Dividing Political Space: Commissions and the Congressional Redistricting Process

by

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ABSTRACT: Congressional redistricting has always been a controversial and cumbersome task. For over 150 years, federal and state laws have expanded certain guidelines that must be met in the redistricting plans. Since the landmark 1962 Baker v. Carr case allowing judicial jurisdiction in redistricting matters, the courts have debated such items as malapportionment and the constitutionality of both partisan and racial gerrymandering. Many states have been forced to defend questionable redistricting maps in both state and federal courts. With all these problems, some states have begun to redistrict in a new fashion. During the 1990s round of congressional redistricting, commissions were employed in Hawaii, Connecticut, Washington, Iowa, and New Jersey to draw new district boundaries. Traditionally, state legislatures have drawn the lines, but with the increasing number of judicial precedents to be met, the political ramifications of redistricting, and in the spirit of democratic reform, some legislators have relinquished the duty to bipartisan commissions. Each state has specific laws governing the commissions. Although redistricting commissions can not solve the inherent problems of the United States’ electoral and representative systems, commissions provide a less partisan alternative to the process.
After so many years in exile the Republicans were at the mercy of a system rigged by their enemies. They calculated that even when G.O.P. candidates captured 47% of the total U.S. vote, they won only 40% of the seats because of gerrymandered districts; Democrats then grudgingly offered them only 35% of the committee seats and 17% of the committee staff. The best a Republican representative could hope was that if he went along most of the time without making too big of a fuss, some Democratic committee chairman might occasionally feel generous and throw a few dollars to his district.¹

The United States is governed as a democracy, commonly termed as “government by the people.” Power is vested in the people, who influence government either directly or indirectly. One of the most obvious direct influences is through free elections.

On the federal level, Americans elect representatives to both the Senate and House of Representatives. States are represented equally in the Senate, with each state having two members. Senators are elected for six-year terms. The House of Representatives consists of 435 members, elected every two years. Representatives are elected from congressional districts within each state. Each state is apportioned a number of congressional districts according to population. Larger populated states receive a larger number of representatives than do smaller states. Larger populated states therefore have greater political influence than smaller states. The birth of each new decade in American history marks the decennial census and subsequent redistricting process. Ideally, the boundaries of congressional districts change over time to account for the changes of population. According to political geographer Richard Morrill, “Defining and redefining

districts is exciting and important because it alters the allocation of power, patronage, and course of social and economic development.”

**APPORTIONMENT**

The first step in congressional redistricting is apportionment. Apportionment allocates 435 congressional seats to the states on the basis of population. Each state has at least one representative regardless of population. Every ten years, following the turn of the decade, the Census Bureau conducts the census. The Census Bureau uses the results to allocate the number of seats to each state in proportion to the nation’s population. The Census Bureau allocates congressional seats to the states using the Huntingdon formula (method of equal proportions). This formula has been utilized since 1950. Critics of the Huntingdon formula claim that it favors small states over large states. This may be the case, but overall, in comparison with other formulas, it is accepted as fair.

**REDISTRICTING**

Redistricting is the process of drawing legislative territorial boundaries. Ideally, redistricting occurs every ten years to account for the shifts in U.S. population. In the modern era, after the Census Bureau releases the census figures, each state must complete the redistricting task for congressional and state legislative districts before the next primary election.

Each state’s legal code describes who is responsible for redistricting. Usually, the procedure is treated like any other piece of legislation. In most cases, redistricting power is held jointly by the governor, the upper chamber of the legislature, and the lower

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4 Ibid., p.67.
chamber of the legislature. After a legislative committee devises the new district boundaries, the proposed plan is sent as a bill to the upper house, the lower house, and the governor. If the new district lines are accepted at each stage, the redistricting legislation becomes law.

Historically states have one political party in control of redistricting or split party control. In the states with split party control, either the governor, the upper chamber, and (or) the lower chamber are controlled by different parties. In states where one party controls the legislative process that party has total control of redistricting. In states where there is split party control of redistricting, the parties must compromise on the final location of district lines.

**DISTRICT CRITERIA**

Since 1842, the United States has had statutory laws that set redistricting standards such as population equality, contiguity, and compactness.⁵ Although these laws were in place, they were not enforced. Later, the 1929 congressional reapportionment act omitted all redistricting standards.⁶ Between 1929 and 1967 there were no federal laws providing redistricting standards. During this period, some states held general ticket elections, electing their entire delegation statewide. Other states had districts, but also elected a few representatives at large, most often when redistricting was problematic. A 1967 federal law mandated single-member districts, replacing all other forms of representation.⁷

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⁷ Ibid.
Historically, redistricting was a state action, but court decisions over the past three decades have mandated a number of guidelines. Before 1960, the courts exercised restraint in redistricting matters because of the political implications of redistricting. In the landmark 1962 Baker v. Carr case, the Supreme Court decided that it had the jurisdiction to hear apportionment cases because of the Equal Protection Clause of the Fourteenth Amendment: “No state shall...deny to any person within its jurisdiction the equal protection of the laws.”

States may still apply their own criteria in addition to what is mandated at the federal level.

Actually, there are many different criteria addressing the quality and fairness of redistricting. Redistricting criteria are divided into two categories: formal and outcome. Formal criteria deal with the size, shape, and geography of districts. Outcome criteria evaluate the political and ethnic makeup of a district. One measure of political fairness occurs if a party receives a number of seats roughly in proportion to the percent of vote received.

**Equal Population**

Malapportionment is defined as an inequality in the population size of districts. In the past, malapportionment occurred most often when states did not redistrict congressional and legislative districts after each census, even though some federal apportionment acts mandated equal or nearly equal population in districts. Population equity prohibits malapportionment and promotes equal representation. One aspect of the theory of equal representation is based on the district’s simple population. Simple

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8 U.S., Constitution, amend.xiv.
9 “Districts,” p.653.
population includes not only citizens, voters, and adults, but everyone within the district.\textsuperscript{10}

Only with the Baker v. Carr (1962) decision establishing the legal precedent for equal population and equal representation within congressional districts, was the rule of equal population enforced.\textsuperscript{11} Reynolds v. Sims (1964) and Wesberry v. Sanders (1964) were landmark cases for the “one person, one vote” rule for redistricting.\textsuperscript{12} The theory behind “one person, one vote” is that the right to vote is not equal if people are voting in unequally sized districts. Every voter has the right to have equally weighted votes.

\textbf{Contiguity and compactness}

The first redistricting criteria were given in the Apportionment Act of 1842 calling for single-member, contiguous congressional districts. The 1901 Apportionment law not only called for contiguous districts, but also compact territory.\textsuperscript{13} In a contiguous district, all parts of the district are connected at some point. Island districts may not be enveloped by islands from another district. Compactness is often violated if it conflicts with other more important criteria.\textsuperscript{14}

\textbf{Gerrymandering}

The criteria of contiguity and compactness became very important in the 1960s because of the debate over gerrymandering. Gerrymandering is the manipulation of the boundaries and formation of districts for partisan purposes. The term “gerrymander” is derived from Governor Elbridge Gerry of Massachusetts who signed the state

\textsuperscript{10} “Apportionment and Redistricting,” p.64.
\textsuperscript{11} Morrill, \textit{Redistricting and Theory}, p.17.
\textsuperscript{12} “Apportionment and Redistricting,” p. 62.
\textsuperscript{13} “Districts,” p.653.
\textsuperscript{14} “Apportionment and Redistricting,” p.64.
Redistricting Bill of 1812. This bill maximized the election of the Republican-Democrats over the Federalists. The map of one oddly shaped district north of Boston closely resembled a salamander, thus originated the term “gerrymandering.” Districts may be gerrymandered either racially or politically.

Racial Gerrymandering

Although the rule of equal population did solve the problem of imbalances in population, it ignored the partisan and racial manipulation of district boundaries. Racially gerrymandered districts prevent a racial minority from having a majority of the vote in one area. Other times, racially gerrymandered districts have “packed” minorities into a few districts to allow them as few seats as possible. One method of measuring racial gerrymandering is comparing the percentage of seats held by a minority to the percent of minority population.

The judiciary has considered gerrymandering cases through judicial interpretation of fundamental constitutional rights. Beginning the in the 1960s, the Supreme Court began to address the constitutionality of gerrymandering. The 1964 Supreme Court case Wright v. Rockefeller permitted gerrymandering because it was “political”, however at the same time suggested that racial gerrymandering would not be tolerated. The Voting Rights Act of 1965 provided minorities the right to an undiluted vote. Votes are diluted if district lines are drawn to weaken the votes of one group and enhance the votes of another group. Vote dilution violates equal protection under the Fourteenth Amendment. Fortson v. Dorsey (1965) and Burns v. Richardson (1966) established the

15 Morrill, Redistricting and Theory, pp.11-12.
16 Ibid., p.13.
17 Ibid.
principle that districts could not be drawn to dilute the chance of a minority being elected.\textsuperscript{18} This meant that minority votes could not be grouped together to reduce the number of minorities elected or be divided into several districts, diluting minority votes, preventing them from having any elected representative.

The Voting Rights Act was amended in 1973, identifying states with a history of racial discrimination.\textsuperscript{19} Section Five of the Voting Rights Act requires the Justice Department to approve all redistricting plans in states with histories of racial discrimination. The only exception to this rule is in the case where the lines are drawn by the federal court.\textsuperscript{20} In addition, the Voting Rights Act of 1973 stated that the plaintiff of a redistricting case must prove that there was intentional unfairness in the drawing of the new map.\textsuperscript{21} Later, in Richmond v. US (1975), the court decided that the state (the defendant) must prove a lack of intent to discriminate.\textsuperscript{22} This shifted the burden of proof from the plaintiff to the defendant, making it more difficult for the states to gerrymander.

Throughout the seventies, the courts made many decisions as to the right of minority representation. The Taylor v. McKeithen decision (1974), stated that racial minorities have a justifiable interest in a chance at fair representation, but no fundamental right to representation, especially proportional representation.\textsuperscript{23} Therefore, mapmakers did not have to maximize the number of minorities in a district. They were, however, to

\textsuperscript{18} Ibid.
\textsuperscript{20} These states included Alabama, Arizona, California, Florida, Georgia, Louisiana, Michigan, Mississippi, New Hampshire, New York, North Carolina, South Carolina, Texas, and Virginia. Ibid.
\textsuperscript{21} Morrill, \textit{Redistricting and Theory}, p.13.
\textsuperscript{22} Ibid.
\textsuperscript{23} Ibid.
be provided with a reasonable chance of election. But, what constitutes a reasonable chance of election? With the high number of children and low voter registration in minority districts, defining a reasonable chance of election is difficult. For example, if 55-65 percent of a district’s population is minority, new district lines that include 51-52 percent of the minority population may be vote dilution because only 40-45 percent of the minority will be voters. In other cases, if it is impossible for the minority group to have a majority of the district’s population, a minority population of 25-40 percent will force the incumbent to pay attention to the minority’s needs.²⁴

Beer v. U.S. (1975) required the comparison of the existing redistricting plan or the proposed plan with alternative plans to improve minority representation.²⁵ In Washington v. Davis (1976) the Supreme Court said that there no longer had to be proof of intent to discriminate. Districts which had been proven discriminatory, through election results, regardless of intent, were illegal.²⁶ In accordance, the language of section two of the Voting Rights Act was amended in 1982 to include redistricting that without intent, has the effect of discrimination against the minority’s right to pick their own representative.²⁷ Thornburg v. Gingles (1986) ruled that six districts in North Carolina violated the 1982 Voting Rights Act, diluting black voting power because few blacks were elected from the districts. It established that everyone should have the right to elect representatives of their own choice.²⁸ Thornburg v. Gingles set the precedent for three rules that must be met for a group to demonstrate racial redistricting discrimination:

²⁴ Ibid., p.20.
²⁵ Ibid., p.13.
²⁶ Ibid.
²⁷ "Apportionment and Redistricting," p.64.
²⁸ Ibid.
1. The minority group has to be large and geographically compact as to be a majority of the population in a single-member district.
2. The minority group needs to be politically cohesive.
3. The white majority must "bloc vote" so that it defeats the preferred candidate of the minority.\(^{29}\)

After the Thornburg v. Gingles ruling, a number of districts were found to be in violation of the 1982 Act. In 1989 a three judge panel forced Arkansas to redraw its state legislative districts to create as many black majority districts as possible.\(^{30}\) In 1990, according to the federal courts and the justice department, majority-minority districts must be created proportionally to the state's minority population.\(^{31}\) Another federal mandate in 1990 forced the states to draw lines maximizing the number of majority-minority districts where blacks and Hispanics made up a majority of the population.\(^{32}\) In order to empower the minorities, certain mapmakers had to trade off compact districts.\(^{33}\)

**Partisan gerrymandering**

Partisan gerrymandering is the act of drawing district lines to favor one political party over another political party. Sometimes when a political party has weakening support it gerrymanders district boundaries to maintain or even increase the party electoral support and in effect, preserve party control. The political gerrymanderer often pits two same-party incumbents against each other to weaken the opposition party’s strength. Political gerrymandering can be measured by comparing the percentage of seats held by each party in the state to the percentage of the overall party vote.

\(^{29}\) Congressional Quarterly Guide, Part One, p.6.
\(^{30}\) Ibid.
\(^{31}\) Ibid., p.7.
\(^{32}\) Ibid., p.6.
\(^{33}\) Ibid., p.7.
In contrast to racial gerrymandering, partisan gerrymandering has to a greater extent been tolerated. In the 1973 Gafney v. Cummings case, the court ruled that political gerrymandering was not unconstitutional. In fact, the court said that if the gerrymandering provided political balance, it was commendable. 34 The court then ruled in United Jewish Organizations of Williamsburg v. Carey (1977) that ethnicity and religion were not protected under the Fourteenth Amendment. 35 This established the principle that unequal population and racial dilution were the only two basses for redistricting complaints. Over a decade later, though, Davis v. Bandemer (1986) ruled that political gerrymandering was subject to judicial review and alteration. 36 Nonetheless, both parties still participate in political gerrymandering.

REDISTRICTING IN THE 1990s

Federal and state courts played a major role in the 1990s redistricting. Judges issued congressional boundaries in ten states including California, Pennsylvania, Florida, Illinois, and Michigan. 37 Legal experts had to help politicians redistrict following the new judicial precedents. In June 1993, Shaw v. Reno questioned the legality of majority-minority gerrymandering to enhance political representation for minorities. 38 Critics say that the regulations separate races for voting purposes. Opponents term it “affirmative action in mapping.” The 1990s redistricting also raised the issue of which court, either federal or state, has the jurisdiction to draw lines in problematic states. In the past, the federal courts had stepped in when there had been redistricting problems. In the 1990s

34 Morrill, Redistricting and Theory, p. 13.
35 Ibid.
36 Ibid.
38 Ibid.
round of redistricting, however, the state courts assumed more responsibility. The
Supreme Court decided in Growe v. Emison (1993) that federal courts are to decide
redistricting only after state courts have been unsuccessful in their attempt.\textsuperscript{39}

The new redistricting laws had many effects upon the elections of House members
in the 1990s. Some redistricting plans pitted two incumbents against each other. Other
incumbents found themselves in districts with entirely new constituencies. The prospect
of difficult campaigns led many congressman to retire. Fifty-two representatives did not
seek reelection in 1992. The 1992 election saw 110 freshmen representatives in the
House, including twenty-five women. The Voting Rights Act had visible effects upon the
1992 election. Majority-minority districts provided the freshman class of 1992 with
sixteen blacks and eight Hispanics.\textsuperscript{40} For the first time since Reconstruction, blacks won
races in Alabama, Florida, North Carolina, South Carolina, and Virginia. In other states,
the number of minority representatives increased. Louisiana, Maryland, and Texas
gained one minority representative. Georgia increased its minority representation from
one representative to three. Illinois and New Jersey elected their first Hispanic
representatives.\textsuperscript{41}

Overall, redistricting has become a very controversial subject. Redistricting
reformers say that it is a conflict of interests to allow legislators to vote on district lines.
Also, critics feel that legislators waste valuable time on the redistricting process, solely to
preserve the party's advantage and maximize their chances at reelection. Other critics say

\textsuperscript{39} Ibid., p.XII.
\textsuperscript{40} Ibid.
\textsuperscript{41} Ibid., pp.XIII-XIV.
that single member districts exaggerate the majority and ignore the minority. In any electoral system, it is difficult for single member districts to enable proportional representation. The minorities want fair districts after years of underrepresentation. Parties want to control government. Other people who simply want fair politics seek to lessen the incumbent advantage.

COMMISSIONS
Considering all of the aforementioned problems, some states have reformed the redistricting process by giving the job to an independent bipartisan commission. Hawaii, Connecticut, Iowa, and Washington delegated the redistricting task to commissions in the 1990s round of redistricting.\(^{42}\) Redistricting by independent commission is thought to be a way to avoid both partisan and racial gerrymandering.

Hawaii

**History**
According to Congressional Quarterly, “Hawaii has the most depoliticized (redistricting) process in the country.”\(^{43}\) In 1968 a constitutional convention was held in Hawaii primarily for the purpose of redistricting. Aside from drawing the new district lines, the convention also established a commission that would handle the redistricting task in the future. The commission only handled the redistricting of the state legislature. At first, the commission was to assemble every eight years and was given 120 days to file

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\(^{42}\) Montana law also provides for an independent redistricting commission. Montana’s House representation fell from two to one representative in the 1990 apportionment. Thus, Montana did not redistrict. New Jersey also eventually was forced to use a commission to redistrict. After state legislators could not reach an agreement in 1991 on new congressional boundaries, a bill was passed on January 13, 1992 establishing a bipartisan commission of six Democrats, six Republicans, and a thirteenth member selected by the other twelve. The commission met the March 20, 1992 deadline for presentation of a new plan.

its plan. The first commission gathered in 1973. The commission was successful in its attempt to redistrict and made some suggestions for future commissions. It recommended having more time to complete the plan, better information available to assist the commissioners, smaller precincts, and reapportionment every six, rather than eight years.

The 1978 Constitutional Convention brought changes in the design of the commission and it was given the task of congressional redistricting. The time limit for the commission was extended from 120 days to 150 days. Against the suggestion of the former commission, the reapportionment period was prolonged from eight years to ten years.44

1990s Redistricting
The current redistricting law in Hawaii calls for a redistricting commission to be established before May 1 of the reapportionment year or whenever the court orders redistricting (see Appendix-Hawaii laws).45 The commission is made up of nine members. The president of the senate and the speaker of the house each select two commissioners. The minority party, or parties in both houses pick one person who selects two commissioners. The names of the eight members are certified with the chief election officer. The standing commission has thirty days to pick the ninth member, who serves as chairperson. An affirmative vote of at least six commissioners is required to elect the ninth member. Members of the commission hold office until a general election under the new redistricting plan or until a new commission is established.46

45 The reapportionment years in Hawaii are years ending in “one”. Hawaii, Constitution, (1993), art. IV, sec.2.
46 Hawaii, Revised Statutes (1993), art.IV, sec.2.
The commission acts upon all matters by a majority vote and establishes their own procedures. The chief elections officer becomes the secretary of the commission. The secretary has no vote and only furnishes technical services to the commission necessary for redistricting. The commission is entitled to receive cooperation from any department, division, board, bureau, commission, or agency of the state. The commission has the power to require all necessary persons and documents for redistricting purposes. The chairperson of the commission can administer oaths to persons who are questioned concerning redistricting matters.

Aside from the redistricting commission, the *Hawaii Constitution* also provides for an Apportionment Advisory Council. The council advises the commission on redistricting matters concerning each individual island. The four officials who select the commission members select one person from each island to be on the Apportionment Advisory Council for that island. Council members must be registered voters of that island. The council may elect their own chairperson or other officers if necessary. Members of the commission or the council are ineligible for election to the state legislature or the United States House of Representatives in either of the first two elections held under the new redistricting plan.

The Hawaii commission is to establish House districts with equal population according to the census figures. *The Hawaii Code* sets forth six criteria for redistricting:

1. Districts shall not be drawn as to favor one person or party.
2. Districts shall be contiguous (excluding separate island units).
3. When possible, districts should follow permanently recognizable features and coincide with census tract boundaries.\(^47\)
4. Districts shall “wholly include” state legislative districts when possible.

\(^{47}\)Permanently recognizable features include geographical features such as streets and streams.
5. Districts shall be compact when practicable.
6. Planners should avoid placing a smaller unit with a district that has different socio-economic interests (communities of interest).

The commission has 100 days from the date it is established to devise a redistricting plan. The commission publishes the plan in a newspaper of “general circulation.” Each island holds at least one public hearing after the plan is published. Notice of the public hearing must be published at least once in a newspaper of the island where the hearing is held. The notice includes a “statement of substance” of the plan and the date, time, and place where concerned persons may voice opinions about the plan. The commission keeps a written record of the meetings and hearings. It devises a report which is given to the legislature twenty days before the regular session convenes. Within 150 days of the date the commission is established the commission decides if the plan needs adjustment and proceeds accordingly. The final plan is then filed with the chief election officer. Within 14 days, the chief election officer publishes the final plan in the newspaper and the plan becomes law. If the plan is challenged in court, the commission may help the court devise a new plan.

The Hawaii redistricting commission adopted a plan on July 9, 1991 (see Appendix-Hawaii district maps). The Governor’s signature was not required. The main task of the commission was to move 40,000 people to Honolulu’s first district from the second district. The second district included the suburbs on Oahu and the other islands. The Democrats wanted to extend the first district into the Democratic areas on the

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48 Congressional Quarterly Guide, Part One, pp.XI-XIV.
western side of Oahu. The Republicans favored attaching the eastern Republican areas of Oahu to the first district. The Democratic plan won approval.\footnote{Historically, Hawaii is predominately a Democratic state. In 1992 all major statewide offices were held by Democrats including the governor, two senators, and two House members. In the state legislature, 89\% of the seats were democratic. Ibid., p.17.}

**Connecticut**  
**1990s Redistricting**  
Congressional districts in Connecticut remain in tact until the regular session of the Connecticut General Assembly after the census is complete (see Appendix-Connecticut laws). On or before February 15 of this year, the General Assembly appoints a bipartisan legislative reapportionment committee. This committee is comprised of four senate members and four house of representatives members. The president pro tempore and the minority leader of the senate pick two members. Likewise, the speaker of the house and the minority leader of the house of representatives pick two members. In the case of more than two parties represented in the house or the senate, the minority parties in that house select one person to pick two committee members. If the general assembly is not already in session, the speaker of the house and the president pro tempore call the general assembly to session for the purpose of redistricting. The committee advises the general assembly on the apportionment process. The general assembly must adopt a plan by September 15 of that year.

If the general assembly fails to adopt a plan by September 15, a redistricting commission is formed. The president pro tempore, the speaker of the house, and the minority leaders of both houses each pick two persons. In the case of more than two parties represented in the house or the senate, the minority parties in that house select one
person to pick two members. The eight standing members then have thirty days to select the ninth member of the commission. The commission must submit a redistricting plan to the Secretary of State by November 30. The plan must be certified by at least five members of the commission. The Governor and the general assembly have no veto over the redistricting plan. After the secretary of state publishes the plan, it becomes law. If the commission does not submit a plan by November 30, the secretary of state notifies the chief justice of the Supreme Court.

According to the Connecticut Constitution, the state Supreme Court has original jurisdiction in the matters of redistricting. If the November 30 deadline is not met by the commission, the court establishes its own redistricting plan. The Supreme Court must file a plan by February 15 with the Secretary of State. Any registered voter may file a petition against the redistricting plan within thirty days of the filing of the plan. The Supreme Court then has 45 days to rule on the complaint.

The Connecticut general assembly missed the September 15, 1991, deadline for passage of a redistricting plan, thus, a nine-member commission was established. The commission filed its plan with the secretary of state November 27, 1991 (see Appendix-Connecticut district maps). A few towns were shifted and all six incumbents (three Democrats and three Republicans) were re-elected in 1992.

History
The statutes governing the redistricting commission in Connecticut have been modified over time (see Appendix-Connecticut laws). Amendment Article XII was adopted at the general election on November 2, 1976. This amendment provided for the establishment of a reapportionment committee and changed the deadline for a legislative redistricting plan from April 1 to May 15. As of 1976, the commission had fifteen days to select the ninth member. The amendment extended the deadline for the commission’s submission of a plan until September 1. Before the Amendment, five rather than six members of the commission had to certify the redistricting plan. Amendment Article XII also deleted subsections d and e that called for the formation of a redistricting board, if the commission was unsuccessful at redistricting. A new subsection d was added that gave the Connecticut supreme court jurisdiction in cases involving redistricting. If the commission failed to submit a plan by September 1, the court would assume the task. It also gave citizens forty-five days to file a petition against the redistricting plan. The supreme court then had sixty days from the filing of the petition or no later than December 15 to publish the redistricting plan.

Amendment Article XVI was adopted at the general election on November 4, 1980. This amendment changed the legislative redistricting deadline from May 15 to August 1. The commission was also given thirty days, rather than fifteen days to select the ninth member. The commission deadline was changed from September 1 to October 30. The number of days from the date the redistricting plan was submitted to file a petition was changed from forty-five days to thirty days. The supreme court then had
forty-five days, not sixty days, to decide on the petition and publish the redistricting plan by the following January.  

Amendment Article XXVI was approved at the general election on November 6, 1990 and became effective November 28, 1990. It extended the deadline of the redistricting plan from August 1 to September 1. The commission deadline was extended from October 30 to November 30. The deadline for the supreme court decision was extended from January 15 to February 15.  

Iowa  

History  
In 1978, the Republicans of the 68th General Assembly pushed House File 707 through the legislature giving the redistricting job to the Legislative Services Bureau. The LSB is a non-partisan agency of the state legislature known as the bill-drafting division. The law also provided for the establishment of the redistricting advising commission, whose main duty is to hold hearings on the plan devised by the LSB.  

1990s Redistricting  
Even before the Census Bureau releases the census figures, the LSB begins preparation for redistricting. By December 31 of every year ending in zero, the LSB obtains information from the Census Bureau about geographic and political units of the state (see Appendix-Iowa laws). From this information, the LSB prepares descriptions of units that may be used as legislative districts and prepares corresponding maps. After the LSB receives the census count, the LSB assigns population figures to the above units.  

56 Ibid.  
58 Iowa, Revised Statutes (1991), c.42.  

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By February 15 of the years ending in one, a five member temporary redistricting advising commission is established. The commission aids the LSB in administrative duties, but has no discretion in the formulation of the plan. The majority and minority floor leaders of both houses act as selecting authorities; each appoints one person. Within thirty days, or by February 15, the four selected members, by an affirmative vote of at least three, designate the fifth member, who is the chairperson. According to the code, persons should be an "eligible elector of the state at the time of selection." Persons who hold partisan public or political party office, are a relative of or are employed by a member of the general assembly or United States Congress, or are directly employed by either of the aforementioned bodies are also excluded.

The Legislative Services Bureau has until April 1 to deliver a plan to the secretary of the senate and the chief clerk of the house. After delivery, the commission makes public a copy of the bill, maps, a summary of the standards used in the plan, and a statement of the population in each district. This includes the plan's deviation from the ideal population. The commission holds three public hearings on the plan in three different places (geographic regions). The commission is responsible for giving a summary report of the hearings to the secretary of the senate and the chief clerk of the house. The summary report includes the commission's own comments and conclusions. The commission also authorizes the provision of the redistricting plan information to persons outside the bureau staff by the LSB.

Both house vote on the bill. Any amendments that are made must be "purely corrective." After seven days the bill comes to a vote. If the bill does not pass, the
secretary of the senate or the chief clerk of the house provides an explanation to the LSB.

A second plan must be developed by the LSB by May 1 or fourteen days after the previous vote was taken, whichever is later. The bill waits again for seven days and another vote is taken. If a third plan is required, the process is repeated. The LSB has until June 1 or 14 days after the past vote to devise a new plan, unlike the 1980s, when the LSB was given until September 15, 1981 to adopt a plan.

Iowa law sets the standards for redistricting. These standard are:

1. Congressional districts are to have nearly equal population. Districts population may vary only less than one percent from the ideal population, unless the variance is made in compliance with Article III, Section 37 of the state code. The General Assembly must justify any deviance over one percent to the state supreme court.
2. District boundaries should respect the political boundaries of the state, minimizing the division of cities and counties. If units must be divided, the more populous units are to be divided before the less populous units.
3. Districts should be convenient and contiguous.
4. Districts should be compact. The above standards take precedence over compactness. If the LSB has to make a decision that is not provided for in the guidelines of Section 42.4 of the state code, the bureau asks the commission for guidance.
5. Districts are not to favor a political party, an incumbent, or anyone. To prevent redistricting bias, the LSB does not use the addresses of incumbents, the political affiliation of registered voters, previous election results, or other demographic information.
6. Congressional districts are to include whole representative and senatorial districts.

Iowa lost one seat in the latest redistricting, dropping from six seats to five.

Before redistricting, the Republicans held four of the six seats. The new map gave

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59 Iowa, Constitution, art. III, sec.37.
60 The Iowa Code specifies that areas meeting at points of adjoining corners are not contiguous.
61 Section 42.2 explains the two methods of testing for compact districts in Iowa. Iowa, Revised Statutes (1991), c.42.

**Washington**

**History**

During the 1979 session of the Washington legislature, Common Cause and the League of Women Voters, with the assistance of Professor Richard Morrill, promoted legislation that would create a state redistricting commission. The bill passed in the house with bipartisan support, but was killed in the senate. Therefore, in 1981 the legislature redistricted itself once again.

Washington had many problems with redistricting in the 1980s. The first plan was approved by the legislature, but vetoed by the governor. The second plan was approved and in place for the next elections, but was soon after thrown out by a federal district court. A third plan was drawn by a five-member bipartisan commission and approved by the legislature and the governor in 1983. This was the first time the task of redistricting was handed over to a citizens commission. The House approved the map on March 18. The Senate approved on March 23. Governor Spellman signed it into law on

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March 29 (see Appendix-Washington district maps). Article II, sec. 43, which 
prescribes a redistricting commission, was adopted by Amendment 74 and approved 
November 8, 1983. By state constitutional amendment, the legislature passed and the 
voters approved a 1983 law to create an independent commission for the task of 
redistricting.  

1990s Redistricting  
The commission is established in each year ending in one (see Appendix- 
Washington laws). It is composed of five members. The legislative leaders of the two 
largest parties in both houses appoint one “voting member” by January 15 of that year.  
If the appointing person does not select anyone by January 15, the supreme court makes 
the appointment. By January 31, the four standing members, by an affirmative vote of at 
least three, appoint the fifth member, a non-voting member, acting as the chairperson. 
Elected persons or persons who are elected officials within two years prior to the 
redistricting are ineligible to serve on the commission. 

Washington’s constitution states that the districts must follow certain criteria: 

1. Equal population. 
2. Contiguous territory to a reasonable extent. 
3. Compact and convenient. 
4. Separated by geographic, artificial, and political barriers and 
   boundaries. 
5. Shall not favor or discriminate against any political party or group. 

The commission must submit a plan by January 1 of the year ending in two. The 
plan needs the approval of at least three of the voting members of the commission. If the 

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66 Congressional Districts in the 1980s.  
67 Jigsaw Politics, p.121.  
commission misses the deadline, the supreme court assumes the duty of apportionment and must submit a plan by April 30 of that year. The legislature may amend the plan, but must have a two-thirds vote of both houses in the legislature. The legislature has thirty days from the date the plan is first submitted to the legislature to make amendments. If amended, no more than two percent of the district's population can be relocated. The commission, after gaining legislative approval, publishes the plan, on computer disc, titled PLAN PRCOM-0_C. The commission may be reconvened to modify the redistricting law with a two-thirds vote of both houses. At least three of the commission members must vote affirmatively for the modification. Both houses of the legislature must also approve the modification with an affirmative two-thirds vote. The modification is then included in the law. The supreme court has original jurisdiction to hear all cases involving redistricting.

The Washington state redistricting commission filed its plan with the legislature on January 1, 1992, minutes before the deadline. The plan was amended by a Senate resolution with only "slight technical alterations." The redistricting law was ratified February 12, 1992 (see Appendix-Washington district maps).

Washington gained one seat in the 1990 redistricting, for a total of nine congressional districts. The new seat, representing the Seattle suburbs, had "fairly even

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69 Jigsaw Politics. p.121
70 Washington, Revised Statutes (1993), c.29.69B.
72 Congressional Quarterly Guide, Part One, p.158.
political balance”. The new map did not extensively alter the existing geographical and political outlines of the current districts. The Democrats prevailed in the 1992 elections, winning eight of nine seats.

**CONCLUSION**
Commissions move the redistricting process from traditional partisan mapmakers to a bipartisan or nonpartisan group. The commissions are an attempt to provide fairness and legitimacy to the redistricting process. Using standard criteria, bipartisan and nonpartisan commissions compromise on district boundaries, theoretically preventing such things as political gerrymandering. Commissions may also serve another fundamental purpose. Bipartisan or nonpartisan groups may draw district lines that allow a more proportional allocation of seats to political parties. One area of future research is to see if commission redistricting has reached this goal by comparing the percentage of party vote with the percentage of congressional seats in each state. Is it conceivable that commission states will be more equally represented than states with single party or split party control because the commission does not favor one party in its redistricting plan?

There are still other problems with redistricting that commissions can not overcome. Commissions, nor any system using single member election districts, can not be expected to provide absolute equal representation. The single-member simple plurality system discounts the minority voters of a district. For example, the same party may have a majority of the votes in every district and 100% of the congressional seats, but only have fifty-five percent of the party vote statewide.

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74 Ibid.
Although only five states currently have laws providing a redistricting commission, with the increasing number of legal precedents to be met, other states may switch to the commission process. In fact, in the 101st Congress (1989-1990), a House bill was introduced that provided for the establishment of redistricting commissions in all of the states.\textsuperscript{75} Nonetheless, little controversy surrounded the redistricting process in the 1990s in the commission states. The commission states are undoubtedly providing a sound and possible alternative to the painstaking and partisan process of redistricting.

\textsuperscript{75} Durbin, Whitaker, \textit{Congressional and State}, p.5.
Bibliography


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