blogs/itsallpolitics/2014/07/11/330771339/florida-ruling-is-a-primer-on-redistricting-chicanery>.

Incumbents ran for reelection in thirteen of fourteen districts, winning all. The incumbents' reelection rate was 100% (13/13). The majority (R) party's incumbents' reelection rate was 100% (8/8). The minority party incumbents' reelection rate was 100% (5/5). The total reelection rate was 93% (13/14).

4.4.6 Illinois

In Illinois, redistricting is a lottery – quite literally. If the General Assembly does not come up with a plan, a bipartisan commission is appointed. If this commission fails, the Illinois Secretary of State will randomly select one of two candidates, one from each party, to act as a tiebreaker.¹⁵⁷ Illinois lost

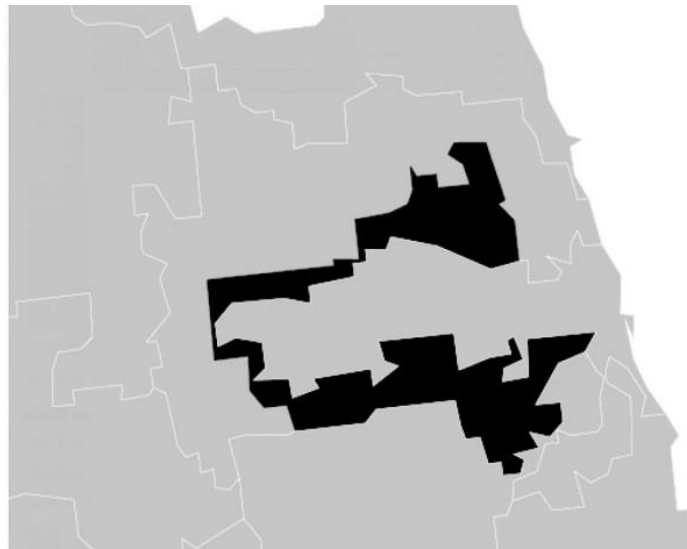


Figure 12 - Illinois Fourth District, "the Earmuff."

Source: Washington Post

one U. S. House seat after the 2010 census. Incumbents ran for reelection in sixteen of eighteen districts and won thirteen. The incumbents' reelection rate was 81% (13/16). The majority (D) party's incumbents' reelection rate was 100% (8/8). The minority party incumbents' reelection rate was 63% (5/8). The total reelection rate was 72% (13/18).

4.4.7 Kansas

In 2010, Democrats lost their last U. S. House representative in Kansas. Republicans won control of redistricting in 2000, but did not use that power for partisan gain. In 2012, a coalition of Democrats and moderate Republicans in the Kansas State Senate agreed upon a map. A more conservative majority of Republicans in the Kansas State House of Representatives agreed on another. A final map was approved by a three-judge federal court in June 2012. Incumbents ran for reelection and won in all four districts.

¹⁵⁷ "Illinois Redistricting." Illinois House Democrats, http://www.ilhousedems.com/redistricting/?page_id=2.

The incumbents' reelection rate was 100% (4/4). The majority (R) party's incumbents' reelection rate was 100% (4/4). The minority party incumbents' reelection rate was 0. The total reelection rate was 100% (4/4).

4.4.8 Maine

In 2012, The Pine Tree State had a Republican governor and Republican majority in both congressional chambers. Still, they reelected two Democrats. Maine has a legislative redistricting process with a fifteen-member bipartisan advisory commission.

Incumbents ran successfully for reelection in both districts. The incumbents' reelection rate was 100% (2/2). The majority (R) party's incumbents' reelection rate was 0. The minority party incumbents' reelection rate was 100% (2/2). The total reelection rate was 100% (2/2). Process: Legislative with advisory commission.

4.4.9 Maryland

The Old Line State gerrymanderers won the dubious honor of having outlined the least compact districts of U. S. states in the 2012 congressional election – and the 2002 election as well.¹⁵⁸ Democrats use redistricting power openly for maximum partisan advantage. In 2011 they moved some Republican-leaning counties from the formerly Republican Sixth District to the already Republican First District and moved just enough Democrats from the Eighth District to ensure Democrat majority in both the Sixth and the Eight.



Figure 13 - Maryland's Third District. Source: The Washington Post.

¹⁵⁸ Megan Poinski. "Study: Maryland Has Nation's Least Compact Congressional Districts." *The Washington Times*, <http://www.washingtontimes.com/news/2012/oct/24/maryland-has-nations-least-compact-congressional-d/>.

Incumbents ran for reelection in all eight districts and won seven. The incumbents' reelection rate was 88% (7/8). The majority (D) party's incumbents' reelection rate was 100% (6/6). The minority party incumbents' reelection rate was 50% (1/2). The total reelection rate was 88% (7/8).

4.4.10 Massachusetts

The Democrats had a solid grip on the legislature in the original gerrymander state in 2010, and when they lost their tenth seat in the U. S. House of Representatives they had total control, permitting only one close race and electing a new Kennedy – Robert F. Kennedy's grandson, Joseph III. Two incumbents ended up in the same district, but William Keating moved from the new Eighth District to his other home in the Ninth District. Incumbents ran for reelection in eight of nine districts and won them all. The incumbents' reelection rate was 100% (8/8). The majority (D) party's incumbents' reelection rate was 100% (8/8). The minority party incumbents' reelection rate was 0. The total reelection rate was 89% (8/9).

4.4.11 Michigan

Republicans won only forty-six percent of the votes cast in the 2012 U. S. House election in The Wolverine State. Nevertheless, they won nine seats out of fourteen seats – sixty-four percent. Michigan legislators are experienced gerrymanderers. Michigan is the only state to lose population, and it has lost U. S. House seats and been forced to extensive redrawing of congressional district-maps after all the last four decennial apportionments. The city of Detroit alone used to hold five seats in the U. S. House of Representatives. Now, Detroit barely has one. Republicans control the Michigan House of Representatives, State Senate and the State Supreme Court – and they have the governor.¹⁵⁹ During the redistricting process they made sure that the seat lost to reapportioning would be a Democrat seat, by pitting two Democrat incumbents against each other in the packed and twisted minority-majority Fourteenth District, causing one of them to drop out in the primary election and the other to win the general election with eighty-two percent of the votes.

¹⁵⁹ John Wisely. "Republicans to Hold onto Control of Michigan Supreme Court." *Detroit Free Press*, <http://archive.freep.com/article/20121107/NEWS15/311070161/Republican-nominated-justices-led-in-their-races-to-maintain-control-of-the-Michigan-Supreme-Court>.

Incumbents ran for reelection in twelve of fourteen districts and won all twelve. The incumbents' reelection rate was 100% (12/12). The majority (R) party's incumbents' reelection rate was 100% (9/9). The minority party incumbents' reelection rate was 100% (3/3). The total reelection rate was 86% (12/14).

4.4.12 Nebraska

The Cornhusker State is the only with a unicameral state legislature. It is solid Republican, but one district was won just narrowly in 2010. Also, districts for elections to the U. S. House of Representatives are used for presidential elections too, and Nebraska does not practice winner-takes-all in presidential races, so redistricting is more combative than the Republican dominance should indicate. Unlike in all other states (Maine excepted), securing a third of the votes in Nebraska will win you a vote in the Electoral College, as President Obama did in 2008.

In the 2012 election to the U. S. House of Representatives incumbents ran for reelection and won in all three districts. The incumbents' reelection rate was 100% (3/3). The majority (R) party's incumbents' reelection rate was 100% (3/3). The minority party incumbents' reelection rate was 0. The total reelection rate was 100% (3/3).

4.4.13 North Carolina

Fearing a Republican Governor, the ruling Democrats changed the North Carolina Constitution in 1996, removing the gubernatorial right to veto a redistricting plan. This came back to haunt them during the 2011 redistricting, as the Democrat Governor was rendered powerless when the Republicans were as cynical and effective as Democrats had been for decades earlier. They made sure to keep the minority-majority districts

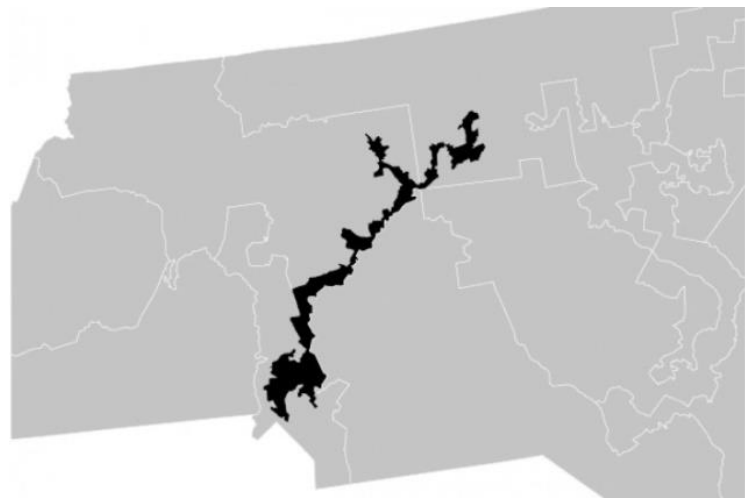


Figure 14 - North Carolina's Twelfth District 2012, "The Lower Intestines." Source: The Washington Post

and pack even more Democrats into them.

Incumbents ran for reelection in ten of thirteen districts and won nine. The incumbents' reelection rate was 90% (9/10). The majority (R) party's incumbents' reelection rate was 100% (5/5). The minority party incumbents' reelection rate was 80% (4/5). One could argue that the minority reelection rate was only 57% (4/7), but that would require counting incumbents dropped out after redistricting as running – which one in this thesis has chosen not to do. The total reelection rate was 69% (9/13).

4.4.14 Ohio

With a majority in both chambers and the governorship, Ohio Republicans could make sure that the two seats lost in the U. S. House of Representatives were Democrat seats. Democrat incumbents were paired in two districts and as *The Almanac of American Politics 2014* phrased it: “the creation of a Columbus Democratic vote sink would produce a beneficial ripple effect, allowing Republicans to shore up other freshmen and keep a 12-4 advantage.”¹⁶⁰

Incumbents ran for reelection in thirteen of sixteen districts and won all. The incumbents' reelection rate was 100% (13/13). The majority (R) party's incumbents' reelection rate was 100% (11/11). The minority party incumbents' reelection rate was 67% (2/3). The total reelection rate was 100% (13/13). Note that the 67% are due to two incumbents running in the Sixteenth District.

4.4.15 Oklahoma

After only minimal border adjustments, the new maps were decided, and Oklahoma Democrats lost their only seat when Dan Boren (37) chose to retire from the Second District. Incumbents ran for reelection in three of five districts and won all three. The incumbents' reelection rate was 100% (3/3). The majority (R) party's incumbents' reelection rate was 100% (3/3). The minority party incumbents' reelection rate was 0. The total reelection rate was 60% (3/5).

¹⁶⁰ Barone et al. 62082/90879

4.4.16 Pennsylvania

In the Keystone State, there were about one million more registered Democrats than Republicans. Yet, Republicans controlled House, Senate and the Governor's office and could decide which of the nineteen seats should be removed following the decennial apportionment.¹⁶¹

Incumbents ran for reelection in sixteen of eighteen districts and lost only one. The incumbents' reelection rate was 94% (15/16).

The majority (R) party's

incumbents' reelection rate was 100% (11/11). The minority party incumbents' reelection rate was 80% (4/5). The total reelection rate was 83% (15/18).

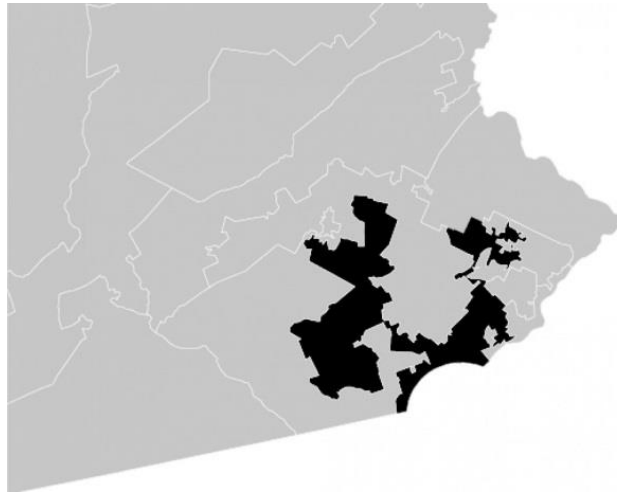


Figure 15 - Pennsylvania's Seventh District. Source: The Washington Post.

4.4.17 Rhode Island

The Democrat bastion of Rhode Island came very close to losing one of its two seats in the U.S House of Representatives. The First District was in 2011 USA's least populated, estimated at 524,097 people. Incumbents ran for reelection and won both districts. The incumbents' reelection rate was 100% (2/2). The majority (D) party's incumbents' reelection rate was 100% (2/2). The minority party incumbents' reelection rate was 0. The total reelection rate was 100% (2/2).

4.4.18 South Carolina

"I would opt for the devil I know rather than the devil I don't know," was the explanation offered by Republican Senator Tom Davis when the South Carolina State Senate and House agreed on a set of electoral maps rather than leave the matter to the courts.¹⁶² The plan, which secured that the new seat would become a safe GOP seat, then

¹⁶¹ Alex Rose. "Pa. Democrats Facing Loss of Congressional District." *Daily Times News*, <http://www.delcotimes.com/general-news/20110110/pa-democrats-facing-loss-of-congressional-district>.

¹⁶² Associated Press. "Officials Ok S.C. Redistricting Plan." *The Augusta Chronicle*, <http://chronicle.augusta.com/news/metro/2011-07-26/officials-ok-sc-redistricting-plan>.

passed the Governor and won pre-clearance by the Department of Justice. Incumbents ran for reelection in six of seven districts and won all. The incumbents' reelection rate was 100% (6/6). The majority (R) party's incumbents' reelection rate was 100% (5/5). The minority party incumbents' reelection rate was 100% (1/1). The total reelection rate was 86% (6/7).

4.4.19 Tennessee

Rather than going aggressively for the two remaining Democrat seats, the Republicans, who controlled the Tennessee State House, Senate and Governor's office used the 2011 redistricting to mainly secure their own seven seats for the future five elections. Incumbents ran for reelection and won all nine districts. The incumbents' reelection rate was 100% (9/9). The majority (R) party's incumbents' reelection rate was 100% (7/7). The minority party incumbents' reelection rate was 100% (2/2). The total reelection rate was 100% (7/7).

4.4.20 Texas

“What's really shocking is we got four new congressional districts, and there's no addition of Latino opportunity districts.” Nina Perales, a lead attorney for the Mexican-American Legal Defense and Education Fund complained in June 2011, when Governor Rick Perry gave birth to a new creature, the “Perry-mander.”¹⁶³ The Governor pushed a blatantly partisan map through the Texas State House of Representative and State Senate before giving it his stamp of approval. Texas

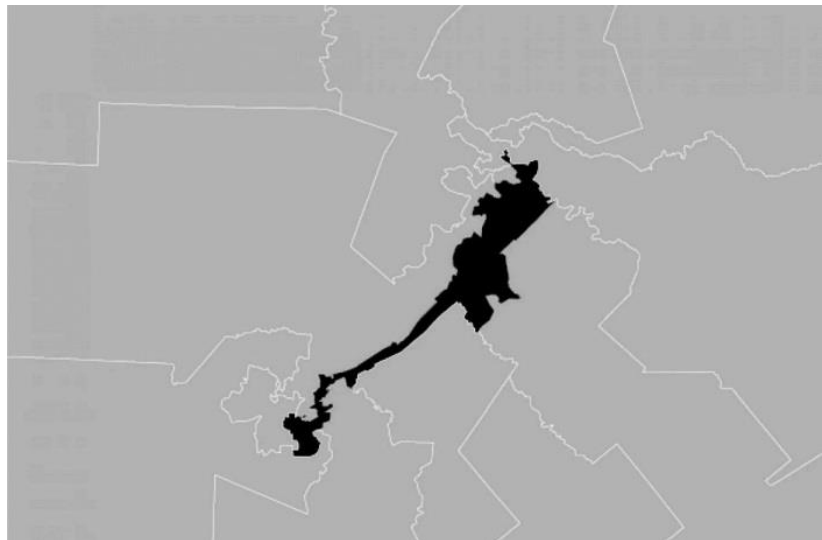


Figure 16 - Texas' 35th District, "The Upside-Down Elephant." Source: The Washington Post.

¹⁶³ David Wasserman. "Perry-mander": Redistricting Map That Rick Perry Signed Has Texas Hispanics up in Arms." *National Journal*, <http://www.nationaljournal.com/politics/-perry-mander-redistricting-map-that-rick-perry-signed-has-texas-hispanics-up-in-arms-20110819>.

was subject to pre-clearance by the U. S. Department of Justice under the Voting Rights Act of 1965. Democrats and Hispanics took the maps to court, and while a federal court in San Antonio redrew the maps following the lawsuit, the DOJ returned the maps without any pre-clearance due to discriminatory intent. When the San Antonio court came up with new maps, the U. S. Supreme Court ruled that the San Antonio Court had not paid sufficient respect to the maps presented by the Texas legislature – which the DOJ had denied pre-clearance. The San Antonio court then came up with a set of preliminary maps. While waiting for the final verdict on the maps, the 2012 election went by – and the Supreme Court rendered the Voting Rights Act of 1965 largely moot, effectively ending the pre-clearance demands.

Incumbents ran for reelection in thirty of thirty-six districts and won twenty-eight. The incumbents' reelection rate was 93% (28/30). The majority (R) party's incumbents' reelection rate was 91% (2/23). The minority party incumbents' reelection rate was 100% (7/7). The total reelection rate was 78% (28/36).

4.4.21 Utah

Utah won its fourth seat in the U. S. House of Representatives in the 2011 reapportionment. The Republicans had a firm grip on the Utah State House, State Senate and governorship, and made sure the new seat was safe for them. They also chipped away on the Fourth District to erode Democrat Jim Matheson's electoral base, and they came very close to succeeding. Matheson won reelection with 119,803 votes – 768 more than his Republican opponent. Incumbents ran for reelection in three of four districts and won all. The incumbents' reelection rate was 100% (2/2). The majority (R) party's incumbents' reelection rate was 100% (2/2). The minority party incumbents' reelection rate was 100% (1/1). The total reelection rate was 75% (3/4).

4.4.22 West Virginia

The West Virginia Legislature made only minor adjustments to the existing maps for congressional districts. Incumbents ran for reelection and won in all three districts. The incumbents' reelection rate was 100% (3/3). The majority party – Democrats control the West Virginia House of Delegates, State Senate and governorship – incumbents' reelection

rate was 100% (1/1). The minority party incumbents' reelection rate was 100% (2/2). The total reelection rate was 100% (3/3).

4.4.23 Wisconsin

Republicans controlled both the Wisconsin State Assembly and State Senate, and Governor Scott Walker (R) signed into law a redistricting plan that helped maintain the status quo – five Republican and three Democrat seats – after the election in which the GOP won only 49% of the votes. Incumbents ran for reelection in seven of eight districts and won all. The incumbents' reelection rate was 100% (7/7). The majority (R) party's incumbents' reelection rate was 100% (5/5). The minority party incumbents' reelection rate was 100% (2/2). The total reelection rate was 88% (7/8).

4.5 States with only one congressional district

4.5.1 Alaska

In 2012 Don Young (R) was reelected to his 20th consecutive term.

4.5.2 Delaware

Delaware is a Democrat stronghold which gave John Carney a second term.

4.5.3 Montana

In The Treasure State the incumbent ran for senate, clearing the seat for fellow Republican Steve Daines. When Montana had more than one U. S. House representative, it used an independent commission for redistricting, and if it regains its second seat, it will do so again.

4.5.4 North Dakota

GOP incumbent Rick Berg ran for U. S. Senate, clearing the seat for fellow Republican Kevin Cramer.

4.5.5 South Dakota

The GOP incumbent Kristi Noem was reelected.

4.5.6 Vermont

Democrat incumbent Peter Welch was reelected.

4.5.7 Wyoming

Republican incumbent Cynthia Lummis was reelected.

4.6 Analyzing the numbers

Do the numbers show any correlation between redistricting method and the incumbents' reelection rate? At first glance the difference between legislative and commission states comes down to almost nothing – just two percent. A closer look does, however, reveal a deeper divide — which we examine more closely later in this chapter. In states using independent commissions for the redistricting following the 2010 census, ninety-three percent of the incumbents were reelected on Election Day 2012. In states having redistricted by legislature, incumbents had a reelection rate of ninety-five percent.

Those numbers appear when we use weighted numbers, which means counting district by district, so that New Jersey's twelve reelections count six times as much as Idaho's two. If we count by state, letting New Jersey's perfect one hundred percent reelection rate be counted as equal to Idaho's equally perfect hundred, the results differ, but still not much. Unweighted, commission-states had a ninety-eight percent reelection rate while legislature-states had ninety-four.

In this thesis, we will place most emphasis on the weighted numbers, but there is a case to be made for using unweighted numbers, too. Unweighted numbers reduce the effect of single, large states in the equation. California's thirty-nine reelections influence the end result proportionally much more than its eighty-eight percent reelection rate, and in a thesis where we are looking for the effects of two systems, California's system is one, just as Idaho's is one. When we end up emphasizing the weighted numbers, it is because of the system of single-member districts. The redistricting systems chosen affect every single single-member district directly, not just as proportion of a whole.

The deeper — and more significant — divide appears when we separate those states where one party had total control of the redistricting process from the rest. There we find that the majority party has a staggering level of control — a ninety-seven percent incumbent reelection rate. The minority party's incumbents, on the other hand, have a reelection rate of eighty-seven percent — a full ten percent difference. In legislative states without one-party control, majority parties actually had a lower rate of reelection than minorities — ninety-two versus ninety-seven percent. In commission-states the corresponding numbers are ninety-six and ninety — a six percent difference.

4.6.1 A testable hypothesis

“Can U. S. House elections results to a significant degree be predicted by the states’ redistricting methods” is simply a question, not a testable hypothesis. In order to test the research question statistically, we need to state it as an assertion. If we base our hypothesis on the theories presented in chapter 2.1.3, a positive answer would rest on this assertion, which is testable: “*In states where redistricting is done through the legislature and one party is in control of the process, we will see a higher reelection rate than in other states.*”

Our null hypothesis, H_0 , says that the assertion is true and that we will find a higher reelection rate in the above-named districts.

Our alternative hypothesis, H_A , says that the assertion is false and we will not find a higher reelection rate.

We have two options. The first is to reject H_A and conclude that H_0 is supported by our data. The other is to fail to reject H_A and conclude that H_0 is not supported by our data.

After inspecting and grouping the election data we are left with the reelection rates below.¹⁶⁴ The abbreviations are provided only for making the following arguments more legible.

¹⁶⁴ The numbers behind the reelection rates are found in the Appendix – Reelection rates.

Abbr.	Rate	Category
RC1	0.94	Overall reelection rate in states redistricting by independent commission.
RC2	0.96	Majority reelection rate in states redistricting by independent commission.
RC3	0.90	Minority reelection rate in states redistricting by independent commission.
RL1	0.95	Overall reelection rate in states redistricting by legislative process.
RL2	0.96	Majority reelection rate in states redistricting by legislative process.
RL3	0.91	Minority reelection rate in states redistricting by legislative process.
RL1M	0.95	Overall reelection rate in states with one-party control and redistricting by legislative process.
RL2M	0.97	Majority reelection rate in states with one-party control and redistricting by legislative process.
RL3M	0.87	Minority reelection rate in states with one-party control and redistricting by legislative process.
RL1N	0.95	Overall reelection rate in states without one-party control but redistricting by legislative process.
RL2N	0.92	Majority reelection rate in states without one-party control but redistricting by legislative process.
RL3N	0.97	Minority reelection rate in states without one-party control but redistricting by legislative process.

If these numbers support our null hypothesis H_0 , the following should be true:

RL2M should be the highest number. This is true. Majority parties controlling the redistricting did have the highest reelection rate in 2012. The fact that RL3N is equal to RL2M is also in line with Issacharoff's theory. Bipartisan agreements apparently did not foster competition, but rather promoted tit-for-tat protection of electoral districts in 2012.

RL3M should be the lowest number. This is true. Minority parties lost reelection battles more often when the opposition drew the electoral districts.

RC1 should be lower than RL1N. This is true. Commission-states had lower reelection rates than legislation-states.

RL2M should be higher than RL3M. This is true. It is also the highest difference recorded, but also the most obvious. Those who controlled the redistricting won reelection more often than those who did not.

No findings support H_A .

All four findings support H_0 , that "In states where redistricting is done through the legislature and one party is in control of the process, we can expect to see a higher reelection rate for the majority party than in other states."

4.6.2 The significance

The null hypothesis is not rejected by the findings in this thesis, but at what level of significance, or rather — at what confidence level is it supported? How consistently do majority parties with full legislative control (RL2M) have a higher reelection rate than majority parties in states redistricting by commission (RC2)?

Normally, statisticians require a p-value of 0.05 or less — 95% or more of the data within the expected range — to be statistically significant. This can almost be dismissed even before looking at the reelection rates in question. We have only twenty-three data points. One single fluke result could move the numbers off the scale.

The average majority reelection rate in states without one-party control of redistricting is 94, as demonstrated in the appendix. We are testing for values below this. All values above 94 are on target according to the hypothesis.

We start by calculating the mean μ of the observed data by dividing the sum of data by the number of data, n , which is 23.

$$\mu = (100 + 100 + 100 + 88 + 100 + 100 + 100 + 0 + 100 + 100 + 100 + 100 + 100 + 100 + 100 + 100 + 100 + 100 + 100 + 100 + 91 + 100 + 100 + 100) / 23 = 94.73$$

We then calculate the standard deviation s by subtracting μ from the observations that are lower than 94. Then we square the results, add them together, divide the sum by 22 ($n-1$) and draw the square root of that value. That gives us a standard deviation of 20.27.

Then we convert this to a Z score, a standard normal value, by subtracting 94 from μ and divide this by s .

$$Z = (94 - 94.73) / 20.27 = -0.36.$$

It must be noted that Z-values are of little use for small datasets.

Checking this against a statistics reference table returns a p-value of 0.3594. This is — as expected — nowhere near the 0.05 required for statistical significance.

This does not lend support our null hypothesis H_0 . However, with such a small dataset, we would be wise not to attribute too much value to those numbers, even if they should happen to show strong support.

5 Conclusion

Can U. S. House election results to a significant degree be predicted by the states' choice of redistricting method? Yes, they can. Anyone with only the slightest knowledge about redistricting may place a bet on any incumbent winning and still stand a ninety-three percent chance of winning the bet.

If a student spends weeks and months analyzing every single district in the 2012 election for the U. S. House of Representatives, he can add to his knowledge that betting on majority-party-incumbents being reelected in one-party-controlled states would have been almost a sure thing, or at least ninety-seven percent sure — which in other parts of life is considered a safe bet. He will also know that the minority-party-incumbents in those states were those least likely to win of all incumbents, and even those had a reelection rate of eighty-seven percent. The numbers fail, however, the test for statistical significance.

In other words, there is indeed a difference between outcomes from different methods of redistricting. It is, however, a rather small one. Is it significant? Yes, it is significant in the sense that it is detectable and measureable, but it is not in the sense that a change of redistricting method is any kind of game-changer. It is demonstrably not. Neither is it significant in a statistical sense. Scholars have published numerous studies proving that moving towards commission-based redistricting increases competition, but while they have shown that the effect is observable, they have failed to show that redistricting reforms are what it takes to bring back competition to American elections.

One aspect of American politics became clearer while this thesis was written: The many electoral procedures applied by the respective states defy being cast into one single form or shape. It also defies quantification. USA is — really — fifty different states, and even if there are similarities between their respective redistricting processes, there are constant changes and revisions being made, and to build an argument over time on numbers alone, requires an extensive set of ifs, buts, howevers and conditions that in sum would render any confident predictions and conclusions very vulnerable to attack and of little value.

In the 2012 election, California was, despite an overly complicated process, a poster-child for election reform. Admittedly, its procedures were not ideal, but the competitive level and the election results were to a high degree exactly what the reformers had hoped for. The reforms in California released a long overdue massive redistricting, which created a landslide that made commission-states appear more competitive. However,

a change of majority in any state legislature — which is known to happen repeatedly over time — has the same effect, and that is why proponents of legislative redistricting point to the “it-evens-out-over-time”-argument.

The numerous public efforts to reform the American electoral systems are often — and should be — based on normative arguments, because it is simply wrong that politicians get to choose their voters. It is not just corrupting. It is corrupt. It is also hard to change such a system from within, since politicians most often lack motivation to voluntarily cede power to their opponents. That would be placing a set of high ideals above a set of achievable political goals, which may be why redistricting reforms are usually initiatives from minority parties and grassroots movements, both whose political goals are less achievable.

There is no perfect one-method-suits-all for redistricting. Surely, Iowa stands out in the field as the one doing the right thing — for Iowans. Formally and legally, Iowa has the same redistricting method as Texas and Illinois, but the Iowa legislators have chosen a culture of giving clear guidelines and then leaving the redistricting process to professionals. Even when this has worked to their disadvantage, they have remained loyal to the principles they once agreed on. It is a hands-off approach saving Iowa’s taxpayers millions of dollars — literally — on legal fees every decade. The Iowa state legislature is at liberty to change this any time it wishes, without consulting the voters. The practice in Iowa is not constitutionally founded. Arizona’s independent redistricting commission is founded in an amendment to the Arizona constitution. Still, the state’s legislators have repeatedly dragged the commission from court to court, and now all the way to the U. S. Supreme Court, fighting to regain control. Texan politicians have the same options as Iowans. Yet they repeatedly choose to push redistricting through the existing legal system.

Iowa is also a unique example of a state legislature pushing through reforms. In other states, redistricting reforms have come through grassroots movements and direct democracy. Representative democracy as such has failed repeatedly in such cases, demonstrating the corrupting effects of power on elected representatives seeking reelection.

This thesis will have to end without any clear conclusion or recommendation, only with an observation: The redistricting reform movement is right now at a crossroads. The course from here is in the hands of the United States Supreme Court justices, who must weigh two systems of democracy against each other. Direct democracy has helped the people of Arizona and California push through election reforms, but direct democracy is also what the mob-rule-fearing Founding Fathers warned against. Representative

democracy has demonstrably failed in securing fair representation, but it also is what the Framers of the United States Constitution expressly prescribed.

The U.S. Supreme Court justices have until now been very reluctant to issue straight and easy guidelines for redistricting. If they break with that tradition, the outcome of *Arizona State Legislature v. Arizona Independent Redistricting Commission* (2015) may drastically change or even reverse the course of redistricting reforms. Predicting that outcome is — luckily — beyond the scope of this thesis.

All bets are off.

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Appendix

These tables are found in the appendix:

State overview: A listing of states and their processes for congressional redistricting

State detail: Balance of power in the state legislatures at the time of redistricting

Electoral district details: Election results from every district and information on incumbency and redistricting.

Reelection rates: Four tables showing reelection rates overall and for majority and minority parties.

States redistricting by commission.

States redistricting by legislature,

States redistricting by legislature with one-party control.

States redistricting by legislature without one-party control.

State overview

This table lists the states and their respective processes for congressional redistricting. The column “One party control” is derived from the numbers presented in the table “State detail” following this table. If a single political party has acquired the clout to force a congressional map through legislature, this column is marked “Yes.” This requires that the party has a majority in both chambers of the state legislature.¹⁶⁵ It also requires that it has the governor — if indeed the governor has veto power in such matters.

State	Process	One party control	Process info
Alabama	Legislative	Yes	Governor has veto
Alaska	None	Yes	Has only one congressional district.
Arizona	Commission	No	Independent Commission <ul style="list-style-type: none"> • 5 members: commission on appellate court appointments nominates 25 people (10 from each major party, 5 from neither major party); legislative majority and minority leaders each select 1 commissioner; those 4 commissioners select 1 tiebreaker not registered with the party of any of the 4 commissioners. • No more than 2 commissioners may be from the same party • No more than 2 of the first 4 commissioners may be from the same county • Commissioners must not have held public office within 3 years prior to appointment • Commissioners must not have switched party within 3 years prior to appointment
Arkansas	Legislative	Yes	Governor has veto
California	Commission	No	Independent Commission <ul style="list-style-type: none"> • 14 members: 5 from each major party and 4 from neither major party, chosen by state auditor panel with input from legislative majority and minority leaders • Commissioners must not have switched parties within 5 years prior to appointment • Commission must be geographically, racially and ethnically diverse • Commissioners must have voted in 2 of the 3 state elections prior to appointment • Commissioners must not have been officials or candidates of a political party, employees or consultants of a political campaign, or donors of more than \$2,000 to a political campaign within 10 years prior to appointment • Commissioners must not be staff, consultants or contractors for state or federal government
Colorado	Legislative	No	Governor has veto
Connecticut	Legislative	Yes	If the General Assembly fails to agree on a plan, the Governor appoints a commission.

¹⁶⁵ Nebraska’s state legislature is unicameral.

Delaware	None	Yes	Has only one congressional district.
Florida	Legislative	Yes	Governor has veto. State laws restrict gerrymandering.
Georgia	Legislative	Yes	Governor has veto. State laws restrict gerrymandering.
Hawaii	Commission	Yes	Independent, but appointed by leaders in State Senate President, State House Speaker and State House majority and minority leaders.
Idaho	Commission	Yes	Independent, but appointed by political leadership.
Illinois	Legislative	Yes	If General Assembly fails (which it usually does), leaders in State House and Senate appoint backup commission. If deadlock, Illinois Supreme Court appoints tie-breaker by lottery.
Indiana	Legislative	Yes	If legislature cannot agree, a five-person bipartisan commission is appointed. The fifth tie-breaking chair is appointed by the Governor.
Iowa	Legislative	No	Legislative Service Agency draw maps. General Assembly and Governor approve.
Kansas	Legislative	Yes	Legislature failed to agree on a map in spring of 2012. Three-judge federal court approved map.
Kentucky	Legislative	No	Governor has veto.
Louisiana	Legislative	No	Governor has veto.
Maine	Legislative	Yes	Has also an advisory commission. Governor has veto.
Maryland	Legislative	Yes	Governor has veto.
Massachusetts	Legislative	Yes	Governor has veto.
Michigan	Legislative	Yes	Governor has veto.
Minnesota	Legislative	No	Governor has veto.
Mississippi	Legislative	No	Legislature gave up without trying and handed the process to three federal judges.
Missouri	Legislative	No	Governor has veto.
Montana	Commission	No	Has at present only one congressional district.
Nebraska	Legislative	Yes	Governor has veto.
Nevada	Legislative	No	Governor has veto.
New Hampshire	Legislative	No	Governor has veto.
New Jersey	Commission	No	Independent 10 person commission, but appointed by political leadership. If commission fails, New Jersey Supreme Court appoint an eleventh member,
New Mexico	Legislative	No	Governor has veto.
New York	Legislative	No	Governor has veto.
North Carolina	Legislative	Yes	No gubernatorial veto.
North Dakota	None	Yes	Has only one congressional district.
Ohio	Legislative	Yes	Governor has veto.
Oklahoma	Legislative	Yes	Governor has veto.
Oregon	Legislative	No	Governor has veto.
Pennsylvania	Legislative	Yes	Governor has veto.

Rhode Island	Legislative	Yes	Governor has veto.
South Carolina	Legislative	Yes	Governor has veto.
South Dakota	None	Yes	Has only one congressional district.
Tennessee	Legislative	Yes	Governor has veto.
Texas	Legislative	Yes	Governor has veto.
Utah	Legislative	Yes	Governor has veto.
Vermont	None	Yes	Has only one congressional district.
Virginia	Legislative	No	Governor has veto. Federal or state court acts as a backup.
Washington	Commission	No	Legislative leaders appoint four persons, who then appoint a fifth non-voting member.
West Virginia	Legislative	Yes	Governor has veto
Wisconsin	Legislative	Yes	Governor has veto
Wyoming	None	Yes	Has only one congressional district.

State details

Columns explained:

112. and 113. Number of seats held by the state in the House of Representatives in the United States 112th and 113th Congress, respectively.

113. D. and 113. R. Democrats and Republicans, respectively, from the state in the House of Representatives in the United States 113th Congress.

2012 S. H. D., 2012 S. H. R. and 2012 S. H. I. Democrats, Republicans and Independents, respectively, in the lower chamber of the state legislature during redistricting, which in most cases was 2012. If otherwise, this is noted in “Additional info.”

2012 S. S. D., 2012 S. S. R. and 2012 S. S. I. Democrats, Republicans and Independents, respectively, in the upper chamber of the state legislature during redistricting, which in most cases was 2012. If otherwise, this is noted in “Additional info.”

2012 Gov. Party controlling the governorship at the time when the Governor could have vetoed redistricting plans. For most, this was in 2012. If else, it is noted in “Additional info.”

	112.	113.	113. D.	113. R.	2012 S. H. D.	2012 S. H. R.	2012 S. H. I.	2012 S. S. D.	2012 S. S. R.	2012 S. S. I.	2012 Gov.	Additional info
AL	7	7	1	6	39	66	0	12	22	1	R	Alabama's State House representatives serve four year terms with no term limits.
AK	1	1	0	1	16	24	0	10	10	0	R	
AZ	8	9	5	4	20	40	0	9	29	0	R	
AR	4	4	0	4	55	45	0	20	15	0	D	
CA	53	53	38	15	52	28	0	24	14	0	D	Independent commission redistricting from 2010.
CO	7	7	3	4	32	33	0	20	15	0	D	
CT	5	5	5	0	97	54	0	23	13	0	D	Four of five incumbents reelected. The fifth left to run for governor.
DE	1	1	1	0	26	15	0	14	7	0	D	
FL	25	27	10	17	39	81	0	12	28	0	R	
GA	13	14	5	9	66	113	1	20	36	0	R	
HI	2	2	2	0	43	8	0	24	1	0	D	
ID	2	2	0	2	13	57	0	7	28	0	R	
IL	19	18	12	8	64	54	0	35	23	0	D	

	112.	113.	113. D.	113. R.	2012 S. H. D.	2012 S. H. R.	2012 S. H. I.	2012 S. S. D.	2012 S. S. R.	2012 S. S. I.	2012 Gov.	Additional info
IN	9	9	2	7	40	60	0	14	36	0	R	
IA	4	5	2	2	42	58	0	27	23	0	R	All five incumbents ran in four districts.
KS	4	4	0	4	33	92	0	8	32	0	R	No State Senate Elections in Kansas 2008.
KY	6	6	1	5	58	42	0	15	22	0	D	
LA	7	6	1	5	53	50	2	23	16	0	R	Louisiana State House representatives are elected every four years, November 2007 and 2011. Redistricting plans were submitted to DOJ April 21, 2011, before 2011 election. State Parliament numbers are from following 2007 election for both chambers Senator Robert Adley switched from Democrat to Republican after the election, shifting the balance to 23/16.
ME	2	2	2	0	72	78	1	14	20	1	R	
MD	8	8	7	1	98	43	0	35	12	0	D	Lower chamber is called Maryland House of Delegates.
MA	10	9	9	0	128	32	0	36	4	0	D	Lost one seat after 2010 census.
MI	15	14	5	9	47	63	0	12	26	0	R	Only state to lose population, lost one seat, lost five after last four censuses. Republicans control Michigan State Supreme Court, too, which adds to control of redistricting.
MN	8	8	5	3	62	72	0	30	37	0	D	
MS	4	5	1	3	68	54	0	24	27	0	R	The State legislature numbers are from 2007. The legislature agreed on 2011 to leave redistricting to judges. Mississippi elects State House and State Senate every four years, in 2007 and 2011. 1 Vacancy in State Senate 2007
MO	9	8	2	6	58	105	0	7	27	0	D	
MT	1	1	0	1	33	67	0	22	28	0	D	
NE	3	3	0	3	0	0	0	0	0	0	R	Nebraska is unicameral. State Senate primaries are run non-partisan, and the State Senate does not list senators according to party affiliation. It is, however, Republican.
NV	3	4	2	2	26	16	0	11	10	0	R	
NH	2	2	2	0	101	298	0	5	19	0	D	
NJ	13	12	6	6	49	31	0	23	17	0	R	NJ State legislature elections were in 2009 and 2011, and the commission was appointed in June, 2011. The State General Assembly and Senate numbers are therefore from 2009 and 2007, respectively.

	112.	113.	113. D.	113. R.	2012 S. H. D.	2012 S. H. R.	2012 S. H. I.	2012 S. S. D.	2012 S. S. R.	2012 S. S. I.	2012 Gov.	Additional info
NM	3	3	2	1	37	33	0	27	15	0	R	
NY	29	27	21	6	99	50	1	30	32	0	D	Maps drawn by Nathan Persily. Lower chamber is called the State Assembly
NC	13	13	4	9	52	67	1	19	31	0	D	Massive redistricting since GOP took over.
ND	1	1	0	1	25	69	0	12	35	0	R	
OH	19	16	4	12	40	59	0	10	23	0	R	
OK	5	5	0	5	31	70	0	16	32	0	R	
OR	5	5	4	1	30	30	0	16	34	0	D	Only Pacific state w/o commission
PA	19	18	5	13	91	112	0	20	30	0	R	
RI	2	2	2	0	65	10	0	29	8	1	D	
SC	6	7	1	6	48	75	1	19	27	0	R	
SD	1	1	0	1	19	50	1	5	30	0	R	
TN	9	9	2	7	34	69	1	13	20	0	R	
TX	32	36	12	24	51	98	1(V)	12	19	31	R	
UT	3	4	1	3	16	59	0	7	22	0	R	
VT	1	1	1	0	94	58	8	22	8	0	D	The 8 State House independents are 5 from Vermont Progressive Party + 3 Independents
VA	11	11	3	8	32	67	1	20	20	0	R	The Virginia legislature did not agree on congressional electoral maps until January 13, 2012. The listed numbers for State House and Senate are therefore from the November 2011 election.
WA	9	10	6	4	57	41	0	27	22	0	D	
WV	3	3	1	2	65	35	0	27	7	0	D	
WI	8	8	3	5	38	60	1	14	19	0	R	
WY	1	1	0	1	9	51	0	4	26	0	R	

Electoral district details

Where not accredited to other sources, the data in these tables originate from the 2014 and 2012 editions of The Almanac of American Politics and the Ballotpedia election databases.

Columns explained:

Inc.ran: An x indicates that an incumbent ran. Because many district borders had changed, incumbents from any district within the same state are counted as incumbents. Their financial advantage and name-recognition-advantage is still present. Candidates who had served previously and returned in 2012 are not seen as incumbents. Candidates who have been elected in special elections to fill vacant seats anytime before Election Day 2012 and have served, are seen as incumbents.

Inc. won: An 'x' indicates that the incumbent — or one of the incumbents — won the seat.

Party kept seat: An 'x' indicates that a representative from the same party as the previous representative was elected. This may be misleading, since redistricting caused many districts to be renumbered and without any incumbent running. In such cases the district is marked 'x' if the district with the same number in 2010 were won by same party in 2012.

Party: Republicans are labeled 'R'. Democrats are labeled 'D'. There were no winners running for any other political parties. In Minnesota 'D' indicates that the winner represented the Minnesota Democratic–Farmer–Labor Party, which is affiliated with the United States Democratic Party.

Winner 2012: Name of the person elected November 6, 2012 to represent the district in the 113th Congress.

District	Inc. ran	Inc. won	Party kept seat	Inc. Term no.	Party	Winner 2012	Note
Alabama 1 st	x	x	x	6	R	Josiah Bonner	Ran unopposed, replaced in special election Dec 17, 2013 when he resigned to take a job with the University of Alabama. ¹⁶⁶
Alabama 2nd	x	x	x	2	R	Martha Roby	
Alabama 3rd	x	x	x	6	R	Mike Rogers	
Alabama 4th	x	x	x	9	R	Robert Aderholt	
Alabama 5th	x	x	x	2	R	Mo Brooks	
Alabama 6th	x	x	x	11	R	Spencer Bachus	
Alabama 7th	x	x	x	2	D	Terri Sewell	
Alaska at-large	x	x	x	20	R	Don Young	
Arizona 1st	-	-	-	2	D	Ann Kirkpatrick	Redistricted as Democrat-friendly. Republican incumbent Ron Gosar moved to newly formed 4th district. Kirkpatrick served 1st term from 2008-2010
Arizona 2nd	-	-	x	1	D	Ron Barber	Representative Gabrielle Giffords resigned after being shot. Barber, who was her staffer, was wounded during the same incident. Competitive seat 2014
Arizona 3rd	x	x	x	6	D	Raúl Grijalva	
Arizona 4th	x	x	x	2	R	Paul Gosar	Redrawn, GOP-friendly district. Incumbent Gosar moved from 1st district
Arizona 5th	-	-	x	5	R	Matt Salmon	Returned to House after years as lobbyist and state party chairman
Arizona 6th	x	x	x	2	R	David Schweikert	
Arizona 7th	x	x	x	11	D	Ed Pastor	
Arizona 8th	x	x	x	6	R	Trent Franks	Represented 2nd, redistricted to 8th.
Arizona 9th	-	-	-	1	D	Kirsten Sinema	New district
Arkansas 1st	x	x	x	2	R	Rick Crawford	
Arkansas 2nd	x	x	x	2	R	Tim Griffin	
Arkansas 3rd	x	x	x	2	R	Steve Womack	
Arkansas 4th	-	-	-	1	R	Tom Cotton	Incumbent Democrat Mike Ross retired to run for governor.

¹⁶⁶ Theresa Seiger. "Live: Rep. Jo Bonner Talks About His Resignation from Congress; New Job at Ua." *Al.com*, http://blog.al.com/wire/2013/05/live_rep_jo_bonner_talks_about.html#incart_river.

District	Inc. ran	Inc. won	Party kept seat	Inc. Term no.	Party	Winner 2012	Note
California 1st	-	-	-	1	R	Doug LaMalfa	Incumbent Mike Thompson displaced to and elected in 5th
California 2nd	-	-	x	1	D	Jared Huffman	Incumbent Lynn Woolsey retired and supported Huffman
California 3rd	x	x	x	2	D	John Garamendi	Garamendi served for the 10th before redistricting.
California 4th	x	x	x	3	R	Tom McClintock	
California 5th	x	x	x	8	D	Mike Thompson	Thompson served for 1st District before the 2011 redistricting.
California 6th	x	x	x	4	D	Doris Matsui	Matsui served for 5th District before redistricting.
California 7th	x	-	-	1	D	Ami Bera	Losing incumbent Dan Lungren (R) served for 3rd District. Bera lost to Lungren in 3rd in 2010.
California 8th	-	-	x	1	R	Paul Cook	Jerry Lewis (R) retired.
California 9th	x	x	x	4	D	Jerry McNerney	Displaced from 11th.
California 10th	x	x	x	2	R	Jeff Dunham	Displaced from 19th.
California 11th	x	x	x	20	D	George Miller	Miller displaced from 7th.
California 12th	x	x	x	13	D	Nancy Pelosi	Displaced from 8th. Speaker of the House 2007-2011.
California 13th	x	x	x	8	D	Barbara Lee	She was displaced from 9
California 14th	x	x	x	3	D	Jackie Speier	Displaced from 12th
California 15th	x	-	x	1	D	Eric Swalwell	Defeated longtime incumbent Pete Stark, who was displaced from 13th
California 16th	x	x	x	5	D	Jim Costa	Displaced from 20th
California 17th	x	x	x	7	D	Mike Honda	Displaced from 15th
California 18th	x	x	x	11	D	Anna Eshoo	Displaced from 14th
California 19th	x	x	x	10	D	Zoe Lofgren	Displaced from 16th
California 20th	x	x	x	10	D	Sam Farr	Displaced from 17th
California 21st	-	-	x	1	R	David Valadao	Predecessor Devin Nunes displaced to 22
California 22nd	x	x	x	6	R	Devin Nunes	Nunes displaced from 21
California 23rd	x	x	x	4	R	Kevin McCarthy	Displaced from 22nd.
California 24th	x	x	x	8	D	Lois Capps	Displaced from 23rd.
California 25th	x	x	x	11	R	Buck McKeon	
California 26th	-	-	-	1	D	Julia Bromley	Incumbent Elton Gallegly (R) retired.
California 27th	x	x	x	2	D	Judy Chu	Displaced from 32nd
California 28th	x	x	x	7	D	Adam Schiff	Displaced from 29th
California 29th	-	-	x	1	D	Tony Cardenas	
California 30th	x	x	x	9	D	Brad Sherman	Displaced from 27, beat fellow Democrat incumbent Howard Berman (brother of professional gerrymanderer Michael Berman) in primaries ¹⁶⁷

¹⁶⁷ Shane Goldmacher. "The Waxman-Berman Machine Finally Shuts Down." *National Journal*, <http://www.nationaljournal.com/magazine/the-waxman-berman-machine-finally-shuts-down-20130124>.

District	Inc. ran	Inc. won	Party kept seat	Inc. Term no.	Party	Winner 2012	Note
California 31st	x	x	x	8	R	Gary Miller	Winner Miller displaced from 42nd.
California 32nd	x	x	x	8	D	Graciela Napolitano	Winner displaced from 38th
California 33rd	x	x	x	20	D	Henry Waxman	Displaced from 30th
California 34th	x	x	x	11	D	Xavier Becerra	Displaced from 31st.
California 35th	x	-	-	1	D	Gloria Negrete McLeod	Incumbent Joe Baca(R) from former 43rd lost here
California 36th	x	-	x	1	D	Raul Ruiz	Losing six term incumbent Mary Bono Mack displaced from 45th
California 37th	x	x	x	2	D	Karen Bass	Displaced from 33rd
California 38th	x	x	x	6	D	Linda Sanchez	Displaced from 39th. Predecessor Edward Royce displaced to and won 39th
California 39th	x	x	x	11	R	Edward Royce	Displaced from 40th. Incumbent Gary Miller chose to run for and win 31st.
California 40th	x	x	x	11	D	Lucille Roybal-Allard	Displaced from 34th.
California 41st	-	-	-	1	D	Mark Takano	Hard to define if district was Democratic. The present geographical area is Democrat leaning. The former 41st District elected a Republican.
California 42nd	x	x	x	11	R	Ken Calvert	Displaced from 44th. Incumbent Gary Miller displaced to and won 31st.
California 43rd	x	x	x	12	D	Maxine Waters	Displaced from 35th
California 44th	x	x	x	1	D	Janice Hahn	Incumbent Hahn won special election in 2011 in 36th, ousted incumbent Laura Richardson (D) displaced from 37th in 2012.
California 45th	x	x	x	4	R	John Campbell	Displaced from 48th.
California 46th	x	x	x	9	D	Loretta Sanchez	Displaced from 47th
California 47th	-	-	x	1	D	Alan Lowenthal	Predecessor displaced to 46th
California 48th	x	x	x	13	R	Dana Rohrbacher	Opponent Ron Varasteh(D) was displaced from incumbency in 46
California 49th	x	x	x	7	R	Darrell Issa	
California 50th	x	x	x	3	R	Duncan Hunter	His father held the same seat for 28 years.
California 51st	-	-	x	1	D	Juan Vargas	Incumbent Bob Fillner (D) retired to run for San Diego Mayor.
California 52nd	x	-		1	D	Scott Peters	Very close race. Beat incumbent Brian Bilbray (R) who was displaced from 50th.
California 53rd	x	x	x	7	D	Susan Davis	

District	Inc. ran	Inc. won	Party kept seat	Inc. Term no.	Party	Winner 2012	Note
Colorado 1st	x	x	x	9	D	Diana DeGette	
Colorado 2nd	x	x	x	3	D	Jared Polis	
Colorado 3rd	x	x	x	2	R	Scott Tipton	
Colorado 4th	x	x	x	2	R	Cory Gardner	
Colorado 5th	x	x	x	4	R	Doug Lamborn	
Colorado 6th	x	x	x	3	R	Mike Coffman	
Colorado 7th	x	x	x	4	R	Ed Perlmutter	
Connecticut 1st	x	x	x	8	D	John Larson	
Connecticut 2nd	x	x	x	4	D	Joe Courtney	
Connecticut 3rd	x	x	x	12	D	Rosa DeLauro	
Connecticut 4th	x	x	x	3	D	Jim Himes	
Connecticut 5th	-	-	x	1	D	Elizabeth Esty	Incumbent Chris Murphy (D) ran for U. S.Senate.
Delaware At-large	x	x	x	2	D	John Carney	

District	Inc. ran	Inc. won	Party kept seat	Inc. Term no.	Party	Winner 2012	Note
Florida 1st	x	x	x	6	R	Jeff Miller	
Florida 2nd	x	x	x	2	R	Steve Southerland	
Florida 3rd	-	-	x	1	R	Ted Yoho	12 term incumbent Cliff Stearns (R) beaten in primary. District renumbered from Sixth.
Florida 4th	x	x	x	7	R	Ander Crenshaw	
Florida 5th	x	x	x	11	D	Corinne Brown	District renumbered from Third.
Florida 6th	-	-	-	1	R	Ron DeSantis	Newly drawn district.
Florida 7th	x	x	x	11	R	John Mica	Ran against former Twenty-fourth District incumbent Sandy Adams in the primaries.
Florida 8th	x	x	x	3	R	Bill Posey	
Florida 9th	-	-	-	2	D	Alan Grayson	Returned after 1 term off. Redrawn district.
Florida 10th	x	x	x	2	R	Daniel Webster	
Florida 11th	x	x	x	2	R	Richard Nugent	
Florida 12th	x	x	x	4	R	Gus Bilirakis	Succeeded his twelve term serving father, Michael, in 2006.
Florida 13th	x	x	x	22	R	Bill Young	
Florida 14th	x	x	x	4	D	Kathy Castor	
Florida 15th	x	x	x	2	R	Dennis Ross	Ran unopposed
Florida 16th	x	x	x	4	R	Vern Buchanan	
Florida 17th	x	x	x	3	R	Tom Rooney	New district, Rooney served for the Sixteenth in 2010.
Florida 18th	x	-	-	1	D	Patrick Murphy	At 29, youngest member of the 113th Congress. Beat Tea Party favorite, incumbent Allen West.
Florida 19th	-	-	x	1	R	Trey Radel	Incumbent Connie Mack ran for Senate.
Florida 20th	x	x	x	11	D	Alcee Hastings	
Florida 21st	x	x	x	2	D	Ted Deutch	After redistricting, Deutch kept three quarters of his old constituents in the old Nineteenth District.
Florida 22nd	-	-	-	1	D	Lois Frankel	Newly redrawn district. Incumbent Allen West ran unsuccessfully in the Eighteenth District.
Florida 23rd	x	x	x	5	D	Debbie Wasserman Schultz	Chairwoman of the Democratic National Committee.
Florida 24th	x	x	x	2	D	Frederica Wilson	Ran unopposed in the general election.
Florida 25th	x	x	x	6	R	Mario Diaz-Balart	Diaz-Balart joined Corinne Brown in opposing the Fair Districts reforms.
Florida 26th	x	-	-	1	D	Joe Garcia	Beat incumbent David Rivera (R)
Florida 27th	x	x	x	12	R	Ileana Ros-Lehtinen	

District	Inc. ran	Inc. won	Party kept seat	Inc. Term no.	Party	Winner 2012	Note
Georgia 1st	x	x	x	11	R	Jack Kingston	
Georgia 2nd	x	x	x	11	D	Sanford Bishop	
Georgia 3rd	x	x	x	5	R	Lynn Westmoreland	Ran unopposed
Georgia 4th	x	x	x	4	D	Hank Johnson	
Georgia 5th	x	x	x	14	D	John Lewis	
Georgia 6th	x	x	x	5	R	Tom Price	
Georgia 7th	x	x	x	2	R	Rob Woodall	
Georgia 8th	x	x	x	2	R	Austin Scott	Ran unopposed, both in primary and general election
Georgia 9th	-	-	-	1	R	Doug Collins	Newly drawn district.
Georgia 10th	x	x	x	3	R	Paul Broun	Ran unopposed.
Georgia 11th	x	x	x	6	R	Phil Gingrey	
Georgia 12th	x	x	x	5	D	John Barrow	Singled out as main target for the gerrymanderers, but won. Lost in 2014, though.
Georgia 13th	x	x	x	6	D	David Scott	
Georgia 14th	x	x	x	2	R	Tom Graves	
Hawaii 1st	x	x	x	2	D	Colleenn Hanabusa	
Hawaii 2nd	-	-	x	1	D	Tulsi Gabbard	Incumbent Mazie Hirono ran for U. S. Senate. Gabbard was the first Hindu in U. S. House.
Idaho 1st	x	x	x	2	R	Raúl Labrador	
Idaho 2nd	x	x	x	8	R	Mike Simpson	

District	Inc. ran	Inc. won	Party kept seat	Inc. Term no.	Party	Winner 2012	Note
Illinois 1st	x	x	x	11	D	Bobby Rush	The only politician to beat Barack Obama in an election ¹⁶⁸
Illinois 2nd	x	x	x	9	D	Jesse Jackson, Jr.	Jackson resigned shortly after, pleading guilty to wire and mail fraud, having spent \$750,000 of campaign money for personal expenses. ¹⁶⁹
Illinois 3rd	x	x	x	5	D	Daniel Lipinski	In 2004, Lipinski replaced his father, Bill Lipinski who served for 22 years.
Illinois 4th	x	x	x	11	D	Luis Gutierrez	
Illinois 5th	x	x	x	2	D	Mike Quigley	Succeeded Rahm Emanuel (Obama chief of staff/Chicago mayor) in 2009.
Illinois 6th	x	x	x	6	R	Peter Roskam	District packed with Republicans to ease two neighboring Democratic seats.
Illinois 7th	x	x	x	7	D	Danny Davis	
Illinois 8th	x	-	-	1	D	Tammy Duckworth	Favorably redrawn district.
Illinois 9th	x	x	x	8	D	Jan Schakowsky	
Illinois 10th	x	-	-	1	D	Brad Schneider	
Illinois 11th	x	x	x	2	D	Bill Foster	Newly carved Democratic-friendly district
Illinois 12th	-	-	x	1	D	Bill Enyart	Jerry Costello (D) retired
Illinois 13th	-	-	x	1	R	Rodney Davis	Tim Johnson (R) retired. Davis won 46.5% to 46.2%.
Illinois 14th	x	x	x	2	R	Randy Hultgren	
Illinois 15th	x	x	x	9	R	John Shimkus	First time elected, he said he would serve no more than six terms. Changed his mind.
Illinois 16th	x	x	x	2	R	Adam Kinzinger	Before redistricting, Kinzinger served for Illinois Eleventh. Beat ten-term incumbent Don Manzullo (R) in the GOP primary election.
Illinois 17th	x	-	-	1	D	Cheri Bustos	Unseated Bobby Schilling (R)
Illinois 18th	x	x	x	3	R	Aaron Schock	

¹⁶⁸ Lois Beckett. "Obama's Gerrymander." *ProPublica*, <http://www.propublica.org/article/obamas-gerrymander>.

¹⁶⁹ Michael S. Schmidt. "Jesse Jackson Jr. Pleads Guilty: 'I Lived Off My Campaign'." *The New York Times*, February 20 2013.

District	Inc. ran	Inc. won	Party kept seat	Inc. Term no.	Party	Winner 2012	Note
Indiana 1st	x	x	x	15	D	Peter Visclosky	
Indiana 2nd	-	-	-	1	R	Jackie Walorski	Newly redrawn with weakened Democrat electoral base. Incumbent Joe Donnelly (D) ran for Senate and won.
Indiana 3rd	x	x	x	2	R	Marlin Stutzman	
Indiana 4th	x	x	x	2	R	Todd Rokita	Redistricting placed Rokita's home in the Seventh District. Most of his voters remained in the Fourth.
Indiana 5th	-	-	x	1	R	Susan Brooks	Beat U. S. House veteran David McIntosh (R) in the GOP primary. Incumbent Dan Burton (R) retired.
Indiana 6th	-	-	x	1	R	Luke Messer	Incumbent Mike Pence (R) ran for governor.
Indiana 7th	x	x	x	3	D	André Carson	
Indiana 8th	x	x	x	2	R	Larry Bucshon	
Indiana 9th	x	x	x	2	R	Todd Young	
Iowa 1st	x	x	x	4	D	Bruce Braley	After redistricting, more than half of the voters were new to Braley.
Iowa 2nd	x	x	x	4	D	Dave Loebsack	After redistricting, more than half of the voters were new to Loebsack.
Iowa 3rd	x	x	x	10	R	Tom Latham	After redistricting, Latham was pit against Democrat incumbent Leonard Boswell.
Iowa 4th	x	x	x	6	R	Steve King	King's Fifth District disappeared after reapportionment, and King won in a previously very Democratic-friendly district.
Kansas 1st	x	x	x	2	R	Tim Huelskamp	
Kansas 2nd	x	x	x	3	R	Lynn Jenkins	
Kansas 3rd	x	x	x	2	R	Kevin Yoder	
Kansas 4th	x	x	x	2	R	Mike Pompeo	
Kentucky 1st	x	x	x	10	R	Ed Whitfield	
Kentucky 2nd	x	x	x	3	R	Brett Guthrie	
Kentucky 3rd	x	x	x	4	D	John Yarmouth	
Kentucky 4th	-	-	x	1	R	Thomas Massie	Incumbent Geoff Davis (R) retired
Kentucky 5th	x	x	x	17	R	Harold Rogers	
Kentucky 6th	x	-	-	1	R	Andy Barr	Beat incumbent Ben Chandler (D) even if redrawn district was expected to be more Democrat-friendly.

District	Inc. ran	Inc. won	Party kept seat	Inc. Term no.	Party	Winner 2012	Note
Louisiana 1st	x	x	x	3	R	Steve Scalise	
Louisiana 2nd	x	x	x	2	D	Cedric Richmond	Redrawn, but still a minority-majority district
Louisiana 3rd	x	x	x	5	R	Charles Boustany	Democrat freshman Jeff Landry lost his district through redistricting and ran unsuccessfully here against another incumbent..
Louisiana 4th	x	x	x	3	R	John Fleming	
Louisiana 5th	x	x	x	6	R	Rodney Alexander	Alexander switched parties in 2004.
Louisiana 6th	x	x	x	3	R	Bill Cassidy	Future senator? Campaigns outside own district.
Maine 1st	x	x	x	3	D	Chellie Pingree	
Maine 2nd	x	x	x	6	D	Michael Michaud	
Maryland 1st	x	x	x	2	R	Andy Harris	Received a gift of surplus Republicans from the Sixth.
Maryland 2nd	x	x	x	6	D	Dutch Ruppersberger	
Maryland 3rd	x	x	x	4	D	John Sarbanes	
Maryland 4th	x	x	x	3	D	Donna Edwards	
Maryland 5th	x	x	x	16	D	Steny Hoyer	
Maryland 6th	x	-	-	1	D	John Delaney	Beat incumbent Roscoe Bartlett. Republican voters redistricted to First District. Dem voters redistricted from Eighth.
Maryland 7th	x	x	x	9	D	Elijah Cummings	
Maryland 8th	x	x	x	6	D	Chris Van Hollen	
Massachusetts 1st	x	x	x	13	D	Richard Neal	Ran unopposed
Massachusetts 2nd	x	x	x	9	D	Jim McGovern	Ran unopposed in five of six last elections
Massachusetts 3rd	x	x	x	3	D	Niki Tsongas	
Massachusetts 4th	-	-	x	1	D	Joseph Kennedy III	RFK's grandson. Incumbent Barney Frank (D) retired after redistricting made district more conservative.
Massachusetts 5th	x	x	x	19	D	Edward Markey	
Massachusetts 6th	x	x	x	9	D	John Tierney	Won close race, 48% vs Richard Tisei (R) 47%
Massachusetts 7th	x	x	x	8	D	Michael Capuano	
Massachusetts 8th	x	x	x	6	D	Stephen Lynch	
Massachusetts 9th	x	x	x	2	D	William Keating	Moved from Eighth to his other home to avoid competing w/Lynch.

District	Inc. ran	Inc. won	Party kept seat	Inc. Term no.	Party	Winner 2012	Note
Michigan 1st	x	x	x	2	R	Dan Benishek	
Michigan 2nd	x	x	x	2	R	Bill Huizenga	
Michigan 3rd	x	x	x	2	R	Justin Amash	
Michigan 4th	x	x	x	12	R	Dave Camp	
Michigan 5th	-	-	x	1	D	Dan Kildee	Replaced his uncle, Dale Kildee, who retired after 36 years in Congress.
Michigan 6th	x	x	x	14	R	Fred Upton	
Michigan 7th	x	x	x	3	R	Tim Walberg	
Michigan 8th	x	x	x	7	R	Mike Rogers	Chair of House Intelligence Committee. Former FBI agent.
Michigan 9th	x	x	x	16	D	Sander Levin	Faced another incumbent, Gary Peters (D) after redistricting. Peters chose to move and run in the Fourteenth.
Michigan 10th	x	x	x	6	R	Candice Miller	
Michigan 11th	-	-	x	1	R	Kerry Bentivolio	Incumbent Thaddeus McCotter (R) tried to run for president, then failed to run for House.
Michigan 12th	x	x	x	29	D	John Dingell	Longest serving House representative, ever.
Michigan 13th	x	x	x	25	D	John Conyers	
Michigan 14th	x	x	x	3	D	Gary Peters	Moved from Ninth. Minority-majority district. Beat another incumbent, Hanson Clarke (D) in the primary election.
Minnesota 1st	x	x	x	4	D	Tim Walz	D, in Minnesota, is DFL, Democratic Farmer Labor Party
Minnesota 2nd	x	x	x	6	R	John Kline	
Minnesota 3rd	x	x	x	3	R	Erik Paulsen	
Minnesota 4th	x	x	x	7	D	Betty McCollum	Michele Bachmann's home is in this district.
Minnesota 5th	x	x	x	4	D	Keith Ellison	First Muslim in Congress, first black from Minnesota
Minnesota 6th	x	x	x	4	R	Michele Bachmann	Also presidential candidate until January, 2012. Slim victory, attributed in part to judicial committee adjustments and leftover presidential campaign funds. Ran in Sixth to avoid facing incumbent Betty McCollum in Fourth.
Minnesota 7th	x	x	x	12	D	Collin Peterson	
Minnesota 8th	x	-	-	4(!)	D	Rick Nolan	Beat freshman incumbent Chip Cravaack (R). Nolan was a U. S. House rep some 30 years ago.

District	Inc. ran	Inc. won	Party kept seat	Inc. Term no.	Party	Winner 2012	Note
Mississippi 1st	x	x	x	2	R	Alan Nunnelee	
Mississippi 2nd	x	x	x	10	D	Bennie Thompson	
Mississippi 3rd	x	x	x	3	R	Gregg Harper	
Mississippi 4th	x	x	x	2	R	Steve Palazzo	
Missouri 1st	x	x	x	7	D	William Lacy Clay	Beat fellow (redistricted) incumbent Russ Carnahan in primary election.
Missouri 2nd	-	-	x	1	R	Ann Wagner	Incumbent Todd Akin(R) ran for Senator. Incumbent Russ Carnahan (D) of former Third District, backed off.
Missouri 3rd	x	x	x	3	R	Blaine Luetkemeyer	
Missouri 4th	x	x	x	2	R	Vicky Hartzler	
Missouri 5th	x	x	x	5	D	Emanuel Cleaver	Leader of Black Caucus in 112th Congress. Worked for Republican redistricting plan that favored him.
Missouri 6th	x	x	x	7	R	Sam Graves	Chairman of Small Business Committee.
Missouri 7th	x	x	x	2	R	Billy Long	
Missouri 8th	x	x	x	9	R	Jo Ann Emerson	Resigned in 2013
Montana at-large	-	-	x	1	R	Steve Daines	Incumbent Denny Rehberg (R) ran for Senate.
Nebraska 1st	x	x	x	5	R	Jeff Fortenberry	
Nebraska 2nd	x	x	x	8	R	Lee Terry	
Nebraska 3rd	x	x	x	4	R	Adrian Smith	
Nevada 1st	-	-	x	2	D	Dina Titus	Titus lost reelection in Third, 2010
Nevada 2nd	x	x	x	1	R	Mark Amodei	Won special election September 2011. Reelected November 2012
Nevada 3rd	x	x	x	2	R	Joe Heck	Beat Dina Titus in 2010.
Nevada 4th	-	-		1	D	Steven Horsford	New district. No incumbent. No previous party.
New Hampshire 1st	x	-	-	3	D	Carol Shea Porter	Incumbent Porter lost to Frank Guinta (R) in 2010, but beat him in the 2012 rematch
New Hampshire 2nd	x	-	-	1	D	Ann McLane Kuster	Lost w/only 3500 votes to Charlie Bass (R) in 2010. Beat him 50-45% this year.

District	Inc. ran	Inc. won	Party kept seat	Inc. Term no.	Party	Winner 2012	Note
New Jersey 1st	x	x	x	12	D	Robert Andrews	
New Jersey 2nd	x	x	x	10	R	Frank LoBiondo	
New Jersey 3rd	x	x	x	2	R	Jon Runyan	Offensive linesman for Tennessee Titans and Philadelphia Eagles. Voted 2nd dirtiest player in NFL 2006. ¹⁷⁰
New Jersey 4th	x	x	x	17	R	Chris Smith	
New Jersey 5th	x	x	x	6	R	Scott Garrett	Fellow incumbent retired after redistricting
New Jersey 6th	x	x	x	13	D	Frank Pallone	
New Jersey 7th	x	x	x	3	R	Leonard Lance	
New Jersey 8th	x	x	x	4	D	Albio Sires	
New Jersey 9th	x	x	x	9	D	Bill Pascrell	
New Jersey 10th	x	x	x	1	D	Donald Payne Jr.	First elected March 2012, when his father died in office.
New Jersey 11th	x	x	x	10	R	Rodney Frelinghuysen	
New Jersey 12th	x	x	x	8	D	Rush Holt	
New Mexico 1st	-	-	x	1	D	Michelle Lijan Grisham	Incumbent Martin Heinrich (D) ran for the U. S. Senate
New Mexico 2nd	x	x	x	5	R	Steve Pearce	
New Mexico 3rd	x	x	x	3	D	Ben Ray Luján	

¹⁷⁰ "Pats' Harrison Can't Wash Hands of Dirtiest Player Label." *ESPN*, <http://sports.espn.go.com/nfl/news/story?id=2631666>.

District	Inc. ran	Inc. won	Party kept seat	Inc. Term no.	Party	Winner 2012	Note
New York 1st	x	x	x	6	D	Tim Bishop	
New York 2nd	x	x	x	11	R	Peter King	
New York 3rd	x	x	x	7	D	Steve Israel	
New York 4th	x	x	x	9	D	Carolyn McCarthy	
New York 5th	x	x	x	8	D	Gregory Meeks	
New York 6th	-	-	x	1	D	Grace Meng	First Asian-American woman from NY in Congress. Democrat incumbent Gary Ackerman retired.
New York 7th	x	x	x	11	D	Nydia Velázquez	
New York 8th	-	-	x	1	D	Hakeem Jeffries	Incumbent Edolphus Towns (D) retired after 20 years.
New York 9th	x	x	x	4	D	Yvette Clarke	
New York 10th	x	x	x	11	D	Jerrold Nadler	
New York 11th	x	x	x	2	R	Michael Grimm	
New York 12th	x	x	x	11	D	Carolyn Maloney	
New York 13th	x	x	x	22	D	Charle Rangel	Close to expulsion from Senate in 2010. Threatened by growing Hispanic population in his Harlem district.
New York 14th	x	x	x	8	D	Joseph Crowley	
New York 15th	x	x	x	12	D	José Serrano	
New York 16th	x	x	x	13	D	Eliot Engel	
New York 17th	x	x	x	13	D	Nita Lowey	Won w/ 64% of the votes in redrawn district w/more than 50% new voters.
New York 18th	-	-	x	1	D	Sean Patrick Maloney	Incumbent Nita Lowey ran in redrawn 17th. Former Bill Clinton staffer.
New York 19th	x	x	x	2	R	Chris Gibson	More than half of constituents new, due to redistricting.
New York 20th	x	x	x	3	D	Paul Tonko	
New York 21st	x	x	x	2	D	Bill Owens	
New York 22nd	x	x	x	2	R	Richard Hanna	
New York 23rd	x	x	x	2	R	Tom Reed	
New York 24th	x	-	-	2	D	Dan Maffei	Maffei also served 2009-2011. Beat incumbent Ann Marie Burkle (R)
New York 25th	x	x	x	14	D	Louise Slaughter	
New York 26th	x	x	x	5	D	Brian Higgins	
New York 27th	x	-	-	1	R	Chris Collins	Self-made multimillionaire who beat incumbent Kathy Hochul (D) in a close race.

District	Inc. ran	Inc. won	Party kept seat	Inc. Term no.	Party	Winner 2012	Note
North Carolina 1st	x	x	x	5	D	G.K. Butterfield	
North Carolina 2nd	x	x	x	2	R	Renee Ellmers	
North Carolina 3rd	x	x	x	10	R	Walter Jones	
North Carolina 4th	x	x	x	13	D	David Price	
North Carolina 5th	x	x	x	5	R	Virginia Foxx	
North Carolina 6th	x	x	x	15	R	Howard Coble	
North Carolina 7th	x	x	x	9	D	Mike McIntyre	336,000 votes cast. Won by 654.
North Carolina 8th	x	-	-	1	R	Richard Hudson	Beat incumbent Larry Kissell (D)
North Carolina 9th	-	-	x	1	R	Robert Pittenger	Incumbent Sue Myrick (R) retired
North Carolina 10th	x	x	x	5	R	Patrick McHenry	
North Carolina 11th	-	-	-	1	R	Mark Meadows	Incumbent Heath Shuler (D) retired after redistricting eroded his electoral base.
North Carolina 12th	x	x	x	12	D	Melvin Watt	The legendary gerrymandered "lower intestines"-district
North Carolina 13th	-	-	-	1	R	George Holding	Incumbent Brad Miller (D) retired after redistricting had placed his house in the Fourth District.
North Dakota at-large	-	-	x	1	R	Kevin Cramer	Incumbent Rick Berg ran for Senate.
Ohio 1st	x	x	x	9	R	Steve Chabot	
Ohio 2nd	-	-	x	1	R	Brad Wenstrup	Beat incumbent Jean Schmidt (R) in the primary election.
Ohio 3rd	-	-	-	1	D	Joyce Beatty	Newly drawn district
Ohio 4th	x	x	x	4	R	Jim Jordan	
Ohio 5th	x	x	x	3	R	Bob Latta	
Ohio 6th	x	x	x	2	R	Bill Johnson	
Ohio 7th	x	x	x	2	R	Bob Gibbs	Served for Ohio 18th in then 112th Congress
Ohio 8th	x	x	x	12	R	John Boehner	Speaker of the House
Ohio 9th	x	x	x	16	D	Marcy Kaptur	Beat fellow Democrat incumbent Dennis Kucinich in the primary election.
Ohio 10th	x	x	x	6	R	Mike Turner	
Ohio 11th	x	x	x	3	R	Marcia Fudge	Ran unopposed in the general election.
Ohio 12th	x	x	x	7	R	Pat Tiberi	
Ohio 13th	x	x	x	6	D	Tim Ryan	
Ohio 14th	-	-	x	1	R	David Joyce	Incumbent Steve LaTourette (R) retired
Ohio 15th	x	x	x	2	R	Steve Stivers	
Ohio 16th	x	x	x	2	R	Jim Renacci	Beat another incumbent, Betty Sutton(D)

District	Inc. ran	Inc. won	Party kept seat	Inc. Term no.	Party	Winner 2012	Note
Oklahoma 1st	-	-	x	1	R	Jim Bridenstine	Beat incumbent fellow Republican John Sullivan in the primary
Oklahoma 2nd	-	-	-	1	R	Markwaune Mullin	Incumbent Dan Boren (D) retired.
Oklahoma 3rd	x	x	x	10	R	Frank Lucas	
Oklahoma 4th	x	x	x	6	R	Tom Cole	
Oklahoma 5th	x	x	x	2	R	James Lankford	
Oregon 1st	x	x	x	1	D	Suzanne Bonamici	Won special election January, 2012 to replace David Wu (R). Reelected in November.
Oregon 2nd	x	x	x	8	R	Greg Walden	
Oregon 3rd	x	x	x	9	D	Earl Blumenauer	
Oregon 4th	x	x	x	14	D	Peter DeFazio	
Oregon 5th	x	x	x	3	D	Kurt Schrader	
Pennsylvania 1st	x	x	x	8	D	Robert Brady	
Pennsylvania 2nd	x	x	x	10	D	Chaka Fattah	
Pennsylvania 3rd	x	x	x	2	R	Mike Kelly	
Pennsylvania 4th	-	-	x	1	R	Scott Perry	Incumbent Todd Platts (R) retired.
Pennsylvania 5th	x	x	x	5	R	Glenn Thompson	
Pennsylvania 6th	x	x	x	6	R	Jim Gerlach	
Pennsylvania 7th	x	x	x	2	R	Pat Meehan	
Pennsylvania 8th	x	x	x	3	R	Mike Fitzpatrick	
Pennsylvania 9th	x	x	x	6	R	Bill Shuster	
Pennsylvania 10th	x	x	x	2	R	Tom Marino	
Pennsylvania 11th	x	x	x	2	R	Lou Barletta	
Pennsylvania 12th	x	-	-	1	R	Keith Rothfus	Beat incumbent Mark Critz (D) in GOP-favorably redrawn district.
Pennsylvania 13th	x	x	x	5	D	Allyson Schwartz	
Pennsylvania 14th	x	x	x	10	D	Mike Doyle	
Pennsylvania 15th	x	x	x	5	R	Charlie Dent	
Pennsylvania 16th	x	x	x	9	R	Joe Pitts	
Pennsylvania 17th	-	-	x	1	D	Matt Cartwright	Beat incumbent Tim Holden (D) in Democratic primary.
Pennsylvania 18th	x	x	x	6	R	Tim Murphy	
Rhode Island 1st	x	x	x	2	D	David Cicilline	
Rhode Island 2nd	x	x	x	7	D	Jim Langevine	
South Carolina 1st	x	x	x	2	R	Tim Scott	Appointed to U. S. Senate shortly after being elected in 2012. Mark Sanford won seat in 2013 election.
South Carolina 2nd	x	x	x	6	R	Joe Wilson	Ran unopposed in the general election.
South Carolina 3rd	x	x	x	2	R	Jeff Duncan	
South Carolina 4th	x	x	x	2	R	Trey Gowdy	
South Carolina 5th	x	x	x	2	R	Mick Mulvaney	
South Carolina 6th	x	x	x	11	D	James Clyburn	
South Carolina 7th	-	-	-	1	R	Tom Rice	New district
South Dakota at-large	x	x	x	2	R	Kristi Noem	

District	Inc. ran	Inc. won	Party kept seat	Inc. Term no.	Party	Winner 2012	Note
Tennessee 1st	x	x	x	3	R	Phil Roe	
Tennessee 2nd	x	x	x	13	R	John Duncan	
Tennessee 3rd	x	x	x	2	R	Charles Fleischmann	
Tennessee 4th	x	x	x	2	R	Scott DesJarlais	
Tennessee 5th	x	x	x	12	D	Jim Cooper	
Tennessee 6th	x	x	x	2	R	Diana Black	
Tennessee 7th	x	x	x	6	R	Marsha Blackburn	
Tennessee 8th	x	x	x	2	R	Stephen Fincher	
Tennessee 9th	x	x	x	4	D	Steve Cohen	

District	Inc. ran	Inc. won	Party kept seat	Inc. Term no.	Party	Winner 2012	Note
Texas 1st	x	x	x	5	R	Louie Gohmert	
Texas 2nd	x	x	x	5	R	Ted Poe	
Texas 3rd	x	x	x	11	R	Sam Johnson	Ran unopposed in the general election
Texas 4th	x	x	x	17	R	Ralph Hall	Ran as a GOP-friendly Democrat 1980-2004.
Texas 5th	x	x	x	5	R	Jeb Hensarling	
Texas 6th	x	x	x	15	R	Joe Barton	
Texas 7th	x	x	x	7	R	John Culberson	
Texas 8th	x	x	x	9	R	Kevin Brady	
Texas 9th	x	x	x	5	D	Al Green	
Texas 10th	x	x	x	5	R	Michael McCaul	
Texas 11th	x	x	x	5	R	Mike Conaway	
Texas 12th	x	x	x	9	R	Kay Granger	Only Texan woman in Congress.
Texas 13th	x	x	x	10	R	Mac Thornberry	
Texas 14th	-	-	-	1	R	Randy Weber	Incumbent Ron Paul (Lib) retired
Texas 15th	x	x	x	9	D	Rubén Hinojosa	
Texas 16th	x	-	-	1	D	Beto O' Rourke	Beat incumbent Silvestre Reyes (R).
Texas 17th	x	x	x	2	R	Bill Flores	
Texas 18th	x	x	x	10	D	Sheila Jackson Lee	
Texas 19th	x	x	x	5	R	Randy Neugebauer	
Texas 20th	-	-	x	1	D	Joaquin Castro	Incumbent Charles Augustine Gonzalez (D) retired
Texas 21st	x	x	x	14	R	Lamar Smith	
Texas 22nd	x	x	x	3	R	Pete Olson	
Texas 23rd	x	-	-	1	D	Pete Gallego	Beat incumbent Francisco Canseco (R)
Texas 24th	x	x	x	5	R	Kenny Marchant	
Texas 25th	-	-	-	1	R	Roger Williams	Completely redrawn GOP-friendly. Former 25th incumbent redistricted to the 35th.
Texas 26th	x	x	x	6	R	Michael Burgess	
Texas 27th	x	x	x	2	R	Blake Farenthold	
Texas 28th	x	x	x	5	D	Henry Cuellar	
Texas 29th	x	x	x	11	D	Gene Green	
Texas 30th	x	x	x	11	D	Eddie Bernice Johnson	
Texas 31st	x	x	x	6	R	John Carter	
Texas 32nd	x	x	x	9	R	Pete Sessions	
Texas 33rd	-	-	-	1	D	Marc Veasey	Newly created district
Texas 34th	-	-	-	1	D	Filemon Vela	Newly created district
Texas 35th	x	x	x	10	D	Lloyd Doggett	Redistricted from 25th
Texas 36th	-	-	-	2	R	Steve Stockman	Newly created district. Stockman served for Texas 9th 1995-1997

District	Inc. ran	Inc. won	Party kept seat	Inc. Term no.	Party	Winner 2012	Note
Utah 1st	x	x	x	6	R	Rob Bishop	
Utah 2nd	-	-	-	1	R	Chris Stewart	New district 2012
Utah 3rd	x	x	x	3	R	Jason Chaffetz	
Utah 4th	x	x	x	7	D	Jim Matheson	768 votes ahead of Mia Love (R). 119,803 vs 119,035
Vermont At-large	x	x	x	4	D	Peter Welch	
Virginia 1st	x	x	x	3	R	Rob Wittman	
Virginia 2nd	x	x	x	2	R	Scott Rigell	
Virginia 3rd	x	x	x	11	D	Bobby Scott	
Virginia 4th	x	x	x	6	R	Randy Forbes	
Virginia 5th	x	x	x	2	R	Robert Hurt	
Virginia 6th	x	x	x	11	R	Bob Goodlatte	
Virginia 7th	x	x	x	7	R	Eric Cantor	House majority leader.
Virginia 8th	x	x	x	12	D	Jim Moran	
Virginia 9th	x	x	x	2	R	Morgan Griffith	
Virginia 10th	x	x	x	17	R	Frank Wolf	
Virginia 11th	x	x	x	3	D	Gerald Connolly	
Washington 1st	-	-	x	1	D	Suzan DelBene	The was also a special election on Election Day, 2012, to replace Governor-to-be Jay Inslee(D) for the remainder of the term, which DelBene also won. In this thesis, however, she will not be counted as an incumbent, since it did not affect the election.
Washington 2nd	x	x	x	7	D	Rick Larsen	
Washington 3rd	x	x	x	2	R	Jaime Herrera Beutler	
Washington 4th	x	x	x	10	R	Doc Hastings	
Washington 5th	x	x	x	5	R	Cathy McMorris Rodgers	
Washington 6th	-	-	x	1	D	Derek Kilmer	Incumbent Norm Dicks (D) retired
Washington 7th	x	x	x	13	R	Jim McDermott	
Washington 8th	x	x	x	5	R	Dave Reichert	
Washington 9th	x	x	x	9	D	Adam Smith	
Washington 10th	-	-	-	1	D	Denny Heck	New district 2012
West Virginia 1st	x	x	x	2	R	David McKenley	
West Virginia 2nd	x	x	x	7	R	Shelly Moore Capito	
West Virginia 3rd	x	x	x	19	D	Nick Rahall	
Wisconsin 1st	x	x	x	8	R	Paul Ryan	Chair of the House Budget Committee, VP Nominee 2012
Wisconsin 2nd	-	-	x	1	D	Mark Pokan	Incumbent Tammy Baldwin (D) ran for Senate.
Wisconsin 3rd	x	x	x	9	D	Ron Kind	
Wisconsin 4th	x	x	x	5	D	Gwen Moore	
Wisconsin 5th	x	x	x	18	R	Jim Sensenbrenner	
Wisconsin 6th	x	x	x	17	R	Tom Petri	
Wisconsin 7th	x	x	x	2	R	Sean Duffy	
Wisconsin 8th	x	x	x	2	R	Reid Ribble	
Wyoming at-large	x	x	x	3	R	Cynthia Lummis	

Reelection rates

The following four tables show incumbent reelection rates in states redistricting by commission and states redistricting by legislature. The first table of states redistricting by legislature is divided into two separate tables. The first table of those two shows states in which one party controlled both chambers of the legislature and — if necessary — the governorship at the time of redistricting.

Explanation of terms and column headings:

Majority is the largest party in state legislature at time of redistricting.

Minority is the smallest party in state legislature at time of redistricting.

Weighted is a percentage. It is the number of incumbents within a given category who won, divided by the number of districts in which incumbents ran, multiplied by one hundred and rounded to the nearest integer.

Unweighted is the average of the state reelection percentages within a given category, regardless of the states' respective sizes.

Won is the number of incumbents who won reelection on Election Day 2012.

Ran is the number of districts in which incumbents ran on Election Day 2012.

% is the number of incumbents who ran divided by the number of districts in which incumbents ran for reelection, multiplied by one hundred.

States redistricting by commission

Overall				Majority			Minority					
Weighted				93				95				89
Unweighted				98				99				63
State	Won	Ran	%	Won	Ran	%	Won	Ran	%			
Arizona	5	5	100	3	3	100	2	2	100			
California	39	44	89	27	29	93	12	15	80			
Hawaii	1	1	100	1	1	100	0	0	0			
Idaho	2	2	100	2	2	100	0	0	0			
New Jersey	12	12	100	6	6	100	6	6	100			
Washington	7	7	100	2	2	100	5	5	100			
Sum	66	71		45	47		27	30				

States redistricting by legislature

Overall				Majority			Minority		
Weighted	95			96			91		
Unweighted	94			87			73		
State	Won	Ran	%	Won	Ran	%	Won	Ran	%
Alabama	7	7	100	6	6	100	1	1	100
Arkansas	3	3	100	3	3	100	0	0	0
Colorado	7	7	100	4	4	100	3	3	100
Connecticut	4	4	100	4	4	100	0	0	0
Florida	20	22	91	14	16	88	6	6	100
Georgia	13	13	100	8	8	100	5	5	100
Illinois	13	16	81	8	8	100	5	8	63
Indiana	6	6	100	4	4	100	2	2	100
Iowa	4	4	100	2	2	100	2	2	100
Kansas	4	4	100	4	4	100	0	0	0
Kentucky	4	5	80	1	2	50	3	3	100
Louisiana	6	6	100	1	2	50	5	5	100
Maine	2	2	100	0	0	0	2	2	100
Maryland	7	8	88	6	6	100	1	2	50
Massachusetts	8	8	100	8	8	100	0	0	0
Michigan	12	12	100	9	9	100	3	3	100
Minnesota	7	8	88	3	4	75	4	4	100
Mississippi	4	4	100	3	3	100	1	1	100
Missouri	7	7	100	5	5	100	2	2	100
Nebraska	3	3	100	3	3	100	0	0	0
Nevada	2	2	100	0	0	0	2	2	100
New Hampshire	0	0	0	0	0	0	0	0	0
New Mexico	2	2	100	1	1	100	1	1	100
New York	22	24	92	17	18	94	5	6	83
North Carolina	9	10	90	5	5	100	4	5	80
Ohio	13	13	100	11	11	100	2	3	66
Oklahoma	3	3	100	3	3	100	0	0	0
Oregon	5	5	100	4	4	100	1	1	100
Pennsylvania	15	16	94	11	11	100	4	5	80
Rhode Island	2	2	100	2	2	100	0	0	0
South Carolina	6	6	100	5	5	100	1	1	100
Tennessee	9	9	100	7	7	100	2	2	100
Texas	28	30	93	21	23	91	7	7	100
Utah	3	3	100	2	2	100	1	1	100
Virginia	11	11	100	8	8	100	3	3	100
West Virginia	3	3	100	1	1	100	2	2	100
Wisconsin	7	7	100	5	5	100	2	2	100
Sum	275	289		195	203		80	88	

States redistricting by legislature with one-party control of the process

In these states one party had a controlling majority in the one or both chambers of the legislature and of the Governor's office where needed.

Overall				Majority			Minority		
Weighted	95			97			87		
Unweighted	97			95			63		
State	Won	Ran	%	Won	Ran	%	Won	Ran	%
Alabama	7	7	100	6	6	100	1	1	100
Arkansas	3	3	100	3	3	100	0	0	0
Connecticut	4	4	100	4	4	100	0	0	0
Florida	20	22	90	14	16	88	6	6	100
Georgia	13	13	100	8	8	100	5	5	100
Illinois	13	16	81	8	8	100	5	8	63
Kansas	4	4	100	4	4	100	0	0	0
Maine	2	2	100	0	0	0	2	2	100
Maryland	7	8	88	6	6	100	1	2	50
Massachusetts	8	8	100	8	8	100	0	0	0
Michigan	12	12	100	9	9	100	3	3	100
Nebraska	3	3	100	3	3	100	0	0	0
North Carolina	9	10	90	5	5	100	4	5	80
Ohio	13	13	100	11	11	100	2	3	67
Oklahoma	3	3	100	3	3	100	0	0	0
Pennsylvania	15	16	94	11	11	100	4	5	80
Rhode Island	2	2	100	2	2	100	0	0	0
South Carolina	6	6	100	5	5	100	1	1	100
Tennessee	9	9	100	7	7	100	2	2	100
Texas	28	30	93	21	23	91	7	7	100
Utah	3	3	100	2	2	100	1	1	100
West Virginia	3	3	100	1	1	100	2	2	100
Wisconsin	7	7	100	5	5	100	2	2	100
Sum	194	204		146	150		48	55	

States redistricting by legislature without one-party control of the process

In these states neither party could control the redistricting process alone.

Overall				Majority			Minority		
Weighted	96			93			97		
Unweighted	90			76			91		
State	Won	Ran	%	Won	Ran	%	Won	Ran	%
Colorado	7	7	100	4	4	100	3	3	100
Indiana	6	6	100	4	4	100	2	2	100
Iowa	4	4	100	2	2	100	2	2	100
Kentucky	4	5	80	1	2	50	3	3	100
Louisiana	6	6	100	1	2	50	5	5	100
Minnesota	7	8	88	3	4	75	4	4	100
Mississippi	4	4	100	3	3	100	1	1	100
Missouri	7	7	100	5	5	100	2	2	100
Nevada	2	2	100	0	0	0	2	2	100
New Hampshire	0	0	0	0	0	0	0	0	0
New Mexico	2	2	100	1	1	100	1	1	100
New York	22	24	92	17	18	94	5	6	83
Oregon	5	5	100	4	4	100	1	1	100
Virginia	11	11	100	8	8	100	3	3	100
Sum	87	91		53	57		34	35	