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# Behind Closed Doors: The Recurring Plague of Redistricting and the Politics of Geography

*Steven Hill*

We are in the business of rigging elections.

—State Senator Mark McDaniel, *North Carolina*<sup>1</sup>

Beginning in early 2001, a great tragedy occurred in American politics. It happened quietly, for the most part behind closed doors, and with minimal public input or oversight. The net result of this tragedy is that most voters had their vote rendered nearly meaningless, almost as if it had been stolen from them. Yet the stealing happened without faulty voting equipment, poorly designed ballots, misused voter lists, or campaign finance abuses. It was more like a silent burglar in the middle of the night having his way while American voters slept. As a result of this theft, hallowed notions such as “no taxation without representation” and “one person, one vote” have been drained of their vitality, reduced to empty slogans for armchair patriots.

And it was all legal.

Not only was it legal, but the two major political parties, their incumbents, and their consultants were participants in the heist. Most political scientists, pundits, and journalists raised barely a peep, considering it to be standard operating procedure, part of the everyday give-and-take (mostly take) of America’s winner-take-all politics. It’s just how the game is played, apparently.

I’m referring to what is known as the process of redistricting, the decennial redrawing of legislative district lines. Following the 2000 Census, every legislative district in the United States—every city council district, every state legislative and

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U.S. House district, literally thousands and thousands of districts—had to be redrawn before the next elections in 2002 because by law these districts must all be roughly equal in population.

This line-drawing is the defining skirmish of the geographic-based, winner-take-all, single-seat district system. Newt Gingrich once said, “Redistricting is everything,” and here’s why: *the line-drawing decides—in advance—the winners and losers of most legislative elections for the next ten years.*

Guess who is redrawing the lines? Contrary to all sense—except the type of sense that has been steeped in defense of the status quo—the lines are usually redrawn by none other than the politicians themselves. These incumbent line-drawers generally are guided by no criteria other than two rather ambitious and self-serving goals: first, to guarantee their own reelection and that of their friends and colleagues; and second, to garner a majority of legislative seats for their political party or faction. When it comes to redistricting, the fox not only guards the hen house; the fox *salivates*.

The 2001–02 redistricting plans in most states amounted to little better than an incumbent protection plan, producing even fewer competitive districts than past efforts. In fact, as we will see, the 2001 redistricting was perhaps the most flagrantly rigged insider’s racket in decades. Most voters were reduced to spectator status, their votes drained of vitality, as they were packed into partisan districts designed to guarantee the reelection of incumbents and the dominant party.

### The Incumbent Protection Racket

Every individual who participated in the redistricting process knew that incumbency protection was a critical factor in producing the bizarre lines. . . . Many of the oddest twists and turns of the Texas districts would never have been created if the Legislature had not been so intent on protecting party and incumbents.

—U.S. Supreme Court Justice John Paul Stevens, *Bush v. Vera*,  
June 13, 1996

Forget what you’ve heard about Big Money buying elections. The rigging of winner-take-all, single-seat districts is the political class’s slickest sleight of hand, and it descends upon us once a decade like a giant iceberg. Behind closed doors, party leaders and incumbents conduct the decennial ritual of carving up the political map as if it’s their very own birthday cake. To accomplish their narrow goals, they jigsaw, jury-rig, and gerrymander<sup>2</sup> legislative districts, with little or no regulation or public oversight. They produce bizarrely contorted legislative districts that one party leader called “my contribution to modern art,”<sup>3</sup> with shapes resembling, in the words of a number of observers, splattered spaghetti sauce, a squashed mosquito, a meandering snake, dumbbells, earmuffs, a starfish, a gnawed wishbone, Bullwinkle the Moose, the “Z”

mark of Zorro, and a host of other bewildering forms that defy description or explanation other than the capricious act of a powerful class of politicians looking to guarantee themselves lifetime employment and party preeminence.<sup>4</sup>

While the public mostly ignores redistricting, politicians know in the marrow of their bones how much redistricting matters. Previous redistricting episodes have been marked by physical violence and nearly fatal tragedies.<sup>5</sup> The 2001 redistricting in California, which was dominated by the Democratic Party, raised the incumbent protection plan to a crass new level. According to Representative Loretta Sanchez, she and thirty of the thirty-two Democratic U.S. House incumbents forked over \$20,000 each to powerful consultant Michael Berman (brother of one of the Democratic incumbents), who was overseeing the line-drawing, to gerrymander for them a personal fiefdom in which they could not lose. To hear Sanchez talk about it, the money was tantamount to a bribe, the type of protection money one might pay to a local mafia don to protect your turf. “Twenty thousand is nothing to keep your seat,” said Sanchez. “I spend \$2 million [campaigning] every election.”<sup>6</sup> This is practically the functional equivalent of insider trading by members of a powerful political class taking advantage of the rules to feather their own nest.

If the curtain was pulled back on the redistricting wizards, what the public would see are some of the most unflattering moments of our winner-take-all ritual. The process goes on behind closed doors, with technocrats hunched over computer screens remapping the most fundamental terrain of our democracy: the single-seat district. Depending on who is doing the line-drawing, most Democratic districts are carefully packed with enough registered Democratic voters, and Republican districts with enough Republican voters, to make it virtually impossible for anyone else to win except the favored incumbent or party. The last thing on politicians’ minds is the impact of redistricting on the public, on voters, on the health of our republic, or on national policy. Redistricting single-seat districts thus is a direct threat to such key democratic values as electoral competition, representation, governance, and choice for voters.

### Choiceless Elections: Watching Your Vote Disappear

First they gerrymander us into one-party fiefs. Then they tell us they only care about the swing districts. Then they complain about voter apathy.

—Gail Collins, *New York Times* columnist

Research has demonstrated that, as a result of single-seat districts and the accompanying redistricting roulette—and *not* inequities in campaign finances—the vast majority of U.S. House races are so noncompetitive as to be a done deal before voters even show up at the polls. To be precise, in the 2002 House elections 91 percent of races were won by a comfortable victory margin greater than

ten points, and 83 percent were won by a landslide margin greater than twenty points (both of these figures include the seventy-six races that were uncontested by a major party). Only thirty-nine seats—a mere 9 percent of all House seats—were won by a competitive margin of fewer than ten points, the lowest figure in many years. Like a Soviet-type Politburo, 98 percent of incumbents won reelection, and most legislative elections were reduced to a meaningless charade.<sup>7</sup>

In fact, the 2001–02 congressional redistricting made an already egregious situation even worse. Typically, after redistricting there are more than 100 House seats up for grabs. After the 1991–92 redistricting, for instance, there were 121 competitive seats. But in 2002 there were fewer than 40. Of those 40, only half were really a toss-up, and that number will likely decrease as the decade progresses. By 2010 there will perhaps be a mere 15 or so races out of 435 where it will matter whether the voters show up at the polls or not. Redistricting—gerrymandering partisan districts—has become a glorified incumbent-protection racket that has robbed most voters of any semblance of choice or a competitive election.

State legislative elections generally were even worse. Astoundingly, of the thousands of state legislative races in 2002, 37 percent were *uncontested* by a major party (the figure was even higher in 1998 and 2000, when 41 percent of seats were uncontested by one of the two major parties).<sup>8</sup> Because the districts generally are so lopsided, it's a waste of campaign resources for the minority party to contest these seats. That's nearly two in five races in which the only choice for voters was to ratify the candidate of the dominant party, cast a hopeless vote for a third-party candidate, or not vote at all.

In fact, in Election 2002 sixteen states had all of their U.S. House seats either uncontested or won by a landslide; eleven more states had all but one of their U.S. House seats either uncontested or won by a landslide. Even the largest states were vastly uncompetitive, with California having fifty out of fifty-three of the U.S. House seats uncontested or won by a landslide, Florida having twenty-three out of twenty-five, New York having twenty-six out of twenty-nine, Texas having twenty-four out of thirty-two seats, Ohio having fifteen out of eighteen, Illinois having seventeen out of nineteen, Pennsylvania having fourteen out of nineteen, Michigan having thirteen out of fifteen, and Virginia having a perfect eleven out of eleven U.S. House seats uncontested or won by a landslide. That is an average of 87 percent in these nine large states, which collectively elect more than half of all U.S. House seats.

In other words, in 2002 there was not a lot of competition and not much viable choice for voters in the vast number of legislative races across the country, not even in our largest states. Moreover, not only is it true that the winner takes all in our system, but usually the winner takes all without even much of a fight. The average margin of victory in 2002 House races was 42 percent. Most races are so predictable that the Center for Voting and Democracy (CVD), like a handicapper at the racetrack, has been able to forecast the winners and

the margin of victory in three-quarters of the U.S. House races months in advance with stunning accuracy. We do this without knowing anything about inequities in campaign finance or candidate strategy. CVD's technique is simply to estimate the partisan demographics of how the districts were gerrymandered during the last redistricting and how incumbents have fared in the district. CVD's predictions were 100 percent accurate for the 2002 elections, and 99.8 percent accurate for the previous three election cycles. Already we have predicted the winners for 2004—yes, that's right, 2004, nearly two years away—in more than 350 races. The overt partisanship of most legislative districts is so obvious that this has become a relatively easy exercise.<sup>9</sup>

With 90 percent of House races being a done deal before voters walk into the voting booth, this translates into an uninspiring campaign, if there is a campaign at all. The noncompetitive nature of most of these legislative races in the November elections is not due to inequity in campaign spending, as many analysts have assumed. Instead, it is due to the natural partisan demographics of where people live, combined with incumbent name recognition, and filtered through our geographic-based, winner-take-all system and its grotesquely gerrymandered districts. Campaign finance inequity matters more in party primaries for open seats and in close races, but open seats in federal races and states without term limits, as well as close races at any level, are few and far between. We like to think of our winner-take-all system as at least a two-party, two-choice affair, but in fact the frame of reference for most voters in most elections is that of a one-party system—the party that dominates their district.

Past redistricting has never been a model of fairness or exclamation of high democratic values, but this time around at least one new factor raised the stakes beyond anything previously experienced. Just as computers have had an impact on so many other areas of modern life, new computer technologies have dramatically altered the redistricting game. The politicians and their consultants now have at their disposal extremely sophisticated computer hardware and software, combined with the latest census, demographic, and polling data, to precisely gerrymander the political map. The days of plastic Mylar maps, magic markers, Elmer's glue, trial-and-error jigsaws, and cut-and-paste blueprints are over.

In fact, one can make a credible argument that, from now on, we will no longer choose our representatives; instead, the politicians will *choose us*. Every ten years, when the district lines are redrawn, winners and losers will be decided for most legislative districts and that will entrench the dominant party and incumbents for the rest of the decade. The lone choice of voters then will be simply to ratify the candidate from the dominant party awarded that district by the redistricting politicians some years before. From the voter's point of view, the candidate selection process, already an abject failure, has now become much worse. Henceforth the political game will be played much differently than ever before, and these new redistricting technologies are crucial to the new paradigm.

What role is the stark lack of choice playing in our abysmal voter turnout, which in 2002 saw a mere 39 percent of eligible adults going to the polls? Here is one indication: research has shown a strong correlation between voter turnout and competitiveness. For instance two separate studies by the Center for Voting and Democracy of 1994 U.S. House elections and 2000 U.S. House elections showed that voter turnout dropped dramatically by as much as nineteen points as House races became less competitive.<sup>10</sup> In the 2000 presidential election and 2002 congressional elections, voter turnout was highest in the key battleground states where the race was closest.<sup>11</sup>

### **Monopoly Politics, Political Monocultures, and the Loss of Political Ideas**

This new [redistricting] plan basically does away with the need for elections.

—Tony Quinn, GOP redistricting consultant in California

Beyond what is happening to individual districts, redistricting is contributing to tens of millions of voters living in one-party *states*. The cumulative effect is to produce an entrenched political monoculture that is leading to an astonishing loss of political debate and ideas. For example, the 2002 U.S. House elections saw Massachusetts electing Democrats to all ten of its seats, and Nebraska electing Republicans to all of its seats, all winning by a huge margin if the race was contested at all. Voters choosing House candidates from the losing party in those two states wasted their vote; not a single one helped elect someone. For them, the monopoly politics of their state meant that voting was a waste of time. Twelve more states have such monopoly representation in the U.S. House, and ten other states are only one representative shy of monopoly representation, a total of twenty-four states.

The resulting monopoly politics not only affects representation—to the point where elected opposition has become a nearly extinct species in most states—but also creates a new classification: the “orphaned” voter. Orphaned voters are those Democrats and Republicans who, like the supporters of a third party anywhere and most nonwhite voters, are a geographic minority in an out-of-favor district or state with little hope of electing a representative. Orphaned voters have no electoral or governmental outlet for their political sympathies or passions.

It's not as if there aren't millions of Republican voters *living* in Democratic districts, and vice versa, all across the country. It's just that these orphaned voters—these geographic minorities—never win representation because, district after district, they don't have sufficient votes and are outvoted. For each individual contest, for each single-seat race, there are simply too many of one type



of voter—Republicans in Nebraska or Idaho, say, or Democrats in Massachusetts or California or in most cities—overwhelming the other type of voter. For millions of orphaned voters across the United States, the act of voting does not result in their electing a representative. These voters have few prospects of electing someone in the near future. But they can have more impact by writing a check and mailing it to a candidate in a more competitive race somewhere else in the country.

Orphaned voters are smothered by the partisan avalanche that blankets the single-seat districts of their region or state. Consequently, the political cultures of these states and regions, which ideally should thrive on an exchange of ideas and public debate, have become a political monoculture, lacking the most basic level of political pluralism or public debate.<sup>12</sup>

One corrosive effect of the winner-take-all system and the gerrymandering of legislative districts is the understated impact on the psyche of voters and on their sense of whether their vote is important or politics is meaningful. During the redistricting process, most voters are plunked into a safe, one-party district, even a one-party state, and their vote becomes either superfluous (if their party dominates the district or state) or impotent (if they are an orphaned voter or geographic minority). Either way, the act of voting becomes a waste of time, and a cruel hoax to their democratic aspirations. Without opposition politics, which is being squelched by filtering natural partisan demographics through a twisted redistricting process and its incumbent protection racket, debate and discourse are disappearing, and with it the political ideas that are the seeds for tomorrow's solutions.

To be sure, for a handful of congressional races the 2001 redistricting process did shake things up a bit. A few incumbents whose districts changed substantially had to face many new voters; and for those states that lost seats during reapportionment a few incumbents from the same party were forced into the same districts and had to face each other for reelection, making for a few extremely bitter party primaries.<sup>13</sup> As researchers such as Harvard professor Gary King and University of California–Berkeley professor Andrew Gelman have stated, district elections likely would be even *less* competitive, particularly in the first subsequent election cycle or two, if redistricting never occurred at all. Yet with the line-drawing process and its effects so tumultuous and so much an insider's game, it's a strong indicator of how *defective* our winner-take-all electoral system is. The use of single-seat, winner-take-all districts with legislative lines redrawn by the incumbents and party leaders is a major factor contributing to the decline of our representative democracy. We can pass all the campaign finance reform we want, but it will scarcely change this fundamental reality of our political landscape. We condemn elections with one-party choice in places like Cuba and China; but with the redistricting of winner-take-all districts dividing the political map into winners and losers, any chance of a politics of inclusion, pluralism, debate, and discourse is immediately subverted.

## The Gravity of the Prize: Winning More Than Your Fair Share

Nothing Monica Lewinsky and Bill Clinton did together will ever have as much impact on election results as the partisan makeup of congressional districts around the country.

—Rob Richie, *Center for Voting and Democracy*

Redistricting will determine the future control of Congress.

—Kevin Mack, *Democratic legislative campaign committee*

Redistricting is the window through which we may view something more profound and disturbing about our winner-take-all electoral system. Much as a comet brings to scientists periodic information from the far-flung reaches of the galaxy, the decennial line-drawings that occurred in 1991–92 and 2001–02 afforded us an opportunity for a rare insight into the workings of our clanking, antiquated, eighteenth-century electoral methods.

Specifically, the shenanigans unleashed by recent redistricting created numerous opportunities for party leaders to game the system in an attempt to win more than their fair share of seats. Only one side can win in a winner-take-all system, and both sides try rapaciously to manipulate the redistricting rules. The unsurprising results are “representation rip-offs” and “political power rip-offs,” where one side gains unfairly as the bewildered public tries to follow along in what seems a House of Mirrors.

Here’s how it works. In most states, whichever party completes the trifecta of winning control of the governor’s seat as well as the state house and senate at the start of each decade wins the godlike power to redistrict their state’s legislative district lines, not only for all their state’s legislative seats but also for that state’s U.S. House seats. By using techniques such as “packing” (whereby the lines are drawn so that you pack as many as possible of your political opponents’ voters into a few districts and make the surrounding districts more favorable to your party) and “cracking” (where you split your opponent’s supporters into two or more districts), those controlling the redistricting process can dramatically heighten the chance of winning more than their fair share of seats.

For instance, Republicans in Virginia completed the trifecta and dominated redistricting in early 2001; they were able to rig the district lines to win eight out of eleven U.S. House seats in a state that then elected a Democratic governor statewide.<sup>14</sup> In Florida, a state that is a toss-up statewide for president, governor, and U.S. senator, the GOP won the trifecta and parlayed it into districts that allowed them to win eighteen out of twenty-five House seats. In California, when Democrats regained control of the governor’s seat in 1998 and completed the trifecta, they gained monopoly control over redrawing



California's 53 U.S. House seats—12 percent of the national total—and 120 state legislative seats, ensuring their landslide victory in more than 60 percent of the races.

Republican and Democratic analysts both say that control over the redistricting process gives a party such an advantage that the state legislative and gubernatorial elections in 1998 and 2000—not the Congressional elections or the presidential election—determined who will hold a majority in the U.S. House of Representatives right through 2010. Ironically, it is true that voters in 1998 and 2000 determined representation for voters throughout the next decade; they had more impact on who won state and congressional elections in the year 2002 and beyond than voters in 2002 did. In fact, numerous observers have stated that the outcome of the 1994 elections, when Republicans took control of Congress for the first time in forty years, was due in no small part to Republican gains made during the 1991–92 redistricting.<sup>15</sup>

So the battle to complete or prevent the trifecta is fierce, and this is why, while the public's attention was riveted on the face-off in 2000 between Al Gore and George W. Bush, the low-intensity conflict for control of the nation's statehouses was just as pivotal.<sup>16</sup> Despite the fundamental importance of these state legislative races at the end of each decade, for the most part they fly under the public's radar. But both parties were totally focused and engaged, committing unprecedented resources to end-of-the-decade legislative and gubernatorial races. They targeted a record-setting amount of money to those few races where it would make a difference, with spending on *state* legislative elections passing the billion-dollar mark for the first time in the 2000 elections.<sup>17</sup> The trench warfare was fought state by state, district by district, in a handful of close races—the Gettysburg of our political landscape.

The special election in Pennsylvania in June 2000 to fill a single vacant state house seat illustrates how important control of the state legislature is to the two major parties. With the Pennsylvania House tied at one hundred seats for each party (there were three vacancies), and with the GOP already in control of the state senate and the governor's mansion, Republicans were fighting to complete their trifecta and Democrats were fighting to prevent it. The lone seat in this special election was going to be the deciding race. The candidates spent millions of dollars, most of it raised from national campaign committees and outside sources. Vice President Gore campaigned in the district and President Bill Clinton recorded radio spots for the Democratic candidate. GOP Governor Tom Ridge and national Republicans actively supported the Republican candidate. Meanwhile, ninety-one of Pennsylvania's house candidates (45 percent) faced *no major party opponent* in November 2000, as the two parties ignored districts they could not possibly hope to win. (Coda: the GOP won that Pennsylvania seat, gaining control of redistricting and gerrymandered districts that resulted in Democrats losing three U.S. House seats.)<sup>18</sup>

A state legislature is often the best example of how natural partisan demographics filtered through contorted legislative districts can unfairly tilt a legislature toward one party or another. Using the presidential popular vote as an indicator of the number of Democratic and Republican voters in each state, we can compare the disproportion between the presidential vote and the number of legislative seats won by each party in a state legislature to arrive at a vote-to-seats ratio (the presidential popular vote is used rather than the aggregate statewide vote for each party in state legislative races because so many state legislative races are uncontested—37 percent in 2002 and 41 percent in 2000—which serves to depress the turnout total for a state legislative race).

Comparing the popular vote for Gore to the number of seats won by Democrats at the state legislative level, we find that the 29 percent of Idaho voters who pulled the Democratic tab for president in November 2000 ended up that year with only 13 percent of Democratic seats in the state House of Representatives. In essence, these voters won 16 percent less representation than their numbers would indicate they deserve. In Kansas, Democrats were similarly subsumed, winning 39 percent of the presidential vote but only 25 percent of state House seats. This disproportionality works both ways, naturally, and in Rhode Island Republican voters accumulated about 34 percent of the presidential vote for Bush, but ended up with only 16 percent of the state representation, a representation rip-off of 18 percent. In Maryland, 42 percent of voters pulled Bush, approaching a majority, but they ended up with only 25 percent of the Republican state House seats, a rip-off of 17 percent. In Massachusetts, 35 percent of voters pulling Republican in the presidential race won only 14 percent of state House seats, a huge representation rip-off of 21 percent.<sup>19</sup>

The bitter partisan divide is exacerbated by this representation rip-off, as one side effectively wins more representation and political power than it deserves, while the other side is frustrated and unfairly marginalized. Oftentimes the representation rip-off produces an undeserved veto-proof majority that can ram through radical policies without a popular mandate. In Utah, where Republicans in 2000 won 69 percent of state house and senate seats, Democrats were so shut out by the representation rip-off that they threatened to quit running candidates to amplify the unfairness of one-party politics. “The reality is we live in a one-party state,” said Democratic Party leader Scott Howell. “Maybe it’s time to have no Democrats in the Legislature . . . make Utahans wake up to what local political life would be like with no alternative voice, no alternative power, to the majority Republicans.”<sup>20</sup> The fact is, in states encumbered by monopoly politics such as Utah, Idaho, and Massachusetts, the partisan redistricting of winner-take-all, single-seat districts is producing a victorious majority who lord over the vanquished minority in what can only be described as a kind of political feudalism. These winner-take-all districts are exacerbating an emerging trend of bitter partisan division and regional balkanization, the infamous Red and Blue America, where one political party dominates an entire state or region and political opposition is effectively snuffed out.

## The Soft Money Kings and Queens

Redistricting makes the inequities in campaign financing even worse. Most elections are so noncompetitive due to how the lines are drawn that big donors already know who's going to win. So they give to the likely winners to curry favor.

—Professor Douglas Amy, *political scientist*<sup>21</sup>

The catastrophic impact of redistricting goes beyond reducing competition, protecting the incumbent, undermining voter engagement, and deciding which party wins a majority. It also gives a distorted shape to the flow of political influence, money, and power and greases the wheels of the political machine.

The partition of the winner-take-all map into competitive versus noncompetitive races creates a fund-raising pecking order in which safe-seat incumbents are rewarded for raising excess campaign funds that can be handed off to a colleague in a closer race. These Soft Money Kings and Queens sit atop the soft money pile, dispensing favors and collecting fealty, both within their own personal safe districts and within the legislature, and then sprinkle their booty around to targeted races, buying themselves higher ranking in the party pecking order. This is how a political machine or fiefdom is created and maintained, with all its progenies of patronage, logrolling, and pork doling.

The geographic-based nature of our winner-take-all system combined with the redistricting roulette *define* this pyramidal shape to our political landscape and permit this kind of gaming and manipulation to occur. The fundamentally noncompetitive nature of most district races acts as a kind of lens that collects money from all over the country and focuses it on a few races where it can have overwhelming impact. Especially at a time when control of the U.S. House is likely to hang in the balance each election for the foreseeable future, it means that a handful of political leaders (DeLay, Hastert, Frost, Pelosi, Kennedy, and the like) will each be able to maintain his or her own well-oiled political machine.<sup>22</sup> The party leaders' role starts resembling that of a Mafioso *don*, dispensing favors and cash and making decisions with victory-or-defeat ramifications for their party; to the victor belongs the spoils *and* the turf. This dynamic is much more distorting of our democracy than simply money buying elections, because it concentrates power in a small number of hands and Rolodexes.

The importance of these party leadership PACs helps explain the seeming paradox of thousands of noncompetitive safe seats amid a sea of soft money and campaign millions. Voters see headline after headline screaming about all the hundreds of millions of dollars that are spent on elections, about the Democrats and Republicans holding gold-plated fundraisers, raising money from the same corporate clients in the incessant drive to win majority control of the legislatures. Things certainly *sound* competitive, and politics certainly *appears* bought and sold by big money donors. Yet most voters' experience is that of living in a safe, one-party district. Most races are decidedly noncompetitive, often even

uncontested, because of the lopsided partisan composition of the district. Says Burdett Loomis, a political scientist at the University of Kansas: "A lot of money will flow to a relative handful of seats. In those seats, it's nuclear war. Twenty miles away, there's nothing."<sup>23</sup>

The real battle is focused on those seats on which control of the legislature, and all the perks and power that come with it, depends. For that effort, party leaders raise gobs of soft money and sprinkle it around, calling the shots. Donors place their bets on candidates they *know* will win, because the winner-take-all districts have been drawn to produce that result. Rather than trying to buy elections per se, donors try to buy access to legislative leaders, and in some cases a chance to actually author important legislation. The passage of the McCain-Feingold legislation, which bans soft money, offers some hope, but after passage opponents quickly began conspiring to undermine it, both in the courts and by finding other legal means to circumvent its prescriptions. Trying to stop the flow of money is like trying to stop a river with a net.

All of these dynamics are unleashed by the geographic-based, winner-take-all, single-seat district system. Whichever party, Democrat or Republican, dominates a particular district is often decided years beforehand, in the backroom game of cards in which incumbent politicians and party bosses supervise redrawing of district lines. The preponderance of safe seats leaves the handful of close races as the small postage stamp of political real estate where political war is waged, and where campaign ordnance is bombarded. In a nation so closely divided, whichever side wins more of these skirmishes for the swing districts wins the big prize: majority control of the various legislatures; control over committees, subcommittees, and budget and tax policy; and control over redistricting in those states.

The 2001–02 redistricting was perhaps the most flagrantly abusive we have ever seen. In part, the GOP has emerged as the national winner at the state and federal levels because since 1991 they have been smarter and more strategic in the redistricting process, used emerging redistricting computer technologies better, and better targeted their resources to the right state and federal races. No other single factor, not even campaign finance inequity, has played so large a role in defining our winner-take-all system as this redistricting of geographic-based, single-seat districts. The resulting electoral barrenness—produced by the ennui of predictability, the stark lack of competition, the orphaning of millions of voters, the loss of political debate and ideas, and the distortion of legislative majorities—is where voter capitulation and an alarming postdemocracy begin. If this isn't a bizarre way to run a democracy, then what is?

## Notes

1. Senator McDaniel is quoted in Hoeffel, J. "Six Incumbents Are a Week Away from Easy Election." *Winston-Salem Journal*, Jan. 27, 1998.

2. The origin of the term *gerrymander* has been oft-told, but it bears repeating. It was coined after the name of a Massachusetts governor, Eldridge Gerry, who in 1812 approved the efforts

of the Jeffersonian-dominated legislature to create a famously contorted district that split Essex County in an effort to dilute the strength of the Federalists. Noting the resemblance of the new, oddly shaped district to a salamander, a local newspaper dubbed the creation a “gerrymander.” Thus was produced the term of art that has passed down through the centuries.

3. Pamela Karlan, professor of law at Stanford University, videotaped testimony at public hearings on “Race, Reapportionment and Redistricting” in San Francisco in September 1997; the videos were followed by videotaped interview.

4. See, for instance, Monmonier, M. *Bushmanders and Bullwinkles: How Politicians Manipulate Electronic Maps and Census Data to Win Elections*. Chicago: University of Chicago Press, 2001.

5. See anecdotes related in Gelman, A., and King, G. “Enhancing Democracy through Legislative Redistricting.” *American Political Science Review*, 1994, 88(3), p. 541.

6. Quach, H. K., and Bunis, D. “All Bow to Redistrict Architect: Politics Secretive, Single-Minded Michael Berman Holds All the Crucial Cards.” *Orange County Register*, Aug. 26, 2001, p. 1.

7. The results were similar for the 2000 and 1998 House elections. In 1998, 90 percent of races were won by a comfortable victory margin greater than ten points and 73 percent were won by a landslide margin greater than twenty points, as 98 percent of incumbents won reelection, and the average margin of victory for the incumbent was a whopping 43 percent. See “Monopoly Politics 2002: How ‘No Choice’ Elections Rule in a Competitive House,” published on the Web by the Center for Voting and Democracy ([www.fairvote.org/2002/index.html](http://www.fairvote.org/2002/index.html)).

8. 2002 and 2000 were not atypical. In 1998, there was no Democrat or no Republican candidate in 41.1 percent of the state legislative races; in 1996, 32.7 percent; in 1994, 35.8 percent; and in 1992, 32.8 percent. See “Dems, Reps Failed to Nominate in 2000.” *Ballot Access News*, 2000, 16(9), p. 2 (published by Richard Winger, P.O. Box 470296, San Francisco, CA 94147, [ban@igc.org](mailto:ban@igc.org)).

9. See “Monopoly Politics 2002.”

10. See “Voter Participation and Victory Margins, 1994 Elections, U.S. House of Representatives, and Dubious Democracy 2001” ([www.fairvote.org/reports/1999/overview.htm](http://www.fairvote.org/reports/1999/overview.htm)), reports published by the Center for Voting and Democracy.

11. See Heilprin, J. “105.4 Million Voters Cast Ballots.” Associated Press, Dec. 18, 2000. Also see the report released by Curtis Gans and the Committee for the Study of the American Electorate, in “Voter Turnout Rose in 2000, But No Lasting Impact Is Seen,” *New York Times*, p. A12.

12. Some political commentators protest against viewing Republican and Democratic voters in terms of a partisan monolith, pointing out that not all Republican voters are always head-over-heels sold on the Republican candidate, or Democratic voters on the Democratic candidate, which is certainly true. But if their only other viable choice is the other major party, many consider it going too far in the opposite direction, and so they keep within the fold, voting the lesser of two evils, albeit begrudgingly. Their politics is defined by voting against a particular candidate or party more than by being for anything. More and more Americans vote with this kind of negative consent in mind. Because of this dynamic, the pattern followed by most voters is increasingly consistent and predictable over time—as political observers have come to realize.

13. For example, after Indiana lost a Congressional seat in the 2000 census, a Democratic-dominated commission redrew the Congressional district boundaries so that two Republicans were forced to vie for the same seat in the 2002 primaries. Both were staunchly conservative Republicans and erstwhile allies, but once lumped in the same district a real catfight broke out, driven by the rawest of political impulses: survival. The intraparty feuding became so intense that Rep. Thomas Davis of Virginia, the chairman of the National Republican Congressional Committee, commented: “They don’t help matters by going and carving each other up on a personal basis every day. [They] are gaming this in an inappropriate fashion.” Well beyond Indiana, individual battles brewed in other states. “It’s a very selfish enterprise,” Davis said; “it’s every man for himself.” Berke, R. L. “Democrats’ New Map of Indiana Divides GOP.” *New York Times*, June 2, 2001.

14. White, R. “Strategy Aims to Keep Foe’s Voters at Home.” *Fairfax (Va.) Journal*, Nov. 2, 1999, p. A1. See also “No Contest, No Choice” (editorial), *USA Today*, Nov. 3, 1999, p. 30A.



15. Curran, T., and Mercurio, J. "Parties Brace for Looming Remaps: Governors, State Legislators Hold Keys to Members' Fates." *Roll Call*, Mar. 19, 1998. For instance, Mark Gersh, Washington director of the National Committee for an Effective Congress and a consultant to the Democratic Congressional Campaign Committee, is quoted as saying, "I would attribute about 60 percent of the gains Republicans made [in the House since 1990] to redistricting." Morton Kondracke, a columnist for *Roll Call*, estimated that fewer than twelve thousand voters nationwide—0.06 percent of the eligible voting population—swung the 1994 vote to the House Republicans.
16. Control of a state legislature also dramatically affects the competitiveness of an election. A 1995 report entitled "The Mapmakers and Competitiveness" by the Center for Voting and Democracy assessed the impact of the 1991–92 redistricting by comparing the 1992 and 1994 congressional elections with the 1990 elections. The study found that in the seventeen states where one party had a trifecta there was an average 7.5 percent increase in the number of competitive elections (elections won with less than 55 percent of the vote) from 1990 to 1994. But in states with split party control of the legislature, there was a 22 percent increase (nearly a threefold rise) in the number of competitive elections in the same years.
17. Greenblatt, A. "The Mapmaking Mess." *Governing*, Jan. 2001, p. 21. See also the report by Brigham Young University's Center for the Study of Elections and Democracy that looked at soft money expenditures and issue advocacy in the 2000 election. The report concluded that the battle for control of the U.S. Congress was concentrated on relatively few races, in which candidates raised and spent a record-setting amount of money. The political parties—(through soft money) and interest groups—(through election issue advocacy, independent expenditures, and internal communications) effectively doubled the money spent on campaign communications in these contests. The report also noted that closing the party soft money exemption from contribution limits merely produces a tremendous incentive for individuals and groups to shift to issue advocacy and independent expenditures. Report quoted in the *Political Standard*, newsletter of the Alliance for Better Campaigns, 2001, 4(1), p. 2.
18. Information on Pennsylvania is from the Website of the National Conference of State Legislatures ([www.ncsl.org/ncsl/db/elect98/profile.cfm?years=2000&state=PA](http://www.ncsl.org/ncsl/db/elect98/profile.cfm?years=2000&state=PA)).
19. If anything, these figures probably understate the case, since Gore was disproportionately unpopular out west; his vote in Montana, say, was far less than that for relatively progressive Democratic candidates for the House and Senate. In Massachusetts, Republicans actually won the last three statewide races for governor, yet they have only 14 percent of seats in the Massachusetts state house.
20. Janofsky, M. "Utah GOP Endangers a Democrat." *New York Times*, Nov. 23, 2001. See also Bernick, B., Jr. "Will Utah Demos Run No Legislative Candidates at All in 2000?" *Desert News*, Mar., 27, 1998.
21. Videotaped interview at Race, Reapportionment, and Redistricting conference, Minneapolis, Nov. 1997.
22. VandeHei, J., and Curran, T. "Parties Pushing for Early Money: DeLay Plans to Distribute \$1M to 10 Members." *Roll Call*, June 16, 1999. See also Freedberg, L. "Pelosi Raises \$3 Million for Democrats." *San Francisco Chronicle*, Oct. 14, 2000, p. A1; Hook, J. "A Kennedy Pursues Money Side of the Family Business." *Los Angeles Times*, July 3, 2000.
23. Quoted in Hook, J. "Handful of Seats Could Sway Battle over House." *Los Angeles Times*, Jan. 17, 2000, p. A1.

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