

GERRYMANDERING

The background of the cover is a solid red color. In the center, there is a dark blue silhouette of a city skyline with several buildings of varying heights. Two black silhouettes of people are standing on tall ladders. The person on the left is holding a red paint roller and is painting a red stripe on the blue background. The person on the right is also holding a red paint roller and is painting a red stripe. The overall theme is gerrymandering, which is the manipulation of district boundaries to favor a particular political party.

THE POLITICS OF
REDISTRICTING
IN THE
UNITED STATES

STEPHEN K. MEDVIC

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Gerrymandering

The Politics of Redistricting in the United States

Stephen K. Medvic

polity

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CHAPTER 1

What's the Problem?

In the 2012 US elections, a majority of voters who went to the polls in Pennsylvania cast a ballot for the Democratic candidate for Congress in their district. Yet, of the 18 seats from Pennsylvania in the US House of Representatives, the Republican Party won 13 of them. In other words, though they garnered a bit more than 50 percent of the congressional vote, Democrats won only a little over 25 percent of the seats. In four other states that year, the party that won a majority of the votes in congressional races got fewer than half the seats.¹ In North Carolina in 2016, Republican House candidates received 53 percent of the vote but 10 of 13, or 77 percent, of North Carolina's House seats.² How can these results have happened? Perhaps more importantly, is there any way in which these outcomes can be considered democratic?

This book addresses both of those questions. The short answer to the first of them is that the congressional district boundaries in Pennsylvania, like legislative district lines in many states, were gerrymandered. Gerrymandering is the process of drawing legislative district boundaries to give one party (or group of voters) an electoral advantage over others.

Gerrymandering in the United States is quite unpopular with the public. According to a bipartisan poll conducted in December 2018, 63 percent of all likely 2020 presidential voters had an unfavorable view of partisan gerrymandering. Another 32 percent had no opinion while just 5 percent had a favorable view.³ Those views were

shared, with only slight variation in the percentages, by Democrats, Independents, and Republicans alike. When respondents were asked if they would prefer districts with no partisan bias, even if it meant fewer seats for their own party, or districts with partisan bias, assuming that their own party would win more seats, only 15 percent chose biased districts while 65 percent preferred unbiased districts.⁴

Nevertheless, when legislators have the opportunity to gerrymander district lines, many - perhaps most - of them will seize the opportunity. Voters are unlikely to punish their own party for doing so (despite their stated preference for unbiased districts) and legislators can enhance their party's power by creating additional districts in which they have an electoral edge. With little downside and the potential for gaining seats in the state legislature or in Congress, gerrymandering is hard for politicians to resist.

The second of our questions is the more difficult one. How one answers it will depend on what one means by 'democracy' and whether one thinks the redistricting process should be a normal part of politics. Though democratic elections are expected to be free and fair, it's not immediately clear what would constitute a violation of this expectation.

The rest of this chapter will introduce gerrymandering by explaining, in a bit more detail, what it is and why it occurs. Gerrymandering is not unique to the United States but its practice here is in many ways exceptional. The chapter will then address the reasons that gerrymandering stirs so much controversy. Beyond the obvious power struggle that gerrymandering initiates, there are competing visions of how democracy ought to operate that are at play.

The Need to Draw District Boundaries

In any political system with meaningful legislative elections that take place in districts not demarcated by otherwise permanent boundaries (e.g., state or national boundaries), the lines around legislative districts will have to be drawn. In most places, these lines will be redrawn periodically to account for population shifts. This process of redrawing district lines is called redistricting or boundary delimitation.⁵

In the United States, redistricting typically takes place every ten years, following the constitutionally mandated national census. For congressional representation, census data is used for reapportionment, or the process of adjusting the number of members of the House of Representatives from each state based on changes in population. For example, as a result of the 2010 Census, Texas gained four seats in the House while New York and Ohio each lost two.⁶ District lines in states that gain or lose seats will obviously have to be redrawn. However, they'll also be redrawn, even if only slightly, in states that did not gain or lose seats.⁷ That's because, as we'll see later in the book, it is now a legal requirement that legislative districts within a state have equal population sizes. This applies to state legislative districts as well, so census data will be used to redraw state House and Senate districts to ensure equal population sizes in those districts.

The states are responsible for drawing state legislative and congressional district boundaries. In most states, the state legislature draws district lines and adopts the new maps as they would any normal piece of legislation. Some states, however, let commissions established for this purpose draw the lines for state legislative and/or congressional districts.

Regardless of the model a state employs, the process is virtually always political.

These two facts – that district boundaries must be redrawn regularly and that the redistricting process is political – create opportunities for those who wish to gerrymander districts. In countries where districts correspond to pre-existing administrative units, there is no opportunity to gerrymander because there is no need to redraw district boundaries. In Israel, for example, all 120 members of the Knesset (the national legislature) are elected nationally by proportional representation. In other words, the national border serves as the district boundary for the one (nationwide) legislative district. Few countries that do not redraw district lines are that extreme. There are a number in which electoral districts correspond to predetermined sub-national governmental jurisdictions (e.g., provinces or states).⁸ In the remaining countries, where districts don't correspond to permanent territorial units, gerrymandering becomes a possibility.

Even in countries that utilize redistricting commissions, gerrymandering can occur. Of course, the extent to which this is possible depends on how the commission is constructed and how it operates. Nevertheless, even in places where redistricting commissions are supposed to be neutral, forms of gerrymandering can take place. The United Kingdom, for example, uses Boundary Commissions (one each for England, Scotland, Wales, and Northern Ireland) to establish parliamentary constituencies. Despite the fact that the Commissions are designed to be independent and non-partisan, Ron Johnston, Charles Pattie, and David Rossiter have found significant bias (in favor of the Labour Party) in the results of UK general elections through 2005. In part, this bias was the result of “increased efficiency of Labour’s votes.”⁹ This increased efficiency of the vote, in turn, is explained (at least in part)

by the Labour Party's efforts to influence boundaries during the Public Inquiries conducted by the Commissions.¹⁰ Thus, even when partisan operatives don't control the redistricting process, they may nonetheless influence it.

It should be noted that electoral systems using single-member legislative districts (i.e., one representative per district) almost inevitably produce disproportional results. The percentage of seats won by the victorious party will usually be larger than the percentage of votes they received because of the winner-take-all nature of these districts. Winning districts with 75, 60, or even 51 percent of the vote results in 100 percent of the representation for those districts.¹¹ However, this disproportionality is not the same as bias, as Johnston and his colleagues point out.¹² We'll discuss various definitions, and measures, of partisan bias later in the book. For now, it's worth noting that gerrymandering, by definition, results in biased electoral results and bias is the chief problem with gerrymandering.

Of course, gerrymandering can sometimes be used for purposes other than maximizing the number of seats for a party. The protection of incumbents is another, quite common, use of gerrymandering (sometimes referred to as "bipartisan gerrymandering"). Though it is possible to protect incumbents while also maximizing seats for a party, it is generally thought to be difficult to do both effectively. To protect an incumbent in one place often means giving up a seat to the other party elsewhere. Regardless of why it's being done, however, the root problem with gerrymandering is the same - it creates an unlevel playing field in a given district.

The need to redraw district lines, in and of itself, doesn't create biased maps.¹³ Indeed, unbiased districts can be drawn, as the experience of many countries, and even many American states, demonstrates. Instead, it's the

political nature of the redistricting process that makes gerrymandering so hard to avoid.

To say that the redistricting process is political is not to imply that it is corrupt.¹⁴ It is simply to recognize that politically motivated actors will use any legal means to achieve their goals.¹⁵ To a non-partisan observer, this may appear ethically problematic or, at the very least, distasteful as it seems to place narrow self-interest above the common good. The partisan, however, sees their goals as synonymous with the greater good. If they are inclined to consider the ethical implications of their actions, they are likely to find those actions perfectly acceptable. They are, after all, pursuing the greater good (as conceived from their partisan perspective).

Put another way, the politics of redistricting simply reflect the underlying tensions within a given political system. As political scientists Bernard Grofman and Lisa Handley so wisely note in the introduction to their collection of comparative studies of the subject,

Redistricting can be thought of as politics in a microcosm. Redistricting struggles are fought on several levels in ways that reflect both the politics of ideas and the politics of naked power. The allocation of seats and the drawing of constituency boundaries have practical, legal, and philosophical implications. To reflect on redistricting forces us to think about the underlying bases of political representation and the related fundamental issues of democratic theory.¹⁶

It is to the philosophical implications that we now turn our attention. It is easy to condemn gerrymandering as a perversion of democratic processes. However, doing so requires a clear understanding of what it means to say a process is 'democratic.' As we'll see, that is more complicated than it might first appear.

Fair Elections

It is commonplace to hear that democratic elections must be “free and fair.” But what, exactly, does that mean? Drawing on Robert Dahl’s classic work, Jørgen Elklit and Palle Svensson argue that elections must avoid coercion if they are to be free.¹⁷ Voters must be allowed to fully participate in the process, meaning their rights to assemble peaceably, speak freely, and associate expressively, among others, must be protected. Free elections, according to Elklit and Svensson, entail “the right and the opportunity to choose one thing over another.”¹⁸

Whereas free elections must avoid coercion, fair elections must ensure impartiality. Fairness “involves both *regularity* (the unbiased application of rules) and *reasonableness* (the not-too-unequal distribution of relevant resources among competitors).”¹⁹ That is, election rules must apply equally to everyone, and all political parties and candidates must have roughly equal access to resources that are necessary to be competitive. Equality, then, is a vital aspect of electoral fairness. It is the basis, for instance, of the “one person, one vote” standard.

Free elections occur almost automatically in free countries. It’s nearly impossible to imagine a country with protections for free speech or a free media somehow curtailing those freedoms in the electoral arena. Fairness, on the other hand, requires the conscious development and application of impartial electoral rules. A country may be judged to be fair, in general, according to any number of standards and still have election laws that fail to ensure electoral fairness.

We might think of electoral fairness, following the political theorist Dennis Thompson, as “electoral justice.” Electoral justice, in turn, “is a species of procedural justice. It seeks fair terms of cooperation, a set of practices that all citizens

could accept as an equitable basis for making collective decisions.”²⁰ Importantly, Thompson argues that we must judge electoral processes independently of the outcome of any given election (or set of elections). In other words, we can’t decide that an electoral rule is fair or just simply because we’re happy with the result of an election. We have to assess electoral rules and procedures in and of themselves. For Thompson, electoral rules “are just to the extent that they realize principles that could be freely adopted under conditions of equal power. In the case of electoral justice, the principles express the values of equal respect, free choice, and popular sovereignty.”²¹

Thompson readily acknowledges that people will interpret these principles differently. What sorts of (and how many) alternatives must voters be given if their choices are to be free? How equal must voters, or candidates, be in order to achieve an equal level of respect and what is required to ensure such equality? Must the electoral system always enable the majority to win if “the people” are to rule? Of course, the problem is not only that it isn’t obvious what kinds of procedural arrangements are necessary to achieve equality, liberty, and popular sovereignty. It’s that these principles can sometimes come into conflict with one another. The freedom of a billionaire to spend as much as they’d like supporting the party or candidate of their choice conflicts with the ability of citizens to have equal voice in the process or of candidates to have roughly equal resources for contesting an election.

It is unlikely, therefore, that debates over electoral rules and procedures – including redistricting and gerrymandering – will take the form of a democratic side versus an undemocratic side. Instead, the debate is over competing visions of democracy. Thus, the most productive way to frame the debate over gerrymandering is as follows: One side believes redistricting should be considered part of

the regular legislative or, more generally, political process, while the other side believes that redistricting should be thought of as a periodic adjustment to the foundational rules of the political system. The former will necessarily be 'political' and partisan; the latter aims to be apolitical and non-partisan.

As it happens, most of those who embrace the political/partisan perspective, or what I'll call the "realpolitik redistricting" argument, are political practitioners such as campaign consultants and party operatives. There are some scholars in this camp but most of its adherents work in the realm of practical politics. The other side of the debate, which we might call the "civic redistricting" argument, consists mostly of legal scholars, political scientists, and reform activists. Thus, in a given sphere - "real world" politics or academia - the debate may be lop-sided. Taken as a whole, however, there are as many advocates of one perspective as there are of the other. These advocates simply come from different worlds and are, undoubtedly, influenced by their experiences in those different domains.

The realpolitik redistricting argument rests on the assumption that no process involving political actors can be apolitical, nor can the product of such a process be neutral. Even if some such processes could be apolitical, redistricting is not likely to be one of them. As the political scientist Justin Buchler explains, given the winner-take-all nature of legislative districts in the United States, the procedures for drawing district boundaries will inevitably determine winners and losers, broadly defined, in those districts. Indeed, according to Buchler, choices about redistricting rules are "*indistinguishable* from the question of who should win and who should lose."²² This holds both for the choice of actors responsible for redistricting and for the specific decision-making rules those actors choose to

utilize to draw maps. “Thus,” writes Buchler, “there can be no apolitical redistricting in any meaningful sense of the term because the choice of delegation is as ‘political’ as the choice of algorithm.”²³

In partisan and bi-partisan (or incumbent protection) gerrymanders, it is easier to see how the process picks winners and losers. However, even if district lines are drawn to enhance competition between the parties (an approach Buchler calls a “competitive gerrymander”²⁴), winners and losers are being determined. If competitive districts make it more likely that a centrist candidate will win, then centrist voters are the winners, and non-centrists are losers. If, given voter and candidate polarization, a non-centrist is sure to win, then non-centrists on the winning candidate’s side of the spectrum are the winners and centrists and non-centrists on the other side of the spectrum are the losers.²⁵

Critical to the realpolitik argument is the claim that voters aren’t powerless in the process. They know that redistricting takes place in the year following the census and they can vote for candidates who will draw lines the way they’d prefer them to be drawn. As the political commentator Kevin Williamson puts it,

If Democrats are unhappy with Republican domination of the state legislatures and governorships – and they should be unhappy – then they have a much more direct option [than going to court]: They can go into the states and ask people for their votes in legislative races and in gubernatorial elections. If they find that route difficult, then maybe the Democrats should be rethinking what they’re trying to sell people.²⁶

According to this view, when the voters put one party in charge of the entire post-census legislative process, they are likely to be satisfied with the legislative maps that party

draws. (If, on the other hand, voters produce divided government – that is, control of at least one chamber in the state legislature is in the hands of one party while the governor is a member of the other party – then they apparently prefer compromise in the redistricting process.)

In fact, the realpolitik perspective maintains that it is undemocratic to take redistricting out of the democratic process. “Redistricting is not politicized. It is political,” writes Williamson. “For the Democrats and the Supreme Court to try to step in and take away from the state legislatures their longstanding right to draw up legislative districts as they see fit is much more deeply undemocratic than anything Republican gerrymanderers ever dreamt up.”²⁷ Take, for instance, the use of independent redistricting commissions to draw district boundaries. Members of such a commission, like judges, may appear non-partisan but they undoubtedly have partisan loyalties. It’s not realistic to expect that people involved in public affairs will be apolitical. But even if they were non-partisan, redistricting commissions with the power to unilaterally determine district lines would not be accountable to the voters. What recourse would voters have if a redistricting commission produced district maps the voters found objectionable?

Finally, this perspective maintains that the rules of the game were established at the founding of the country, when the Constitution was adopted. Those rules – essentially, the Constitution – can be amended, but that process itself is provided for in the Constitution. However, in the absence of an attempt to change the Constitution, formally or informally as part of what might be referred to as “constitutional politics,” “normal politics” reigns.²⁸ Normal politics is the familiar, day-to-day struggle over “who gets what, when, and how,” as the political scientist Harold

Lasswell famously put it.²⁹ Redistricting, then, is simply part of normal politics.

One might argue, of course, that the Constitution forbids partisan gerrymandering. We will consider that argument in a later chapter. For now, suffice it to say that the realpolitik viewpoint does not believe partisan gerrymandering is constitutionally prohibited. To understand why, it's worth quoting law professors Larry Alexander and Saikrishna Prakash at length:

There is no natural or obviously correct way of dividing voters into equipopulous districts. People have diverse preferences about how that ought to occur. Nor are there obviously wrong or improper ways of allocating voters across equipopulous districts. If we are to believe that the Constitution mandates certain districting and electioneering ideals, then we have to suppose that the Constitution implicitly imposes certain rather controversial and complex preferences on the conduct of districting and elections. Necessarily, we have to imagine that the Constitution also implicitly rejects all other plausible preferences about districting and elections. We think that such claims have no merit.³⁰

The countervailing viewpoint, the civic redistricting perspective, acknowledges that neutrality in human processes is difficult to achieve. Nonetheless, it takes the position that we should strive to find a set of rules governing the operation of elections that both parties (or, indeed, all parties) can accept. Without opening a Pandora's box of contemporary political theory, this position is grounded in the notion of public reason and the claim that political actors ought to be reasonable in their public deliberations.³¹ To be reasonable, a person must be willing "to live by rules that can be justified to similarly

motivated citizens on grounds that they could accept.”³² There is, then, an important element of reciprocity at work here. What is fair for one side ought to be fair for the other (or others). We’ll find a version of reciprocity later in the book in the concept of partisan symmetry.

With respect to processes governing democratic elections, reasonable people would likely agree that the purpose should be to establish robust competition. Competitive elections are, after all, a hallmark of democracy. In a series of academic papers, the legal scholars Samuel Issacharoff and Richard Pildes develop a framework for adjudicating electoral rules that seeks to maintain “competitive partisan political environments that avoid insider lockups of democratic politics.”³³ Whereas current jurisprudence interprets election law in the context of individual rights and state interests, Issacharoff and Pildes argue that the focus should be on “the background rules that structure partisan political competition.”³⁴ “The key to our argument,” they write,

is to view appropriate democratic politics as akin in important respects to a robustly competitive market – a market whose vitality depends on both clear rules of engagement and on the ritual cleansing born of competition. Only through an appropriately competitive partisan environment can one of the central goals of democratic politics be realized: that the policy outcomes of the political process be responsive to the interests and views of citizens. But politics shares with all markets a vulnerability to anticompetitive behavior. In political markets, anticompetitive entities alter the rules of engagement to protect established powers from the risk of successful challenge.³⁵

Gerrymandering, of course, is the quintessential anticompetitive tactic. Drawing on the theory of political

competition, Issacharoff finds problematic even a legislative map that is mutually agreed upon by both parties if that map gives the parties a distinct electoral advantage in their respective districts. This, he argues, causes voters harm based on the “constriction of the competitive process by which voters can express choice.”³⁶ Issacharoff analogizes the collusive behavior of these parties to companies, say Coke and Pepsi, that agree to sell their products in different geographical regions to avoid competing with one another. Such an agreement would be illegal on antitrust grounds. Partisan cartels, he maintains, should be treated similarly.³⁷

What of the argument made by the realpolitik redistricting camp that voters will decide who they want drawing district boundaries? The response from the civic redistricting perspective is that such a claim is naïve in several respects. First of all, voters are faced with the relevant choice just once or twice every ten years, in elections immediately preceding the census count (i.e., election years ending in “8” and/or “0,” depending on when the officials responsible for redistricting will be elected). This decennial opportunity doesn’t really allow voters to influence the redistricting process. The exigencies of a given election year – is it a presidential or a midterm election year; is the economy strong or weak – are likely to have more impact on voters’ choices than is the fact that the redistricting cycle starts in the near future. Furthermore, even if voters wanted to cast their ballots solely on the basis of their redistricting preferences, they have no way of assessing potential maps because those can’t be drawn until the census has taken place. As a result, voters are left with only one option, namely, the crude partisan determination that their party should control the redistricting process. However, as the polls cited at the beginning of this chapter suggest, the majority

of voters do not want gerrymandered districts, even if such districts are biased in their party's favor. A victorious party that believes it has a mandate to run the redistricting process is almost certainly mistaken. Finally, in elections for legislators who will be involved in the upcoming redistricting cycle, district boundaries drawn in the previous round of redistricting will constrain voters' choices. If those boundaries were the result of partisan gerrymandering, the choices in the current pre-redistricting elections will already have been unduly influenced.

Many of those who would like to see politics removed from the redistricting process believe that the best way to do so is to take responsibility for drawing district lines away from elected officials. Opponents argue that it is more democratic to allow elected officials, who are accountable to the electorate, to draw district maps rather than unelected redistricting commissions or judges, who don't have to answer to anyone for their work. However, those who take the civic redistricting position believe both that elected officials are not as accountable for the maps they draw as we might think and that redistricting commissions can be designed to ensure accountability.

Imagine what would be required of voters if they were to hold accountable the elected officials drawing maps. A voter would have to be aware of the range of potential maps being considered during the redistricting process and would have to develop a preference for one of the maps (per legislative chamber). Not many voters are apt to gather this information, or even have access to it, and few would come to a judgment on it. If, by some chance, most voters did identify their preferred maps, they could only then punish those responsible for supporting district lines they object to *after* the maps had been drawn. Thus, even if they were to defeat the offending mapmakers at the next

election, the maps those officials drew would be in use for the rest of the decade. (Some states do allow mid-decade redistricting, though in practice this rarely happens and its legality in most of those states is ambiguous at this point.³⁸) Furthermore, the whole point of gerrymandering is to shield one party, or a group of incumbents, from serious electoral threat. How likely is it, then, that elected officials in newly gerrymandered districts are going to be vulnerable in the next election? To the extent that elected officials are invulnerable, there is no real mechanism for accountability.

We'll discuss redistricting commissions in detail later in the book. For now, it should simply be noted that there are ways to design independent redistricting commissions so that they are accountable to the citizenry. Indeed, there are ways to design these commissions to allow the public at least some role in the process.³⁹ Accountability can be preserved even if district lines aren't drawn by elected officials.

Those who take the civic redistricting perspective insist that redistricting is not – and shouldn't be – part of normal politics. It is not part of normal politics because it is not concerned with the identification of policy problems and solutions. And it should not be part of normal politics because it lays the foundation for normal politics by delineating the playing field. To the extent that politics plays a role in the redistricting process, the normal politics that occur after lines have been drawn will be skewed. That means, in part, that normal politics may not reflect the underlying preferences of the electorate.

Of course, the redistricting process is not part of constitutional politics either. To be sure, there is a debate over whether partisan gerrymandering is permitted by the Constitution (with most of those in the civic redistricting

camp believing it is not, for reasons that will be discussed elsewhere in this book). Those engaged in that debate are, no doubt, involved in constitutional politics. But the redistricting process itself isn't part of any attempt to alter our understanding of our most foundational document.⁴⁰ Redistricting, then, occurs - or should occur - within a unique space in American politics. Without reaching the lofty arena of constitutional politics, it ought to nonetheless remain above normal politics.

In the end, these competing perspectives on the nature of redistricting differ not in terms of how democratic they are but in terms of the way they conceive of democracy. One takes the view that democracy is conflictual and is shot through with politics. This view of democracy is like the American humorist Finley Peter Dunne's view of politics - it "ain't beanbag."⁴¹ A free society allows individuals, typically acting in groups, to pursue their own self-interest. This makes democracy a battle between groups of people over the future direction of the country. Given the stakes, we should expect those groups to play hardball and any legal means to achieve one's ends are permitted.

The other view is that democracy is about achieving the common good. From this perspective, too much partisanship is antithetical to that purpose. While there will be vigorous debate over what the common good requires, the pursuit of one's own conception of the common good does not justify bending the basic rules of the game. If the only constraint on political actors' behavior is what is legally permissible, the norms of democracy - including the expectation of fair play - will erode and deep divisions will emerge in society. Under those conditions, the common good is nearly impossible to achieve.

Representation

Another important consideration in the gerrymandering debate is the nature of representation. Ultimately, a representative democracy must translate the desires of the public into policy. Exactly how that is to be done isn't obvious.

The theoretical literature on representation is vast and it is beyond the scope of this chapter to even begin to summarize it.⁴² For our purposes, representation will refer to the relationship between elected officials and their constituents in which elected officials act on behalf of their constituents in matters of governing. Though representation is always descriptive to some extent (i.e., reflecting demographic characteristics like race, religion, and gender), most of the current discussion about representation in the context of redistricting concerns substantive representation, or the representation of constituents' policy preferences and ideological perspectives.⁴³ The assumption is that constituents' preferences ought to be reflected in the voting records of their representatives. If, for example, most constituents in a given area prefer conservative policies, their representatives should support conservative policies.

Perhaps the most obvious way of thinking about representation is to consider whether individual legislators are representative of their constituents. This is commonly referred to as "dyadic representation," because it compares one representative to one constituency.⁴⁴ Many would argue that ideological and/or partisan agreement between the representative and his or her constituents is of paramount importance. Indeed, from this perspective, maximizing such agreement ought to be the goal of those who draw district lines. In districts that are gerrymandered to be safe for one party, most voters will share that party affiliation and are likely to be satisfied with their

representation.⁴⁵ One might object that representatives from such districts are less likely to be responsive to the voters or are less likely to be held accountable by them. The response to such an objection is that accountability is maintained through primary elections.

From another perspective, the creation of safe districts amounts to rigging the system. A common refrain from this side of the debate is that when gerrymandering is allowed to occur, politicians are picking their voters before voters can pick their politicians. From this point of view, then, the goal is competitive elections. District lines should be drawn in such a way as to maximize competition in as many districts as possible.⁴⁶ Of course, given that only one representative will be elected per district, a competitive district in which preferences are split roughly 50-50 will mean that about half the constituency will always be unhappy with its representation. Be that as it may, competitive elections are thought to be more effective in holding incumbents accountable, giving voters a meaningful choice over their representation, and generating more excitement and, consequently, more participation than uncompetitive elections. These effects, it is argued, are vital for a healthy democracy.

An alternative to dyadic representation is “collective representation.” In this formulation, what matters is whether legislators, taken as a whole, accurately reflect the aggregate policy preferences of the public.⁴⁷ If a majority in a given state wants to increase the minimum wage but the legislative majority opposes such an increase, the public would lack collective representation on this issue.⁴⁸

There are those who would argue that the question of whether an institution, like Congress, is representative in a collective sense is largely irrelevant. The American system of government, they argue, is not designed to achieve