from Phyllis Schlafly

How to Make Reapportionment Fair

January 9, 1992

You may think that, in our American democracy, the decisions about who represents you in our national and state legislatures are made when you and your neighbors vote in the general elections in November. In truth, only a small slice of the power to determine who are our elected representatives is exercised by the voters on that day.

An even bigger slice of the power to select our legislators is made months earlier in the primaries. And before that, even more crucial decisions are made in the arcane once-every-ten-years process cal1ed reapportionment.

The U.S. Constitution requires that a census be taken every ten years. -As soon as that is done, the state legislatures start the process of drawing a new district map to redistribute the fixed number of members in the U.S. House of Representatives and in their own state legislatures in order to accommodate the population changes during the previous decade.

The mood of the American people today is somewhere between disaffection and anger about the way that incumbents have arranged to get themselves reelected at an extraordinarily high rate. Incumbents assure their reelection by an intricate system of perks and PACs, franking privileges and paid staff, but the biggest factor is reapportionment because that's the way incumbents define their districts, and in so doing, secure their power.

The original reapportionment artist was Governor Elbridge Gerry, who reapportioned a strange-shaped district in Massachusetts in 1812 which his critics called a gerrymander (i.e., a Gerry-created salamander). Gerrymandering is defined as the drawing of district lines into peculiar shapes in order to maximize the representation of your party in the legislative body at the expense of the other party.

The partisan maker of a new reapportionment map tries to draw district lines that concentrate the other party's votes in just a few districts where they are “wasted” by contrived landslides, thereby giving the mapmaker's party the opportunity to win more seats than it otherwise cou1d. This type of partisan gerrymandering went

on in a rather unsophisticated way from Gerry's time until the Supreme Court decisions in Baker v. Carr (1-962) and Reynolds v. Sims (L964), which required that districts be equal in population in order to accommodate the newly enunciated constitutional requirement of “one man, one vote.”

However, the Court did not enunciate any rule that districts have any particular shape or character. So we “progressed” into a new era of creative gerrymandering.

Fortunately for the professional politicians, the computer age arrived and made sophisticated gerrymandering easy. High-priced political, market, and computer consultants and software immediately became political necessities in order to draw district lines that cut through counties, cities, townships, and even voter precincts.

The acknowledged master of modern gerrymandering was the late Congressman Phil Burton (D-CA), who is credited with using computers to reapportion California after the 1980 census in such a way that it artificially gave the Democrats at least six more Congressmen (some say 10 more) than their voting strength entitled them.

Burton joked about what these new California districts look like on a map. He described his handiwork as “our contribution to modern art.” He said about the district he fashioned for his brother: “It’s gorgeous, it curls in and out like a snake.”

The tremendous advance of computers in the last l0 years has been paralleled by increased sophistication in gerrymandering. The Wall Street Journal published the new Congressional district map drawn by the Democratic majority in North Carolina and called it “bizarre,” as indeed it is.

An excellent article on the fraud of reapportionment and how to remedy its abuses recently appeared in the Yale Law and Policy Review. Co-authors Daniel Polsby and Robert Popper assert that gerrymandering is not something that Democrats and Republicans do to each other, but something that legislators do to voters.

They take the position that gerrymandering is inherently undemocratic. Although it does not deprive anyone of the right to vote, gerrymandering diminishes the value of the votes of identifiable groups, and it is also an attempt by the legislature to manipulate the rules by which legislatures are elected..

To remedy the abuse of gerrymandering, Polsby and Popper propose adding another criterion: that districts must be compact. They believe that a requirement of compactness, according to a mathematical formula, would prevent outrageous gerrymandering and thereby help to ensure fair elections.

They claim that it would be as practical a rule as “one man, one vote.” A requirement of compactness would make the gerrymanderer's job harder, and thereby promote fairer elections. Their idea is certainly worth discussing if we want to preserve our constitutional democracy.