

LEGISLATIVE REDISTRICTING AND SAFE SEATS

John Stone, July 20, 2007

The Problem

Every ten years, following the census, the various state legislatures are charged with drawing new legislative and congressional districts. This is a process not well covered by the news media and not well understood by the general public; in fact, the public in the past has appeared not to care much at all about it.

However, both major political parties- under the cover of public ignorance-have used redistricting to protect incumbents and to maintain the majorities of the party in power. In 2001, Virginia's Republican majority not only protected many of their incumbent legislators but used the process to in effect unseat most of the Democratic Party's legislative leadership. (Tom Moss, Richard Cranwell, Tom Jackson, Alan Diamonstein, etc.) In doing so, they were only following the lead of the Democrats, who had in the past used redistricting to protect their own majority party status.

One of the problems with such abuse of the process is that it creates so-called "safe districts", which are heavily weighted toward one political philosophy. And "safe seats" foster extremism since, as Richmond Times-Dispatch columnist A. Barton Hinkle writes, "party primaries populated by true believers determine the nominee of a district in which one party is sure to win." Candidates who hope to win election and then to remain in office learn to cater to the "take no prisoners" segment of the party which disdains compromise. This can lead to gridlock- as we have seen too often in Virginia- when there are often not enough legislators willing to compromise to allow the legislature to finish its work on time, or at all. The American system of representative democracy is based on compromise. Where there is no compromise, the system doesn't work.

The results of redistricting on Virginia legislative elections can be seen in the 2005 House of Delegates races. Out of 100 House races, only 49 were even contested by both major parties in the November general election. Fifty-one races were won by House incumbents with 90% or more of the vote. Seven incumbents captured 100% of the vote. All told, 83 candidates captured 60% or more of the vote. We used to call those landslides and they were rare. Not any more. Only twelve out of 100 races were decided by less than ten percentage points. In the 2003 State Senate elections, only four out of forty races were that close.

The effect on voter turnout has been dramatic. Voter participation seems to dwindle more with each election- other than the statewide races which can still generate competition and thus enthusiasm. The stakes are higher and higher, but the involvement of ordinary citizens is lower and lower, thanks to the adverse impact of partisan redistricting. In a January 17, 2007, editorial, the *Richmond Times Dispatch* lamented that while "Governor Tim Kaine has consistently embraced redistricting reform, too many other politicians in

both parties let their immediate partisan concerns dictate their consciences. The electorate shares the blame. Redistricting works because voting habits are readily tracked and easy to predict. Decisive portions of the citizenry demand neither high standards nor philosophical coherence from their party's candidates. Yet while the public as a whole grows increasingly alienated from a process that puts politicians first, individuals have not risen against gerrymandering. Apathy has consequences."

Spencer Overton, in his book *Stealing Democracy*, notes that following the 2000 Census, state legislatures significantly redrew 49 competitive congressional districts. 92% of the incumbents in those districts received safer seats. He further notes that-even as public approval of Congress was declining- 98% of the incumbents running for re-election in 2004 were in fact re-elected.

Even though almost every democracy in the world that uses single-member districts to elect legislators-including Australia, Canada, Germany, New Zealand and the United Kingdom- assigns the task of redistricting to independent commissions, in this country, 36 states(including, unfortunately, Virginia) still allow state legislators to redraw their own election districts and the districts for U.S. House members.

"Our partisan procedure for drawing legislative districts", observes noted University of Virginia political scientist Dr. Larry Sabato, "enforces vicious polarization rather than encouraging moderation and compromise."

In his book, *Politics: America's Missing Constitutional Link*, Dr. Sabato reminds us of the warning contained in President George Washington's farewell address:

"However combinations or associations of the above description may now and then answer popular ends, they are likely, in the course of time and things, to become potent engines, by which cunning, ambitious, and unprincipled men will be enabled to subvert the power of the people and to usurp for themselves the reins of government, destroying afterwards the very engines which have lifted them to unjust dominion."

The Iowa Process

The State of Iowa (and several other states as well) carries out its redistricting mandate in a manner considerably different from that in Virginia.

While Virginia's redistricting plan is drawn by the majority on the House and Senate Privileges & Elections Committees, the Iowa plan is created by a five-member Temporary Redistricting Advisory Commission. According to the legislative guide to redistricting-published by the Iowa General Assembly's Legislative service Bureau, four of the Commission members are selected by the "respective majority and minority floor leaders for the General Assembly...the four commission members shall select- by a vote of at least three members- the fifth Commission member who shall also serve as Chairperson. The (Iowa) Code provides that a Commission member shall be an eligible

voter of the state, but (italics ours) *shall not hold a partisan political office or be related to or employed by a member of the United States Congress or the Iowa Legislature or be employed by the Congress or Iowa Legislature itself.*”

Iowa requires its redistricting plan to create compact and contiguous districts and to meet U.S. Supreme Court standards for equality of population and compliance with the Voting Rights Act. Iowa also requires that “consistent with population equality requirements, district boundaries should coincide with the boundaries of political subdivisions of the state.” In fact, the Iowa Constitution specifically provides that no county shall be divided in forming a congressional district.

Further, Iowa law provides that certain factors shall NOT be taken into account when preparing redistricting plans. (Again, italics are ours) “*Specifically, the Iowa Code provides that districts shall not be drawn to favor any political party, an incumbent legislator or member of Congress, or any other person or group, or for the purpose of augmenting or diluting the voting strength of a language or racial minority group.*” Data concerning the addresses of incumbents, the political affiliation of registered voters, previous election results and demographic data other than population head counts not otherwise required by federal law are *not to be considered or used in establishing districts.*

The requirements in Virginia are not nearly so stringent . According to Committee Resolution #1, approved by the Senate Privileges & Elections Committee on April 3, 2001- “ Districts shall be based on legislative consideration of the varied factors than create or contribute to communities of interest. These factors may include, among others, economic factors, social factors, cultural factors, geographic factors, governmental jurisdictions and service delivery areas,(italics ours) *political beliefs, voting trends and incumbency considerations.*”

The Resolution continues, “*It is inevitable that some interests will be advanced more than others by the choice of particular district configurations. The discernment, weighing and balancing of the varied factors that contribute to communities of interest is an intensely political process best carried out by elected representatives of the people.*” In other words, “Trust us. We know what’s good for you.”

Redistricting in the 2007 Virginia General Assembly

Ten bills and resolutions regarding the redistricting process were introduced in the 2007 session of the Virginia General Assembly.

HB 1629 (Shuler)- would establish a process much like Iowa's; killed in House Privileges & Elections

HB 2070 (Brink)- called for a Citizen advisory redistricting Board within the State Board of Elections to prepare and recommend redistricting plans; killed In house Privileges & Elections

HB 2599 (Plum)- would establish a Virginia Advisory Redistricting Commission; killed in House P&E.

HJR 560(Shuler)- called for establishment of a 13-member Virginia Redistricting Commission; killed in House P&E

HJR 620 (Amundson)- called for a constitutional amendment establishing a five-member redistricting commission. Killed in House P&E. According to the Richmond Times Dispatch, Del. John O'Bannon (R- Henrico)- a member of the committee- told Del. Amundson that "redistricting is a political process" and that when his party became the minority party, he would support her bill.

HJR 703 (Peace)- called for a joint subcommittee to study the redistricting process; only redistricting proposal introduced by a Republican legislator. Killed In House Rules

HJR 715 (Plum)- called for establishment of a 13-member Virginia Redistricting Commission. Killed in House P& E.

HJR 718 (Barlow)- called for an 11-member Virginia Redistricting Commission, composed of retired judges. Killed in House P&E

HJR 719 (Moran)- called for a five-member Virginia Redistricting Commission; identical to the bill introduced in 1992 by Del. Bill Howell, now Speaker of the House of Delegates. Killed in House P&E

SJR 352 (Deeds)- called for 13-member Virginia Redistricting Commission; reported from Senate Privileges & Elections 8-6; passed Senate 22-18. Killed in House P&E.

Hampton Roads Legislators on key committees are highlighted in yellow.

SENATE PRIVILEGES & ELECTIONS COMMITTEE (2007)

Steve Martin (R)- Chairman	Ben Lambert (D)
Charles Hawkins (R)	Janet Howell (D)
Russ Potts (R)	Ken Stolle (R)
Creigh Deeds (D)	Jay O'Brien (R)
Margaret Whipple (D)	Roscoe Reynolds (D)
Brandon Bell (R)	Jeannemarie Devolites-Davis (R)
Mark Obenshain (R)	Phillip Puckett (D)
Linda Puller (D)	

HOUSE PRIVILEGES & ELECTIONS COMMITTEE (2007)

Lacey Putney (R)- Chairman	Riley Ingram (R)
Robert Marshall (R)	Frank Hargrove (R)
Chris Jones (R)	Jackson Miller (R)
David Albo (R)	Melanie Rapp (R)
Mark Cole (R)	John Cosgrove (R)
Jeff Frederick (R)	William Fralin (R)
John O'Bannon (R)	Rob Bell (R)
Clarence Phillips (D)	Jim Scott (D)
Robert Brink (D)	Kenneth Alexander (D)
Johnny Joannou (D)	Mark Sickles (D)
Rosalyn Dance (D)	David Englin (D)