

Redistricting ILLINOIS



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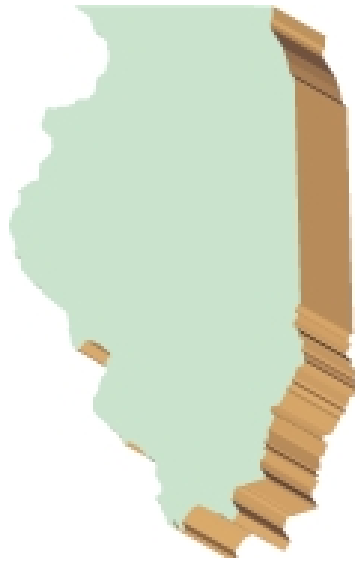
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Redistricting **ILLINOIS, 2001**

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Foreword

THE 2000 CENSUS CONFIRMED WHAT MANY KNEW INTUITIVELY — ILLINOIS HAS CHANGED dramatically in the last 10 years. The state's population has grown, even though it has not kept pace with more rapidly growing states like California. Chicago's collar counties have seen tremendous population growth, while the rural areas of downstate Illinois are continuing to lose population. Demographically, Illinois is more diverse than ever, with growing black, Hispanic, and Asian / Pacific Islander populations.

Before long the changes in population will lead to further, potentially major changes in politics through the decennial drama of redistricting. From the Capitol in Washington, D.C., to the Johnson County Courthouse in Vienna, Illinois, elected officials, party leaders, and interest groups are working on re-drawing the landscape of Illinois' politics. After what is likely to be a tortuous, conflicted process, the resulting remap will affect the fortunes of politicians and the political parties, the representation of political groups, and ultimately the direction of government for the coming decade.

In this report, *Redistricting Illinois, 2001*, a distinguished group of political experts look at the complex problem of redistricting from several angles. Sam Gove, an observer of Illinois politics for half a century, offers a historical review, "Origins, Mechanics, and Politics." Political scientist Brian Gaines, a specialist in electoral institutions, discusses the difficult issue of defining and pursuing fairness in redistricting in "On Partisan Fairness." Race is a central part of the changing Illinois demographics and politics. Here, sociologist Cedric Herring offers a discussion of "Race and Representation." Finally, former Governor Jim Edgar brings to bear an elected politician's perspective and his direct experience with three previous redistricting processes in his essay on "Parties, Leaders, and the Prospects for Compromise."

I believe this report offers excellent insights into what is often, as Sam Gove says, "the rawest of political exercises" and yet has major implications for the quality of representation, political competition, and democracy in Illinois government. The faculty of the Institute of Government and Public Affairs at the University of Illinois and I hope that you find it both useful and interesting.

Jack Knott

Director, Institute of Government and Public Affairs

Introduction

EVERY TEN YEARS, AFTER THE FEDERAL GOVERNMENT RELEASES THE RESULTS OF THE CENSUS, EACH state must re-draw its congressional and state-legislative electoral districts. The main purpose, mandated by the U.S. Supreme Court, is to ensure that all districts have essentially equal populations and thus satisfy the principle of “one person, one vote.” But other objectives – from promoting electoral competition, to enhancing representation of racial minorities, to favoring one or the other political party or merely protecting particular office-holders, among others – play large roles, and make the process thoroughly contentious.

The redistricting process hasn’t been pretty in Illinois. Politicians and the two major parties look out primarily for their own electoral interests. Deals are made within each party. A decision is then reached through a process that is likely to feature party-line votes, obstruction and deadlock, a high-stakes tie-breaking lottery, and often in the end, a partisan ruling by a state or federal court. Few participants worry about broad statewide concerns such as fairness, competition, or orderly process.

Arguing that there must be a better way, many observers of the Illinois redistricting process have advocated reforms, usually intended to take redistricting out of partisan politics. Other observers, however, have disagreed – suggesting that the existing process works fairly well; and in any case, that no fundamentally different process would work in the partisan setting of Illinois politics.

The essays in this publication address the central issues about redistricting in Illinois, for 2001 and beyond. How did the state develop its peculiar practices for redistricting? How does the use of computers affect the process? Why do the two parties often let so much ride on a pure-chance tie-breaking procedure instead of reaching a compromise? Are there grounds for expecting a different result in 2001? The essays also consider long-term issues about improving the process. How can we think about, and perhaps measure, partisan fairness? What are the best ways to promote the interests of racial and ethnic minorities? And is significant reform a meaningful possibility?

The reader who seeks a clear road map to a better system of redistricting for Illinois will be disappointed. One of the themes of these essays – a point of agreement among all of the authors – is that easy solutions do not exist. The reader who seeks an informed basis for evaluating the current Illinois system and thinking constructively about possible improvements will find these essays amply rewarding.

Paul J. Quirk

Coordinator of Publications, Institute of Government and Public Affairs

Origins, Mechanics, and Politics

by Samuel K. Gove

THE ILLINOIS GENERAL ASSEMBLY HAS A VERY difficult task to perform. It must redraw the state legislative and congressional districts to bring them in line with the results of the 2000 census and U.S. Supreme Court decisions requiring equal population. To the average citizen this chore sounds simple. To the state legislator, however, redrawing district lines is extremely difficult because the decisions have political, geographical, racial and personal overtones.

The drawing of district boundaries is not simple and may be the rawest of political exercises. Legislators empowered to make the decisions are intent upon producing districts that will, in this order, make it easiest for: 1) them to be reelected, 2) their party to gain the maximum advantage, and 3) incumbents in both parties to remain in office. Redistricting is a collective demonstration of unvarnished self-interest in action.

At the outset a couple of terms need to be defined. *Redistricting* is the process by which state legislative and congressional boundaries are drawn. *Reapportionment* refers to the redistribution of the number of congressional seats among the states following every decennial census. In common terms, redistricting and reapportionment are used interchangeably, but there are technical differences.

Another common term used in this exercise is *gerrymandering*. It refers to the practice of drawing strangely-shaped districts for political advantage. The term originated in 1812 when Governor Eldridge Gerry of Massachusetts persuaded the legislature to carve a dragon-shaped district out of Essex County. The painter, Gilbert Stuart, thought it looked like a salamander. "Better say, Gerrymander," quipped editor Benjamin Russell. The name stuck.

The Redistricting Process

The ground rules for legislative redistricting are spelled out in the 1970 state constitution. The districts "shall be compact, contiguous and substantially equal in population." The courts,

primarily federal, have expanded on those provisions, generally agreeing with the one-man, one-vote or now one-person, one-vote

The census count is challenged from time to time, especially in inner cities. The "floating" population, illegal aliens and other groups make a precise count difficult.

principle. The courts have allowed some deviations.

The decisions by the legislatures and the courts are based on the accuracy of the count by the Census Bureau. The census count is challenged from time to time, especially in inner cities. The "floating" population, illegal aliens and other groups make a precise count difficult. Courts have ruled that regardless of their legal status, all aliens who reside within the U.S. are to be included. Only visiting foreigners and those attached to foreign consulates are excluded from the census count.

In the 2000 Census an important issue was whether the unadjusted count or one where statistical sampling of the population was to be used for reapportionment and redistricting. The U.S. Supreme Court ruled that for reapportionment, the unadjusted count was to be used. For redistricting, the Census Bureau studied using a statistically adjusted count, but decided against it. Census officials said they could not prove, before the April 1 deadline for release of the data, that statistically adjusted data was more accurate than that which was not adjusted. Supporters of the sampling method felt it would raise the count in predominantly minority, urban areas.

In Illinois, both parties have used computers to draw their maps. Data can be entered at the precinct level. Thus the voting record, racial composition, social data and other population characteristics can be shown for each proposed district. With more sophisticated redistricting software being developed all the time, the possibilities for drawing alternative districts are great.

Some have argued that there should be a “neutral” process for redistricting. They say, in effect, that a neutral computer should be given the assignment. There is no neutral computer. The decision has partisan consequences whether legislators, courts or even computers draw the district lines. The person who has control of the computer analysis is making a political decision whether he is aware of it or not.

Legislators remain uncertain of just how much they can gerrymander districts without being rebuffed by the courts. They must consider a 1986 U.S. Supreme Court decision (*Davis v. Bandemer*) which held that partisan gerrymandering was unconstitutional when it was so severe as to “consistently degrade” a political group’s influence. The case involved a lawsuit

undoubtedly be filed based on the precedent set forth in *Bandemer* and *Shaw*. It will then be up to the courts to evaluate the evidence of these subsequent cases to set net standards to evaluate gerrymandering.

Redistricting in Illinois: A History

In Illinois, politics is played hardball and there are few instances when it is played harder than during the redistricting process. The history of redistricting in Illinois is filled with partisan battles where each side has worked to outmaneuver the other but where, often, the final shape of the new districts have depended on the luck of the draw. In a broad sense, however, the process has worked.

From 1901 to 1954 the legislature refused to redraw the state legislative district lines, shortchanging Cook County and particularly its suburbs of representation on a population basis. In 1954 an amendment to the state constitution was proposed and adopted that representation in one house, the Senate, would be based on geographic districts, fixed in size regardless of changes in population. Representation in the other house, the House of Representatives, would be based on population. This representation basis lasted until the landmark U.S. Supreme Court decisions of *Baker v. Carr* (1962) and *Reynolds v. Sims* (1964), which required representation in **both** houses to be on the one-person, one-vote basis. Chief Justice Earl Warren summed up the intent of this decision with his now famous phrase, “Legislators represent people not trees or acres; citizens, not history or economic interest, cast votes.”

After the 1960 census the legislature, acting under the 1954 constitutional amendment, tried to redistrict the House. The Legislature and the governor could not agree on a proposed redistricting map. As provided in the constitution, the governor appointed a 50-member redistricting commission. The commission also was unable to get the redistricting job done.

The commission’s failure to agree on new district boundaries meant that, by law, Illinois House members would be selected in an at-large election. The events surrounding the 1964 at-large election were unique and complicated. As provided by law, the Republican and Democratic parties held conventions and nominated 118 candidates each for the 177 house seats. Thus, 236 names on the at-large orange “bedsheet” ballot caused the conscientious

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by Indiana Democrats who argued a redistricting plan engineered by state Republicans was unfair. Interestingly, California Republicans joined the Indiana Democrats in support of their position. The court declared for the first time that claims of gerrymandering solely for political reasons could be reviewed by federal courts. Additionally, a 1993 case in North Carolina (*Shaw v. Reno*) found a congressional district to be “racially gerrymandered.” The majority of the court found the district so “irrational on its face that it can be understood as only an effort to segregate voters into separate voting districts because of their race.” The Supreme Court has not expanded on the definition of gerrymandering. Future cases will

voters many problems. 1964 was a strong Democratic year nationally and the Democrats elected all 118 of their candidates, with the Republicans electing only 59. Name recognition was a factor with Adlai E. Stevenson III receiving the most votes on the Democratic line and Earl Eisenhower, the brother of the president, outpolling other Republican candidates.

The U.S. Supreme Court decisions mentioned had an impact in Illinois after the 1964 at-large election. The legislature, once again faced with the dilemma of redrawing district lines for both the Senate and the House, was unable to agree because of sharp political divisions. This time the Illinois Supreme Court was ordered to handle the Senate redistricting, while the governor again appointed a legislative redistricting commission to develop House district boundaries. The Supreme Court and the commission redistricted both houses. Downstate areas (those outside of Chicago and its suburbs) were big losers in the final remap. As a result, downstate politicians could only hope to play a balance of power role in Illinois legislative politics.

Politics continued to dominate the legislative redistricting game in the 1970s. A new state constitution, adopted by the voters in 1970, contains provisions on legislative redistricting (Article IV, section 3). It provides that “legislative districts shall be compact, contiguous and substantially equal in population.” It also provides that the General Assembly shall redistrict after every federal decennial census and it includes a provision for a new legislative redistricting commission. The new constitution added one Senate district making the General Assembly a 59-member Senate and a 177-member House body. The House members were to continue to be elected from three-member districts under the unique cumulative voting system that had been adopted in the 1870 constitution. Each district was to elect one senator and three House members.

The 1971 remap effort was as partisan and controversial as the earlier efforts. The General Assembly failed to draw new district lines. One of the controversies was whether districts could include both Chicago and suburban Cook County areas.

As provided in the new constitution, a redistricting commission was created, this time appointed by legislative leaders rather than the governor. The commission struggled with the same issues as in the past, primarily those of

party and geography. But, with bipartisan cooperation, managed to draw new districts that favored Chicago Democrats and non-Cook County Republicans..

The next remap “war” came in 1981 after the 1980 census. It was political as before, but

The 1971 remap effort was as partisan and controversial as the earlier efforts.

Chicago Mayor and Democratic leader Richard J. Daley had died and the Chicago Democratic organization was not as cohesive as in the past. Moreover, in the 1981 fight, racial considerations were the most important factors in the decision-making.

Complicating the problem for the legislators was the adoption of the 1980 “cutback” amendment. This was the first constitutional initiative under the 1970 constitution to be placed on the ballot. It was approved by 69 percent of those voting on the proposition. The amendment eliminated the cumulative voting method of selecting House members and reduced the size of the House of Representatives from 177 to 118 members. As a result, many incumbents would be pitted against each other in the newly drawn districts.

The 1981 General Assembly was divided on a partisan basis with the Democrats controlling the Senate and the Republicans controlling the House. The 1981 struggle was as politically difficult as those in the 1960s and 1970s. In fact, the battle was so contentious that a physical fight broke out on the Senate floor. Not unexpectedly, the General Assembly was unable to redistrict.

Again, the constitutional provision for a legislative redistricting commission was used, and the legislative leaders appointed an eight-member commission. However, after the 30 days it had under the constitution, the commission was at an impasse.

For the first time, the “tie breaker” provision of the 1970 constitution’s redistricting section was invoked. It provides that “if the commission fails to file an approved redistricting plan, the Supreme Court shall submit the names of two

persons, not of the same political party, to the Secretary of State....” The secretary “publicly shall draw by random selection the name of one of the two persons to serve as the ninth member of the Commission.” In 1981 the Supreme Court submitted the names of former governors Richard B. Ogilvie, a Republican, and Samuel Shapiro, a Democrat. Secretary of State Jim Edgar drew Governor Shapiro’s name out of a hat once worn by Abraham Lincoln. Thus the Democrats had the majority on the commission.

Not surprisingly, the Democrats drew maps very favorable to themselves. The commission map was challenged in federal and state courts. The Illinois Supreme Court upheld the map with only one modification. Blacks, Hispanics and Republicans separately challenged the commission map in federal court. Some changes were made in minority districts. The Republi-

Commission. The commission made some slight changes in its map. This time one of the judges switched sides and voted with the minority to uphold the map. The partisan nature of the switch was spelled out in the dissent when the final map was appealed. With this partisan action of the court, the 1991 redistricting was concluded.

With the Republican tiebreaker, the Republicans controlled the Senate for the decade. The House Republicans were not as successful and only controlled the House in the 1994-95 session.

As before, the 1991 experience emphasizes the partisan nature of the redistricting process in all three branches of the Illinois state government.

After his tie breaking experience in 1991, Secretary of State George Ryan said, “The people of Illinois deserve better, and they deserve representation that is not a lottery. The legislature cannot just flip a coin or draw a name every time they are forced to make a tough decision.”

In March 1992, Ryan appointed a 29-member bipartisan Redistricting Process Review Commission to consider reforms in Illinois procedures for re-mapping legislative districts every 10 years. The commission met intermittently through the 1990s. A report was submitted to the secretary of state in January 1999 that recommended a constitutional amendment to repeal the tiebreaker.

It provided each legislative chamber be allowed to redistrict itself by a resolution adopted by a three-fifths vote. Should one or both chambers fail, then the responsibility for redistricting would be transferred to the bi-partisan state Board of Elections. That board was to select specifications for a computer program that would redistrict the state’s population to prescribed criteria. The General Assembly by resolution of three-fifths of its members could replace those computer specifications with its own. Otherwise, the specifications of the Board of Elections would be applied to a computer program, which would draw separate redistricting plans for each house, to be certified by the board.

A constitutional amendment implementing these recommendations was introduced in the Senate in the 1999 session. No action was taken and the ground rules set out in the 1970 constitution continue for the 2001 legislative redistricting.

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cans did not get any help from the courts, giving Democrats a significant victory. The 1981 experience again emphasizes the political nature of the redistricting process. There are winners and losers. The Democrats, because of the draw for the tiebreaker, were the winners in 1981, and subsequently were the majority party in both houses of the General Assembly in the decade after the 1981 redistricting map took effect.

The 1991 scenario was somewhat similar to the 1981 experience. The Democratically-controlled General Assembly passed a redistricting map that was vetoed by Republican Governor, Jim Edgar, a deadlocked redistricting commission, and a tiebreaker drawn out of a hat by Secretary of State George Ryan. This time the name was a Republican, Al Jourdan, the chairman of the Republican State Central Committee.

The Republican map was challenged in the Illinois Supreme Court. In a 4-3 party line vote, the court issued an order that invalidated the map and remanded it to the Redistricting

Battle for Control in 2001

Now that the 2000 census data is available, the Illinois General Assembly must get down to its redistricting tasks – legislative and congressional. The parties – Republican and Democratic – will fight, once again, for partisan control of the map-making process. Incumbent legislators and congressmen will struggle to keep their seats in safe districts. Blacks and other minorities will fight to get the maximum number of seats. Both parties will utilize sophisticated computers. The congressional districting will be very difficult because of the loss of one seat. An incumbent congressman could lose his / her seat. This very partisan activity will have an impact on legislative decisions in other areas.

Will the legislative and congressional districting be completed? Probably yes. But who will accomplish the task is unclear. One very important factor will be the 1998 election when

a Republican, George Ryan, won the office of governor. In the 2000 election, the Republicans maintained control of the Senate and the Democrats control of the House of Representatives and the Illinois Supreme Court.

Whatever the outcome, James Nowlan's thoughtful observations in 1991 remain pertinent: "Redistricting has become another ritual struggle in the game of politics. It is played by insiders for insiders, and most participants are compelled by the machinations that will affect their political futures... But it is a game, and rules have been developed that make redistricting a basically good conditioning exercise for those on the playing field of democracy."

Samuel K. Gove is Director Emeritus of the University of Illinois Institute of Government and Public Affairs.

On Partisan Fairness

by Brian J. Gaines

MOST AMERICAN STATES REDRAW THEIR U.S. House and state legislative districts during the one- to two-year window between the release of decennial census data and the next elections. So widespread is the belief that these districts are typically drawn in an unfair way that many people use the pejorative “gerrymandering” as a synonym for “redistricting.” But this skepticism raises the question: What is fairness in this context? Fairness to whom? Is it the process, the outcome, or both that should be held to some standards? What features of process or outcome reflect fairness?

A catalogue of the kinds of groups to whom the redistricting process is said to be fair or not would include: the major (and occasionally minor) political parties; incumbent legislators or their challengers; voters who support these same parties or candidates; racial and ethnic groups; citizens in urban, suburban, and rural areas; and, generally, any population group that

concerned efforts to incorporate voters’ racial characteristics into districting procedures. Just as city-country conflict often had partisan overtones, racial issues in redistricting are not divorced from partisan considerations. For instance, drawing majority-minority districts (districts where the majority of the citizens are of a minority race) in the U.S. seems to have increased not only the number (and safety) of minority-race (typically Democratic) legislators, but also to have decreased the Democratic vote in surrounding districts. Hence, majority-minority districts are associated with more polarized legislatures, because they increase numbers of liberal (minority) Democrats and conservative (white) Republicans, and, concomitantly, decrease numbers of moderate (white) Democrats. For simplicity, this report will hereafter concentrate only on *partisan* fairness. The focus will be how to assess whether electoral maps are biased with respect to representation of the major political parties. The next section reviews issues concerning the process of electoral map-making, and the third section discusses outcome-oriented criteria for redistricting fairness. I conclude with a short menu of possible reform options for the Illinois redistricting process.

Fairness of Process

If the main concern about redistricting is that the process be fair to major parties, two broad approaches recommend themselves: ensure that no major party is excluded from the process; or else guarantee that all political parties are excluded. The source of much citizen suspicion of redistricting, after all, is undoubtedly the simple fact that the authority to draw electoral maps ultimately lies in the hands of plainly interested actors, the partisan members of the state legislature. A typical assumption, then, is that anytime a single party holds majorities in both legislative chambers and also holds the governorship, this unified government will take advantage of power today to ensure power tomorrow, by drawing maps that accentuate the party’s electoral prospects and harm those of its opponent.

Historically, urban-rural schisms loomed largest in American battles over district lines, mainly because many states allowed very large population discrepancies across districts

is clustered geographically (e.g. minorities in terms of language, occupation, sexual preference, etc.).

Historically, urban-rural schisms loomed largest in American battles over district lines, mainly because many states allowed very large population discrepancies across districts (usually in a way that diluted representation of urban residents). Since the 1960s, courts have enforced quite strict equal-population standards within states, and such conflicts have become muted. Instead, the main disputes have

In general, the simplest way to load the dice against a party is to unite its historically strongest areas in common districts, thereby burdening it with a relatively small number of very safe districts, wherein substantial numbers of votes are “wasted” on needlessly inflated margins of victory. The favored party, by contrast, enjoys small margins in more districts, and thus efficiently translates its votes into seats.

As long as voting habits are predictable, redistricting done by exactly one party will almost surely be regarded by citizens and by the other party as manipulative. Hence, probably the simplest notion of fair redistricting is bipartisanship, involvement and approval of both major parties. There is substantial variation in the exact rules governing redistricting across the 50 U.S. states. Generally, gubernatorial vetoes and supermajority requirements increase the likelihood that new plans cannot pass without approval of members of both major parties, especially in states where both parties are generally competitive. By this reasoning, then, fair redistricting is never guaranteed, but it emerges as a byproduct of (a) institutions that increase the number of actors with vetoes over plans and (b) the existence of roughly even party competition. The disinterested observer might, accordingly, infer from the roll calls by which a plan was passed whether or not it was fair. If a mostly unified majority party out-votes a mostly unified minority party in passage of a redistricting plan, a natural conclusion is that the new map represents a partisan gerrymander.

Some states, in lieu of bipartisanship, embrace putative non-partisanship, especially for the drawing of state legislative districts. Outside of the United States, purportedly nonpartisan commissions (whether permanent or ad hoc) are by far the most common method of creating electoral boundaries. And, with some exceptions, in most of these nations, there is relatively little political controversy surrounding the redistricting process. This is true even in the case of countries that use precisely the same single-member-district, first-past-the-post electoral rule as the U.S., such as the United Kingdom, or Canada and its provinces.

In the United States, however, although there has been a slight increase over time in the number of states that formally assign redistricting authority out of the legislature to some kind of appointed commission, a general suspicion

remains that such mechanisms are no guarantee of nonpartisan intentions. Whoever is charged with appointing the map makers—whether the legislature as a whole, the legislature with the governor, a committee of one chamber of the legislature, etc.—is nearly always a partisan individual or body. Hence, one view of nonpartisan processes is that the appointment stage is

...the simplest way to load the dice against a party is to unite its historically strongest areas in common districts. . .

either partisan or bipartisan, and beyond this crucial distinction, any differences between legislators directly discharging redistricting duties, or picking “experts” to do it for them is unimportant.

Whether that conclusion is needlessly cynical or merely realistic, given the individualistic nature of American politics, is probably best resolved by careful case studies of different state histories. A highly abbreviated summary of recent experience with nonpartisan districting in Iowa provides some arguments for both views. Iowa’s congressional districts of the 1970s were drawn by the state Supreme Court, following a successful challenge of a plan devised by the state legislature. The court overturned the original plan not on grounds relating to partisan fairness, but because it found excessive variation in population across districts. In 1981, the legislature (both chambers of which had Republican majorities) and the Republican governor passed a law delegating authority to redistrict to the nonpartisan Legislative Services Bureau. In further pursuit of de jure partisan neutrality, the bureau was forbidden from consulting data on partisan registration or taking into account where incumbents lived, and outside consultation was restricted. In the Iowa process the bureau submits a plan to the legislature, which cannot make amendments, but can reject the map outright, in which case, the process starts anew. Up to three such iterations can occur: if three LSB maps are rejected, the legislature reassumes responsibility for drawing the district lines. In its first implementation, this process nearly did fail at its nonpartisan stage. The legislature rejected the

first two plans drafted by the LSB, ostensibly because of excessive variance in district populations, but much more plausibly because two incumbent Republican U.S. Representatives raised trouble when they found their districts merged.

This is not the place for a lengthy discussion of the many ways that American politics are different from parliamentary politics, but it does seem that some of the difficulty in creating genuinely non-partisan political institutions is, paradoxically, related to the weakness of American parties relative to individual representatives. Iowa's redistricting procedure, whatever its merits, is at odds with powerful incumbents, and to some extent non-partisan

For all its complexity, the current Illinois process can be succinctly described as a 50-50 lottery over rival partisan gerrymanders,. . .

expertise gave way to legislators' power in the first implementation.

Some expectation of this intermingling of putatively neutral expertise and nakedly political self-interest seems implicit in several states' hybrid schemes. States, for instance, often make use of two kinds of provisions: they create commissions to which the legislature delegates map-making power; and, they introduce tie-breaking procedures that imply that commissions are expected to consist of faithful party agents. The complicated, multi-stage Illinois procedure, described in *Legislative Redistricting in Illinois* by Professor Sam Gove offers a fine example. For all its complexity, the current Illinois process can be succinctly described as a 50-50 lottery over rival partisan gerrymanders, held whenever bipartisan compromise fails and neither party is in a position to pass its plan unilaterally. Governor Edgar's section, *The Politics of Redistricting*, reminds us that the process does not stop there. Judicial review further complicates the procedure, and so willingness to gamble may also represent beliefs about likely behaviour by the (partisan) state Supreme Court down the line. In two implementations thus far (1981 and 1991), the parties chose to gamble, not compromise, and a very rough fairness resulted, as they

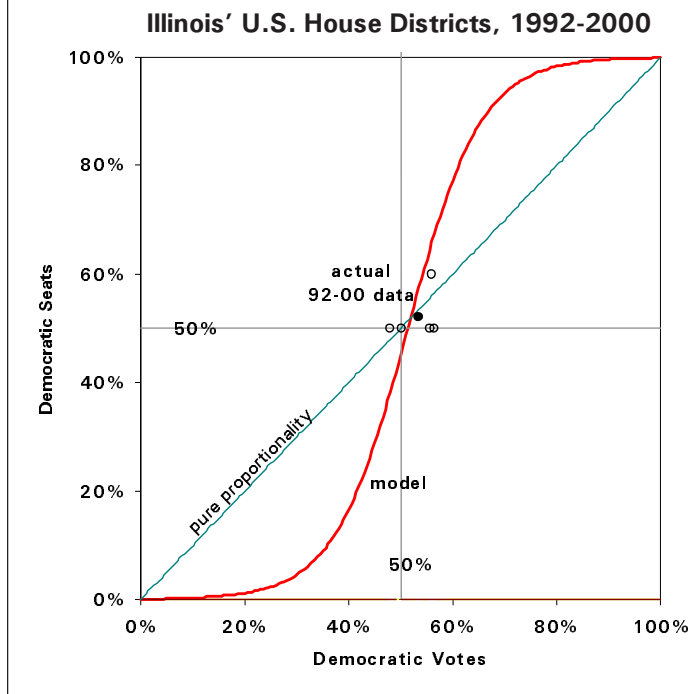
each had one chance to impose their preferred map on their opponents and the people of the state. An optimistic reading of this history is that the parties seem not to be greatly fearful of what their rivals can achieve with districting power, so the gerrymanders must not be too severe. A pessimistic interpretation is that relations between the parties are so poisoned that only artificial devices can break gridlock, and even sensible bipartisan compromise is exceptionally difficult to achieve.

Fairness of Outcomes

In one sense, to focus on procedure when evaluating fairness is shortsighted. Ultimately, it is the outcome—the new electoral map itself—that is truly the concern. However, assessing the fairness of a particular set of district lines by analysis of election results has proved to be a difficult task, and there is no general consensus on any one best method for doing so. Outcome-based assessments of the fairness of electoral maps usually focus on the parties' shares of the legislative seats, and how these relate to their vote shares. If an electoral map is crafted to create an advantage for one party over another, that party ought to win more seats for any given level of vote share than its disadvantaged rival. One complication is that efficient gerrymandering might actually depress the disadvantaged party's vote shares, leading to an underestimate of the bias. The party's supporters may stay away from the polls both in districts where they expect the party to lose predictably and in those where they expect it to win by lopsided margins or the race is uncontested. A related complication is that large numbers of uncontested races can badly distort aggregate party vote shares. But probably the chief difficulty in measuring whether a map is biased is that each election creates only one data point of seat shares and vote shares for each party. Given decennial census reports, modern electoral maps tend to last about five elections, so there is fairly little data at the aggregate level with which to assess possible bias in a map. Accordingly, academics have developed a wide variety of statistical models of how votes turn into seats.

A simple method is to explore hypothetical seat shares generated by "uniform swings." Had all Democratic candidates won an additional 1percent of the vote (and all Republicans 1percent less), what would the parties' seat shares have been? What if this imaginary swing had been 2 percent, 3 percent, and so on?

Figure 1. Statistical Models of Vote and Seat Shares



In this manner, one can simulate the full range of plausible vote and seat shares for both parties, to determine if either party seems to be systematically awarded more seats per vote than the other. More sophisticated models allow for non-uniform swings, taking into account incumbency status of seats, historical and geographical patterns of vote share, and other such factors. Even with only a handful of elections, then, analysts have been able to develop measures of bias, the tendency for one party to do better than the other in seats for given vote levels, and responsiveness, the rate at which improvements in a party's vote performance get translated into additional seats.

Figure 1 illustrates this kind of analysis using Illinois' U.S. House election results from 1992 to 2000. In the middle of the plot are the actual data points, Democratic seats and vote shares for these five elections (hollow dots), plus a decade average based only on the contested races (solid dot). The parties split the 20 seats 10 to 10 in each election except 1992, when the Democrats won 12 seats. The vote shares spanned a small range, with the Democrats having won between 48.1 and 56.2 percent of the statewide vote, and having averaged 53.5 percent. To judge the partisan effect of the 1990s districting plan, we would like to know what

would have happened to the Democratic seat share if the Democrats had won more or fewer votes. Although generalizing from a mere five points to a seats-votes curve is tricky, the curved line labeled "model" indicates the most probable seat shares for given vote shares under the 1990s map using the actual results in each race and a fairly standard mathematical model. There is evidence of a very slight Republican advantage. The curve passes just to the right of the (50 percent, 50 percent) point: that is, Democrats had to win a little more than 50 percent of the vote to win 50 percent of the U.S. House seats.

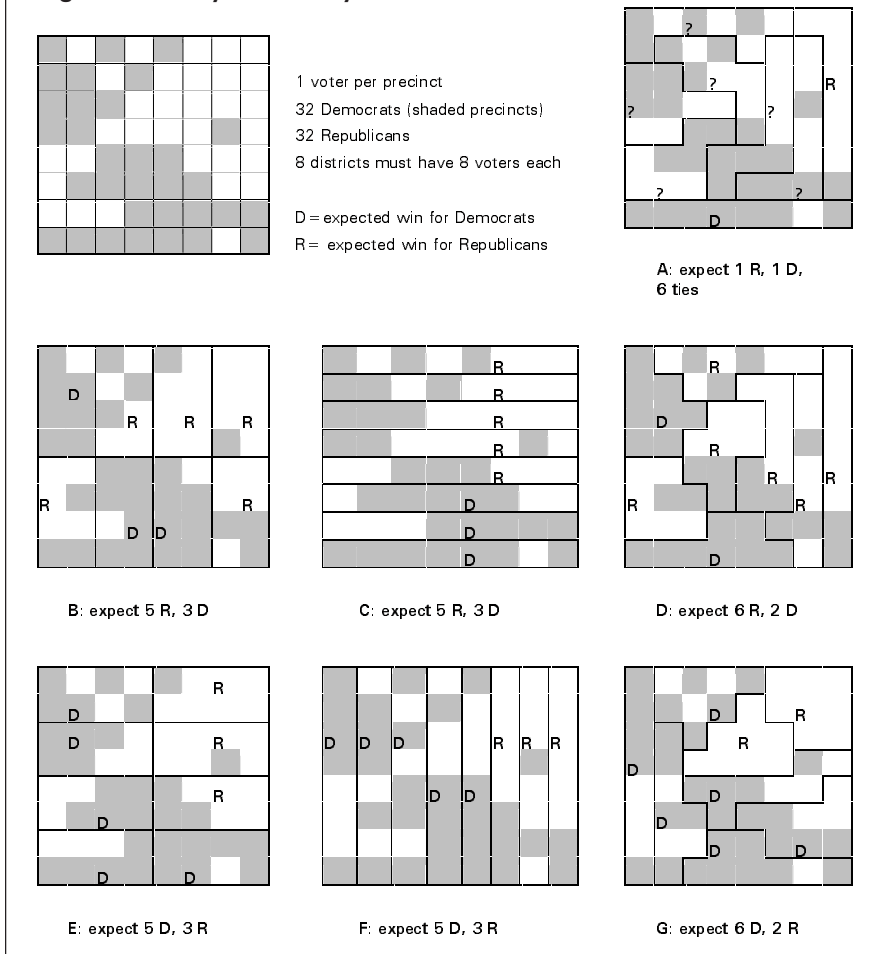
This redistricting plan was proposed by U.S. Representative Dennis Hastert and other Republican members of the Illinois Congressional delegation and adopted by the federal district court. Is the above result confirmation of gerrymandering? That conclusion is premature.

Generally, disproportionality in vote and seat shares follows from inefficient concentrations of votes in safe districts. To expect perfect proportionality, however, overlooks not only the

If, . . . particular ethnic groups with distinct partisan preferences happen to have settled in geographic clusters, then some bias and variation in responsiveness is almost inevitable.

complexities of each election but also the nuances of geography that reflect accidents of history more than constructions of crafty map drawers. If, for instance, particular ethnic groups with distinct partisan preferences happen to have settled in geographic clusters, then some bias and variation in responsiveness is almost inevitable, rather than being the product of manipulation.

Figure 2: A Stylized Polity of 64 Voters



Thus, along with seat-vote performance, people often judge maps according to essentially geographic criteria. Do boundaries respect pre-existing administrative or historical divisions? Do they follow natural geographic divides such as rivers and mountains, or nonpolitical man-made breaks such as major highways? Are

Surprisingly, compactness turns out to be exceptionally hard to define in a useful manner.

districts smooth and sensibly shaped—are they relatively “compact” as opposed to being suspiciously irregular? Surprisingly, compactness turns out to be exceptionally hard to define in a useful manner. Thus, even though many states have some variety of legislative or constitutional language demanding that

districts be compact, it is a criterion invoked with decreasing regularity and insistence.

Figure 2 provides a highly stylized example of redistricting, and illustrates both why plurality elections are not automatically proportional, and why compactness and “naturalness” standards can be difficult, or even perverse, to implement. In this hypothetical state, there are 64 precincts, each having one voter, and these must be arranged into eight districts each having exactly eight voters. Republicans and Democrats are equally numerous in the state, but are somewhat clustered, the Republicans in the northeast and the Democrats in the south central

region. In six of the seven electoral maps drawn, one party enjoys an advantage in expected seat shares: the two maximum gerrymanders, maps D and G, inflate 50 percent vote shares into 75 percent seat shares. Map A, by contrast, is proportional in expectation: each party has one very safe seat, but the remaining six seats each contain four Republicans and four Democrats. Yet, clearly, the districts in A are more awkward and contrived than are those in the “accidental,” slightly partisan gerrymanders of maps B, C, E, and F. Given systematic geographic patterns in partisan support, emphasizing the standard of partisan fairness can require de-emphasizing any (or all) geographic criteria.

Finally, another potential criterion is stability, or precedent. If altering district boundaries hampers citizens’ efforts to establish connections amongst themselves or with representatives, there are clear reasons to favor minimal disruption when creeping population variance

necessitates redistricting. Of course, from a fairness standpoint, stability's appeal rests on prior maps having been fairly drawn. Whatever the value of minimizing disruption, it is unlikely to override fairness to parties.

Computers have greatly simplified redistricting, but does technological efficiency enhance or diminish bias? A typical assumption has been that technology makes gerrymandering easier, so that, all else equal, procedures open to partisan abuse are more dangerous than ever in the age of microprocessors. Computer technology undoubtedly does make it easier to explore multiple means of packing an opponent's supporters into relatively few very safe districts. But a counterpoint is that computers can be instructed to create random maps, which are useful for establishing a baseline that is not geographically unrealistic, against which to compare maps created by interested parties. All the same, although computation-intensive redistricting by computer is almost 30 years old, the holy grail of redistricting analysis remains elusive. The ideal tool for assessing bias and fairness of a given map would be a characterization of *all* possible maps, given 1) the number of districts being drawn, 2) data describing traits of the basic, unbreakable units (e.g. census tracts) out of which districts are formed, 3) information about which units adjoin which others, and 4) all inviolable constraints, such as near equality of populations. Unfortunately, the mathematical scope of this problem exceeds the power of even the fastest computers. Indeed, for any large area—say, a state having thousands of census tracts—the problem can be shown to be NP-complete, which is to say, roughly, “too hard to be solved by brute force, no matter how fast the computer.”

In short, judging the fairness of maps by the election outcomes they produce, though clearly desirable, is, for the time being, as much an art as a science. It is surprisingly difficult to establish objective criteria for fairness, and uncertainties are compounded when one is making future projections about votes rather than retrospective evaluations of past elections.

Some Ideas About Redistricting in Illinois, 2001 and Beyond

Academicians making backward-looking assessments of partisan bias in electoral boundaries continue to quarrel over how best to construct models of the kind shown in Figure 1. Given the same election returns for Illinois' past

20 years, different political scientists might reach discrepant conclusions over whether the map of the 1980s (drawn by Democrats) and the map of the 1990s (drawn by Republicans) were successfully “unfair” gerrymanders. A forward-looking citizen, inclined neither to wait a

... judging the fairness of maps by the election outcomes they produce, though clearly desirable, is, for the time being, as much an art as a science.

decade nor to plunge into statistical and data-analytic debates, is more likely to focus on process.

That the current Illinois redistricting process hinges on a random draw ensures one variety of fairness: if the process reaches that stage, the two major parties are equally likely to be permitted to gerrymander. Members of the public who are not died-in-the-wool partisans might, however, prefer a process designed to foster bipartisan compromise. Ignoring the practical matter of whether any of these ideas is in any sense likely to win the endorsement of those in position to implement them, I conclude with three process-oriented options for achieving fairness more reliably in each decennial redistricting, plus a fourth option that involves both process and outcome assessments.

Three Process-oriented Options for Achieving Fairness

1. A nonpolitical body. The “commonwealth” option is to follow the example of the United Kingdom, Australia, Canada, India, and New Zealand by establishing a boundaries commission. A host of devices can be used in an attempt to separate appointments to this commission from political conflict: terms can be staggered; appointments can be made in odd-numbered years; as in Iowa, the commission can be forbidden from explicitly making use of political data, and commission plans can be given closed-bill status so that amendments are not possible. Ultimately, though, this option rests on the possibility of widespread belief in a public body being able to stand apart from the

political parties, display neutral competence, and resist interference.

2. Compelling bipartisan cooperation. For those who regard nonpartisanship as incompatible with American politics, bipartisanship is the goal. If the current lottery mechanism was meant to represent an outcome so drastic that no one would ever want to risk not compromising at the first stage, it has failed. Parties have shown a preference for risk. A simple reform would be to remove this “tie-breaking” provi-

The ultimate “time bomb” that might force an evenly constituted commission or legislature to compromise would be the true default: an election without districts.

sion and instruct the eight-member commission (or even the original legislature) to produce some plan by a fixed date. But if gridlock still ensued, what penalties would apply? Handing redistricting over to a randomly chosen judge, having the commission produce multiple maps, one of which would be chosen by lot, or any such lottery scheme, would essentially mimic the existing provisions. The ultimate “time bomb” that might force an evenly constituted commission or legislature to compromise would be the true default: an election without districts. This situation did occur in Illinois in 1964 and a statewide election for state representatives and senators was held, although subsequent judicial rulings have probably rendered this option illegal. Other devices to force compromise can be imagined. There could be large fines accompanying the lottery, or, more fancifully, a requirement that maps drawn after a given date place some number of incumbents from each party into the same district. Whatever outcome is intended to loom over the parties, it ought to be plainly disadvantageous to both of them.

3. Open bidding. Most mechanisms that would be feared equally by both parties, and so would let option 2 work, are probably highly unusual and impractical. A much less predictable outcome that might stimulate party leaders to

cooperate at prior stages would be an open bidding process. For instance, the eight-member commission could be forced, if it failed to approve a plan by a fixed date, to accept proposals from any interested citizen, and to choose one such plan by another fixed date. Objections galore would arise: the state could be bombarded with crazy redistricting schemes; interest groups would take over the process; and so on. Of course, the point of the provision would be to make it sufficiently undesirable that its possible arrival would lubricate legislative gridlock. But another view of such a provision is that competition breeds efficiency, and opening up a partisan process to interested observers might actually be the best way to ensure that multiple standards of fairness are publicly aired and considered in the redistricting process.

4. Independent review. Finally, to say that there is not full consensus on how to evaluate fairness of maps according to actual election outcomes, or even projections about new maps based on past outcomes is not to say that there is no consensus at all. Decades of academic work on maps, seats, and votes have produced many useful techniques. The spirit of option 3 is that openness and publicity are useful means for exposing unfairness. Similarly, there could be a requirement for some kind of independent assessment of the partisan implications of plans before they could be passed into law. Merely requiring a report on the partisan implications of a plan will not ensure that it be fair, but the main idea here is that, from a public interest point of view, the more light that can be shined on map makers’ intentions, the better.

I will not eagerly await adoption of any of these proposals in the near future. On the other hand, spurts of enthusiasm for institutional reform are, themselves, hard to foresee, so broaching potential reforms is never completely pointless.

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Race and Representation

by Cedric Herring

REDISTRICTING IS ALWAYS POLITICAL, INCREASINGLY controversial, and often ugly. Politicians, with their political careers at stake, have always fought tooth-and-nail over district lines. Until recently, however, most voters probably thought of the courts as being apolitical and fairly neutral. But with the recent presidential election and the necessary intervention of the courts, it has become clear to most observers that the courts, too, have entered the political thicket by becoming the final arbiters in many electoral decisions that have long-lasting consequences for representation.

The reality is that the role of the courts in influencing election outcomes is not all that new. Indeed, at least since the Supreme Court's 1962 decision in *Baker v. Carr*, the courts have ruled that elections are within the purview of the judicial system. In *Wesberry v. Sanders* in 1964, the courts redefined representation within the U.S. by establishing the "one man, one vote" doctrine. According to that ruling, electoral districts were to be as equal in population as practical so that one person's vote would be worth as much as another's.

But what is the purpose of redistricting? What difference does it make to representation, especially with respect to race? How do we know when we have gotten it right? And does "good" redistricting lead to better representation? This essay addresses these issues by examining the fundamentals of race, redistricting and representation in Illinois.

What Is Reapportionment and Why Do We Redistrict?

The fundamental reason for enumerating the U.S. population every 10 years is to determine the number of members of the U.S. House of Representatives each state is entitled to elect – a process known as reapportionment. Redistricting is the legislation that alters district shapes and sizes in order to create districts that are "very nearly equal" in population and, for congressional districts, to account for any change in number. Each member of the U.S. House will represent approximately 650,000

people. In Illinois, the official population on enumeration day, April 1, 2000, stood at 12,419,293. This represents an 8.6 percent increase over the 1990 enumeration. Still, Illinois will lose one seat in the U.S. House of Representatives, down from 20 seats to 19 despite a population gain of nearly one million since 1990, because other states have seen greater increases. As Table 1 shows, Illinois has not gained any seats in the U.S. Congress since 1910, and with the exception of 1960-1970, it has steadily lost seats every decade since 1930.

Redistricting is the process of dividing a geographical area (e.g., a state, a county, a city, etc.)

Table 1. Illinois Population Change and Apportionment in the U.S. House of Representatives, 1900-2000

Year	Resident Population	Number of Representatives
2000	12,419,293	19
1990	11,430,602	20
1980	11,427,409	22
1970	11,110,285	24
1960	10,081,158	24
1950	8,712,176	25
1940	7,897,241	26
1930	7,630,654	27
1920	6,485,280	27
1910	5,638,591	27
1900	4,821,550	25

into a number of smaller contiguous and non-overlapping areas. These districts are supposed to be optimized with regard to equality of population, and they are supposed to have acceptable levels of compactness with as little crossing of established governmental boundaries as possible.

Prior to the 1960s, it was commonplace for districts to have severe population imbalances that often favored certain partisan, factional, or racial interests.

With the doctrine of “one man, one vote,” a conceptual notion of fairness emerged that has guided much of the subsequent thinking about redistricting and representation. After years of malapportioned districts that sometimes discriminated against racial minority groups and urban areas more generally, the courts applied more stringent population standards as a measure of representation. In subsequent cases, the courts became involved in redistricting in several states because of political stalemates among state authorities or because of problems with the constitutionality of redistricting plans.

The intervention of the courts brought about substantial changes in how representatives are allocated. In addition, the Voting Rights Act of 1965 and court decision in 1986 in *Thornburg v. Gingles* required states to maximize the number of legislative districts that could be expected to elect racial minority candidates. This standard applied to both state legislative and congressional redistricting in the early 1990s. In order

... redistricting has become one of the many flashpoints resulting from uneven and ethnically diverse population change.

to create districts more likely to elect racial minority candidates, district boundaries were often drawn so that minorities were concentrated in districts so that they comprised a majority or supermajority of the district population. In Illinois, for example, each of the congressional districts that has a congressman of color is also a district that is more than 70 percent minority residents.

Almost by definition, these new rules for allocating representatives have benefited some groups at the expense of others. Thus, redistricting has become one of the many flashpoints resulting from uneven and ethnically diverse population change. Some conservative critics of the courts suggest that the courts, by creating congressional and state legislative districts specifically based on race and ethnicity, went to the extreme in interpreting the Fourteenth Amendment’s declaration that government may not “deny to any person within its jurisdic-

tion the equal protection of the laws.” Liberal critics have suggested that the courts have not done enough to reduce electoral bias against racial and ethnic minority groups. The courts have offered criteria that have made the redistricting process more complex. Among the criteria put forth by the courts are population equality, compactness, and contiguity. But in addition to these guidelines, the courts, political parties and individual office holders have added factors such as racial representation, socioeconomic factors, geography and regional commonalities, political party representation, and incumbent protection into the redistricting process. Needless to say, these considerations have led to controversies. Illinois has not been immune to these controversies.

What Difference Does Redistricting Make to Representation, Especially with Respect to Race?

The 1990s brought major change to the racial and ethnic composition of the Illinois’ population. That change is the central issue for redistricting in Illinois. Table 2 shows that population changes have not been evenly distributed in Illinois. The number of whites (non-Hispanics) grew from 8,556,289 in 1990 to 8,424,140 by 2000. This represented a decrease of about 1. percent. In contrast, the number of Hispanic (non-black) residents increased from 904,449 in 1990 to 1,509,539 in 2000—an increase of more than 75 percent. The number of blacks in Illinois increased from 1,707,405 in 1990 to 1,876,875 in 2000. This represented an increase of 10 percent.

Demographers have noted the flight of whites from central cities to the surrounding suburbs. As a consequence, cities like Chicago have become more heavily concentrated with blacks, Hispanics, and Asians. In observing these demographic patterns, some analysts have also asserted that departing whites were also taking with them the cities’ industrial base, high-wage jobs, and the tax base that made it possible to provide quality education and necessary municipal services. Others, however, point out that as people of color have become greater proportions of the residents in central cities, they have been better able to empower themselves by electing co-ethnics to city councils, to school boards, and as mayors. The question for redistricting is whether to favor or resist further concentration of minorities into majority minority districts.

Table 2. Changes in the Racial/Ethnic Composition of Illinois, 1990-2000

Race/Ethnicity	1990		2000		1990-2000	
	Number	% of Total	Number	% of Total	Change	%Change
White (non-Hispanic)	8,556,289	74.9	8,424,140	67.8	-132,149	-1.5
Black	1,707,405	14.9	1,876,875	15.1	169,470	9.9
Hispanic (non-Black)	850,312	7.4	1,509,539	12.2	659,227	77.5
Others	316,596	2.8	608,739	4.9	292,143	92.3
Total	11,430,602	100.0	12,419,293	100.0	988,691	8.6

During recent decades, for example, black political empowerment – the ability of African-Americans to elect their co-ethnics to public office - has been connected to reductions in black neonatal mortality rates, lower rates and levels of black political alienation, and increases in minority employment in administrative, professional, and police and fire department jobs in cities.

But black population growth and concentration are not necessarily synonymous with black empowerment. There are questions about whether population concentrations of African-Americans provide political consolidation and empowerment or whether patterns of racial concentration and segregation might better be thought of as apartheid. Indeed, some critics of black empowerment strategies that rely on high levels of racial segregation suggest that inner city communities remain concentrations of poverty, not power. In their book, *American Apartheid* (Harvard University Press, 1993), Douglas Massey and Nancy Denton, for example, suggest that segregation is not empowering. They describe several harmful effects of segregation. Among the most powerful is the loss of civic and commercial services to the segregated neighborhood in the forms of falling retail demand, increasing residential abandonment, business disinvestment, deindustrialization, and massive job loss.

Massey and Denton agree that segregation offers the *appearance* of political power in virtually all-black districts because such districts provide supermajorities and effectively guarantee that African-Americans can elect their own to office. They argue that while “the existence of solid black electoral districts . . . [does] create the potential for bloc voting along racial lines” it does not translate into the delivery of city services nor even patronage jobs. Rather, racial segregation and isolation translate into the loss of opportunity to

participate in effective coalition-building with other groups, and the subsequent loss of city services. Consequently, many African American officials find it challenging to establish

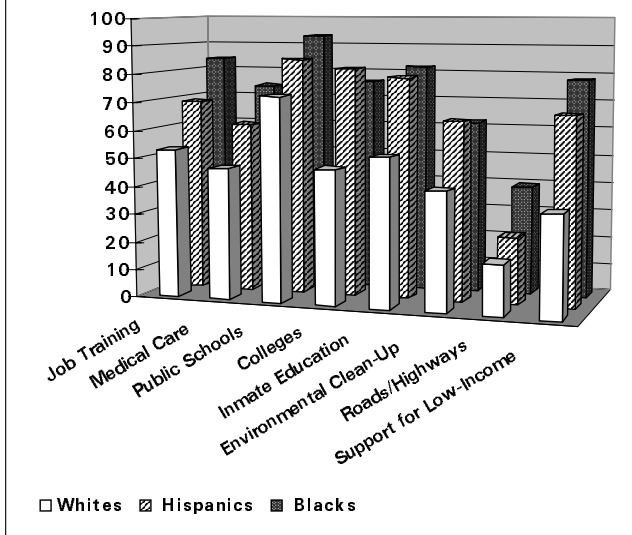
Indeed, there have been many claims made that the creation of the majority-black districts has paradoxically led to a more conservative . . . representation than would be the case otherwise in white districts.

legislative coalitions with their non-black colleagues. Even worse, these representatives from hyper-segregated districts have little incentive to dilute their political base by exhorting any changes that would reduce levels of segregation. Thus, racial segregation makes it easier for white leaders to disregard and disinvest in African-American communities.

Indeed, there have been many claims made that the creation of the majority-black districts has paradoxically led to a more conservative (i.e., less representative) representation than would be the case otherwise in white districts. Moreover, there is recent research that suggests that, despite being vital to the election of slightly more African-American and Hispanic representatives, the creation of new supermajority black and Hispanic districts has made the U.S. House of Representatives and several state legislatures more likely to adopt policies opposed by most African Americans and Hispanics.

On the other hand, it is clearly true that black representatives are more attuned to the policy

Figure 1. Percentage of Population Favoring Increased Spending on Various State Priorities, by Race/Ethnicity



preferences of black citizens. According to the results of a survey that examined the correspondence between the policy preferences of black and white residents of Chicago and those of their black and white state legislators; the views of black residents were more similar to those of black representatives than they were to those of white representatives (Herring, 1994). Moreover, 64 percent of blacks chose black leaders as being most representative of them, and 76 percent of whites chose white representatives as being most representative of them on the state level.

Getting It Right: Does “Good” Redistricting Lead to Better Representation?

Most people would readily acknowledge that gerrymandering is illegitimate and undermines genuine representation. Historically, such practices have been used to dilute the impact of those voters who challenge the status quo. So, if “good” redistricting is the opposite of gerrymandering, we might think of “good” redistricting as that which makes it more likely to give voice to those whose views and opinions that, historically, have been under-represented in the policy making process.

To the degree that demographic subpopulations differ in their policy preferences, shifts in Illinois’ population base are likely to have an impact on public opinion on several policy

issues and priorities. For example, data from the 1995-97 Illinois Policy Surveys (conducted by Northern Illinois University) suggest that blacks and Hispanics differ from whites in their spending priorities. Figure 1 shows the racial and ethnic differences in support for additional spending for various policy issues. This chart shows that blacks (84 percent) and Hispanics (69 percent) are more likely than are whites (53 percent) to favor more spending for job training programs. Figure 1 also shows that African Americans (74 percent) and Hispanics (61 percent) are also more likely than whites (47 percent) to favor additional spending on medical care. Similarly, Figure 1 shows that blacks (93 percent) and Hispanics (85 percent) are more likely than are whites (73 percent) to support more money for public schools. Blacks (76 percent) and Hispanics (82 percent) are also more likely than are whites (48 percent) to support more money for colleges and universities. The chart also illustrates that blacks and Hispanics are more likely than are whites to support additional funding for prison inmate education, as 82 percent of blacks, 79 percent of Hispanics, and 53 percent of whites support more funding in this area. African-Americans (62 percent) and Hispanics (64 percent) are also more likely to support additional spending to clean up the environment than are whites (42 percent). Blacks (39 percent) are more likely than whites (24 percent) and Hispanics (18 percent) to favor additional spending on roads and highways. Finally, Figure 1 shows that blacks (78 percent) and Hispanics (67 percent) are more supportive than are whites (36 percent) of additional spending on low-income families. Again, to the degree the proportions of African Americans and Hispanics in Illinois increase, it is likely that their opinions will be weighted more heavily in the formulation of public opinion in the state.

People of color constitute nearly 30 percent of the population of Illinois. The number of African Americans and Hispanics in Illinois will continue to grow. These demographic trends should portend a greater number of elected officials of color and better representation for people of color. Yet, blacks and Hispanics are the racial and ethnic groups that have the least (racially and ethnically) proportional representation in the Illinois congressional delegation, in both chambers of the state legislature, and on

the city councils of many municipalities. Less than 14 percent of the Illinois Congressional delegation is black, and less than 5 percent of the Illinois Congressional delegation is of Hispanic origin. Of the 118 House members of the 92nd Illinois General Assembly, 15 (12.7 percent) are African Americans, and 4 (3.3 percent) are of Hispanic origin. Of the 59 Illinois state senators, 7 (11.9 percent) are African Americans, and 2 (3.3 percent) are of Hispanic origin. As demonstrated earlier, the number of African Americans and Hispanics is growing at a much faster rate than is the white population, and these racial/ethnic groups differ from whites substantially in their policy preferences on several key issues, but these demographic shifts and differences of policy opinions are not likely to have the type of impact on public policy that they should unless electoral district boundaries appropriately reflect the new demographic realities of Illinois.

So we must be clear: The central paradox of redistricting to increase the likelihood of electing black and/or Hispanic representatives by creating districts with supermajorities is that it decreases the number of districts that will represent any of the interests of blacks and Hispanics. Also, if people of color are segregated into fewer (supermajority) districts, they will have less political clout than would be the case if they were to be placed into more districts where blacks and Hispanics could act as swing voters. New gerrymandering has made it more possible that those whose views are least consistent with those of most blacks and Hispanics will be elected in all other districts. The issue is not just the number of black or Hispanic representatives who can be elected

The central paradox of redistricting to increase the likelihood of electing black and/or Hispanic representatives by creating districts with supermajorities is that it decreases the number of districts that will represent any of the interests of blacks and Hispanics.

because of minority supermajorities, but rather the quality of representation that black and Hispanic residents receive overall. If, as the courts have held for the past four decades, one person's vote should be worth as much as another's, it is incumbent upon those involved in the redistricting process to be mindful of the fact that race and genuine representation are also fundamental parts of redistricting.

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Parties, Leaders, and the Prospects for Compromise

by Jim Edgar*

REDISTRICTING IS, BAR NONE, THE MOST PARTISAN activity in Illinois politics. In the eyes of officials elected from districts, demographics are destiny. To them, the redistricting process determines whether they will come back for another term.

The goal of redistricting for individual members – who want ever-safer districts for themselves – clashes with that of the party leaders – who want to enhance partisan advantage and numbers in legislative bodies. In this paper I look at the practical politics of state legislative and congressional redistricting as Illinois state

Redistricting computer programs today can be both a blessing and a curse, because now every member can ask to have numerous maps run to see how they would affect him or her.

lawmakers embark on the decennial redrawing of district lines, as required by both the Illinois and federal constitutions. I draw heavily on my experiences and observations – as a legislative staffer who worked on redistricting, as secretary of state, and as governor – in each of the last three redistricting processes in Illinois.

The Politics of Redistricting

In 1971 I was the Illinois Senate Republican staffer assigned to redistricting. Once we had the numbers from the U.S. Census Bureau, we had to decide where to start drawing the lines. The county population numbers were released first, then the township totals, and later more detailed numbers that we needed for Chicago and the East St. Louis area.

In those days, before computer number-crunching power, we had to start at one end or corner of the state or the other, and then move outward. Where we started had a bearing on the outcome, of course.

Back then we worked with adding machines. Then one day a staffer came to a bipartisan meeting with a marvelous technological advance – the hand-held calculator. By the next meeting, we all had calculators. The best were those that printed out the totals on tapes.

Redistricting computer programs today can be both a blessing and a curse, because now every member can ask to have numerous maps run to see how they would affect him or her. We simply couldn't do that in 1971, so the staff and the leadership were more able to control the process.

In 2001, with the aid of computers, Republicans might start drawing maps from their base in the suburbs, and work out toward Chicago and Downstate. Democrats will probably start in Chicago, their stronghold.

The staffers in charge must know the state inside and out. Carter Hendren, longtime chief of staff for the Senate Republicans, knows every township and ward in the state – as well as who lives there. Knowledge of historical voting patterns and of racial and ethnic makeup is absolutely necessary. For example, the staff must keep an incumbent who is Italian-American or Lithuanian with his or her base. And the staff should know where in the suburbs Hispanics are moving, and whether they are Cubano, Puerto Riqueño or Mexicano.

Knowing the base-line partisan vote of a county, suburb or Chicago ward is also critical, yet more and more difficult. In past redistricting, we could rely on the votes cast for University of Illinois trustees. These candidates were elected statewide on a partisan basis, but were generally unknown to most voters. Politicos thus assumed, for the most part correctly, that voters had only the party affiliation of those candidates to guide their voting. The vote for U

*With the assistance of James Nowlan.

of I trustee served as a proxy for the base party vote in any election unit.

Because U of I trustees are appointed now, the least visible statewide office, that of treasurer or comptroller, will probably be used as the proxy for the party vote.

The leaders provide the staffers direction, of course. They set goals for how many “safe Republican” districts should be drawn, and how many “swing districts,” that is, competitive districts should be created. Leaders also tell staffers which preferred incumbents must be protected at all costs, and who can be sacrificed if necessary.

As the staffers begin drawing possible maps, individual members of the House and Senate are anxious to see how they are being treated. This becomes a problem for the leaders. On the one hand, the leaders will need their members’ support on close votes during the legislative session in progress, so they will want to appear responsive to their members. On the other hand, members are never satisfied. They all want districts so safe that they can’t be beaten.

The legislative leaders can’t, of course, draw those kinds of super-safe districts for members and still maximize partisan potential. The leaders want to elect party majorities so they will be the top dogs in their chambers. The leaders try to keep their members away from the process as much as possible, offering general reassurances that, “You’re going to be fine, Joe. You know I wouldn’t hurt you.”

Legislators’ emotions become very intense during redistricting. One spring night in 1971 in a Springfield bar, a legislator punched an innocent young Republican Party aide who wasn’t even part of the legislative process, let alone redistricting. The young man was, however, an apartment-mate of a staffer working on redistricting. The pugnacious lawmaker thought, incorrectly, that the young aide was somehow conspiring to put him out of a district.

Governors try to maintain some distance from this legislative activity, in part because of this intensity of feeling. I certainly did. When legislators called me for help with their districts, I told them I wasn’t going to get in the middle of their branch’s responsibilities. Redistricting is a legislative matter, and I had plenty of other things to do as governor. Of course, when a Democratic map was passed in the General Assembly in 1991, I vetoed the bill,

despite the suggestion of some of my staff that I try to work out something with the Democratic leaders. I felt I had to stand with my party on this most partisan of matters.

The Process of Legislative Redistricting

In Illinois, the General Assembly has the responsibility of redrawing district lines after each decennial census. If the state legislators cannot agree on new district lines for the Illinois House and Senate, or if the governor vetoes the plan, responsibility then shifts to a bipartisan eight-member commission. Each of the four legislative leaders appoints two members. If that panel cannot agree, a ninth, tie-breaking member is picked by the secretary of state who,

The legislative leaders can’t, of course, draw those kinds of super-safe districts for members and still maximize partisan potential.

literally, draws from a hat one of two names provided by the Illinois Supreme Court.

Since 1971, all of the maps agreed upon by the commission, either with or without the tiebreaker, were challenged in the state and federal courts, where the final decisions were made.

In 1971, the legislature failed to agree on new district lines by the June 30 deadline. The bipartisan commission was triggered and the members were able to reach agreement on a map without going to the tiebreaker. This is how the framers of the 1970 Illinois Constitution hoped the process would work. In the following two remap processes, however, the bipartisan commissions failed to agree and the “luck of the draw” tiebreaker was invoked.

I was Secretary of State in 1981, so I was required by the Constitution to select the tie-breaking commission member. The Democrats were convinced I was going to rig the draw. Officials from both parties naturally insisted on observing me drawing from the hat. We held

the drawing in Room 212 of the Capitol, a large ornate hearing room that was at one time the state Supreme Court chambers.

Democratic leaders sat behind me, as if I might, like a magician, have a trick up my sleeve.

The basic game of redistricting is to concentrate your opponents in fewer districts and dilute their strength in others, so as to reduce the number of opportunities they have to win. At the same time, party mapmakers try to extend their base to encompass opposition territory – while maintaining the majority of voters.

Television cameras and the press also crowded around. I drew the name out of a stovepipe hat that had belonged to Abraham Lincoln.

As it turned out, I drew the Democratic name, which at least showed everyone I was honest. This made the Republicans mad at me. One GOP leader said, conspiratorially, “You know the Democrats would have figured out a way to select their party’s nominee!” – suggesting that I was a turncoat for not somehow rigging the game.

The name I drew was that of former Governor Sam Shapiro. When I called Governor Shapiro to inform him of his selection, he assured me he would do a fair job. But I don’t know if he had any say in the matter. A few days later, the five-member Democratic majority adopted a new map that favored the Democrats. The plan was challenged in the Illinois Supreme Court, which changed two legislative districts in a minor way. The federal court also redrew some of the districts, mainly to counter dilution of African American voting strength. However, the map was still highly favorable to the Democrats.

As mentioned above, in 1991 I vetoed the maps drawn by the Democratic majorities in the General Assembly. When the commission deadlocked, then-Secretary of State George Ryan pulled the Republican name from the hat.

But it still took almost two months for the commission to draw and file its plan. After reviewing the map, the Illinois Supreme Court ordered the commission to hold hearings and investigate the constitutionality of some districts. The commission held hearings in January 1992 and then sent the court a revised plan. The court approved the plan when one Democrat justice, who felt his party had mistreated him, joined the Republicans to give them a majority in the decision.

The outcome from the 1991 experience illustrates that although redistricting is important, it doesn’t guarantee partisan outcomes. Republicans drew the 1991 legislative map, but the Democrats elected House majorities in four of the five elections held under that map. And yet the Republicans were able to retain control of the Illinois Senate throughout the period. One reason for this is that incumbency is a very powerful advantage, probably more important overall at the local level than district lines. Incumbent members of both parties – and the Democrats had more incumbents going into the 1992 elections – have a great advantage because of their name recognition, knowledge of the territory, and already-developed campaign teams and financial backers.

Goals and Strategies of Redistricting

Legislative mapmakers must take the new census data and draw districts that are equal in population and also meet – as best they can be interpreted – evolving state and federal court requirements as to compactness, racial fairness, and other factors.

In Illinois, the 2000 census figures show that Chicago and downstate regions lost population in the 1990s, and the expanding suburban collar around Chicago gained population. That great collar is, however, no longer simply a homogeneous white Republican bloc, if it ever was. Hispanics and other immigrant groups are moving into the older suburbs along Chicago’s western borders, and African Americans have been moving into the south suburbs.

In addition, many Republican voters in the suburbs are displaying more independence than in the past, especially when voting on environmental issues and social issues such as abortion and gun control. In the 2000 election, George W. Bush fared poorly in the suburbs,

especially in Lake and Will counties. Clearly redistricting in the collar around Chicago will be more complicated than ever.

The basic game of redistricting is to concentrate your opponents in fewer districts and dilute their strength in others, so as to reduce the number of opportunities they have to win. At the same time, party mapmakers try to extend their base to encompass opposition territory – while maintaining the majority of voters. For example, in 1981 Democrats extended heavily Democratic Chicago House and Senate districts, finger like, into the suburbs to capture Republican areas – without giving up their majorities. As a result, they controlled more districts statewide than their statewide vote would otherwise have reflected.

In 2001 Republicans will undoubtedly try to extend suburban GOP districts into Democratic territory where possible, with the same objective.

This is a relatively simple game of mathematics, except that the underlying numbers are murky. For example, is a suburb that is changing rapidly from white ethnic Republican to AfricanAmerican going to continue with a Republican majority, and for how long?

The Redistricting Commission and the Courts

In all redistricting processes since 1970 both the redistricting commission and the courts have been employed. Legislative leaders select—and thus control—the eight members of the commission, often appointing individuals very loyal to them. Leaders have an easier time drawing lines at this stage because the legislative session is over, and the votes of members for a map are no longer needed.

This is one reason backbench members of the Legislature want to please their party leaders as much as possible, at all times. At the commission stage leaders can say, “We need to take care of Representative Smith because he was a stalwart in my leadership battles,” or, “We want a Republican district in that area, but we don’t need to protect Rep. Jones.”

The Illinois Supreme Court now has a 5-2 Democratic majority, rather than the 4-3 margin of recent years. This may have great importance in the Supreme Court’s decisions on redistricting plans. To help assure this majority, in the 2000 campaign Speaker and Illinois Democratic

party chair Mike Madigan poured several hundred thousand dollars into the close race for a high court seat in central Illinois. As a result, little known Democrat Thomas Kilbride edged out highly regarded state senator Carl Hawkinson.

This increased majority gives Democrats an unassailable hammer on state court interpretation. Any map that comes to them will have been drawn so that all districts will fit into the equal population guidelines. There is, however, significant subjectivity as to what is “compact” and what accords fairness to “protected”

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groups like Hispanics, African-Americans, and even political parties. No matter how even-handed the Illinois Supreme Court might want to be, justices – elected on a partisan basis – tend to revert to their partisan roots in interpreting redistricting maps.

Now before I discuss what we can expect for 2001 and beyond, I will address congressional redistricting. This may begin in the state Legislature, but there is a different dynamic.

Redrawing Congressional Districts

Although there is no Illinois constitutional provision for congressional redistricting, the General Assembly has the first shot at redrawing the congressional district lines. The politics are different for at least three reasons. First, state lawmakers are much more concerned about their own district lines than they are those for officials based in Washington. However, half of the state legislators fancy themselves in Washington some day, so any interest they might have is in their own future prospects, rather than those of sitting congressmen. Second, the state redistricting commission does

not have authority in congressional redistricting. If a congressional redistricting plan is not passed by the General Assembly, the issue goes directly to the Federal District Court, which could adopt a map drawn by a group or an individual, or direct its staff to revise one of the maps presented to the court. The court would also review a map agreed to by the General Assembly and the governor.

Third, the number of congressional districts is determined by the decennial census and once again Illinois is losing a seat in the House, going from 20 to 19.

Democrats have much the stronger hand than Republicans in redistricting in 2001 because of their control of the partisan, elected state Supreme Court. Republicans should think seriously about a compromise agreement with the Democrats on state legislative mapping.

The sitting members of Congress from Illinois will probably prepare a map for the delegation, or two maps, one each for the Republican and Democratic members, and present them to the Legislature. Speaker of the U.S. House Dennis Hastert is a former state House member, so he may have influence with GOP House members. U.S. Rep. Bill Lipinski (D-Cook County) is close to Illinois Speaker Mike Madigan, so he could represent his colleagues' interests to the speaker. How that map, or those maps, fare in the General Assembly will have a lot to do with which state lawmakers want to run for Congress in the near future, and the relationships between state legislators members of Congress.

In 1971, I played a central role in drawing a congressional redistricting map that increased Republican representation in the U.S. House by five members—but I never expected my map to be adopted.

One night, state Rep. Ed Madigan, the House GOP chief for redistricting, and I redrew the state's congressional districts. The members of

Congress had their own map worked out and had presented it to members of both parties. Ed and I called their work the "Sweetheart Map" because it was a dream for sitting members and did nothing to increase either Republican or Democratic representation.

Since Ed and I cared little about the incumbents, we decided to see how many Republican seats we could pick up. We thought our work would simply be the basis for negotiations later with the Democrats. Our congressional map was added to the Republican state legislative redistricting map bill in the House, where Republicans were in control. There was bipartisan agreement to send this Republican bill over to the Senate, where the Democrats could block any bill they disliked because neither party had a majority. So the GOP bill, a simple vehicle for negotiations – passed out of the House almost unanimously. Nobody really paid any attention to the congressional map during the negotiations, which failed.

The state legislative map went to the redistricting commission. The congressional map went, however, directly to federal court. The federal courts are less partisan overall than the Illinois Supreme Court, but they are not nonpartisan. The three-judge panel selected to hear the Illinois congressional redistricting case was comprised of two Republicans and one Democrat. They accepted the map Ed and I had drawn, and they used as their authority the fact that it was the only map to receive a near-unanimous bipartisan vote in the Illinois legislature, that is, the meaningless vote in the Illinois House to send the bill to the state Senate. In fact, they had nothing at all to do with bipartisan support for the congressional map Ed and I had drawn.

The irony is that we could have made the map even more favorable to Republicans, but we decided early that evening that we wouldn't go too hard on Chicago Democrats, since we thought we would eventually have to work out a compromise with them on a map.

This should give caution to those lawyers and scholars who might read too much into legislative intent.

2001 and Beyond

Democrats have much the stronger hand than Republicans in redistricting in 2001 because of their control of the partisan, elected state

Supreme Court. Republicans should think seriously about a compromise agreement with the Democrats on state legislative mapping. The Redistricting Commission is probably a better place than the General Assembly to reach compromise, as only the four leaders (through their appointees) need to agree.

Even if Republicans took their chances with a tie-breaking luck-of-the-draw appointment to the commission, a Republican map would still have to pass muster before the Illinois Supreme Court.

Republican redistricting strategists will seek redress of their grievances in the federal courts. I think, however, that Democratic mapmakers likely will craft a map that can pass constitutional muster.

Of course, Democrats may be unwilling to compromise; however, even Democrats have to worry about a tie-breaking draw from the hat that might favor the Republicans, who also have the experience, and the skill, to draw a partisan map that appears to meet both state and federal constitutional criteria. If they drew such a map, the Illinois Supreme Court might be reluctant to reject it on obviously partisan grounds.

In congressional redistricting, each party in the Legislature will draw its own map. If agreement can't be reached, then both maps would go to the federal courts where the parties would take their chances.

There are less partisan ways to redistrict. Neighboring Iowa has, for example, an independent commission that lets a computer draw

the lines without regard to incumbency. I cannot imagine that a system such as that will ever be adopted in Illinois. In my opinion, Illinois lawmakers would never authorize any change that diminished the partisan nature of the Illinois redistricting process. After all, the present game of political poker is just too captivating and fun for full-time elected officials who believe they should play a central part in trying to determine their own, and others', political destinies.

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