ONE

Gerrymandering and the Evolution of American Politics

This book evaluates the impact of congressional redistricting on elections and control of U.S. national government from 1789 to the reapportionment revolution of the 1960s. The motivating question is one that scholars seldom ask: what was redistricting like in the past? It turns out that the answer to this question is essential for understanding both the past and present of American politics.

Almost all previous research on congressional redistricting concentrates on the period after the 1960s. In the mid-1960s, the U.S. Supreme Court outlawed malapportioned electoral districts for both state legislatures and the U.S. House of Representatives. This transformative legal revolution produced a massive wave of redistricting across the nation that shifted the partisan landscape in state legislatures across the country and fundamentally redistributed power in American politics. In addition, this reapportionment revolution led to the creation of a large scholarly literature devoted to studying the causes and consequences of the modern decennial-redistricting process. In this now-vast literature, redistricting prior to the 1960s receives brief treatment, although the years before 1964 constitute nearly 75 percent of the United States' nearly 225-year history.

Such narrowly focused accounts suffer from two principal disadvantages. First, it has led political scientists and historians to radically underestimate the power of gerrymandering in shaping the development of American politics. Throughout the 19th century, partisan gerrymandering systematically structured the competitiveness of congressional elections,

the partisan composition of congressional delegations, and, on occasion, decided party control of the House of Representatives. Gerrymandering roiled state legislatures across the country, and profoundly shaped the tumult of 19th-century politics and policy. The outcomes of these collisions continue to cast long shadows over modern American politics.

Second, the failure to examine the history of redistricting has led students of contemporary American politics to misunderstand the context in which modern redistricting takes place. Modern research has argued that redistricting produces, at best, only a minimal impact on the partisan balance of power in Congress. However, no consensus has emerged about why gerrymandering has had such little impact. Some scholars have argued that constraints on gerrymandering in the modern period—including court oversight, "one-person, one-vote" mandates, and demands by congressional incumbents for secure seats—have made it virtually impossible to engage in a full-blown partisan gerrymander. Others contend that the partisan gains to be had from gerrymandering are limited, regardless of the institutional configuration under which redistricting takes place. Moving beyond the relatively fixed institutional and political context of modern redistricting provides a powerful opportunity to assess these competing explanations.

Some of the most interesting questions in the study of American politics, therefore, concern the differences between the past and the present. Understanding the causes and consequences of these differences prove essential for understanding both the historical development and contemporary practice of American democracy.

The Electoral Development of Congress

Although the basic constitutional architecture of the federal government has remained largely constant since 1789, the day-to-day conduct of American politics has changed dramatically over time. Nowhere are these differences more visible, and more consequential, than in the House of Representatives. Nowadays, elections to the House are characterized by extremely low levels of competition. Incumbents dominate election outcomes. Most incumbents who run for reelection win, and win big. One consequence of low competition is that membership in Congress is relatively stable from one year to the next. Another consequence is that the partisan seat distribution in the House tends to respond slowly to changes in public preferences. Indeed, a large and influential literature on congressional elections

is motivated by trying to understand the causes and consequences of low competition and candidate-centered congressional elections.

Congressional elections of the mid-to-late 19th century, by contrast, were characterized by rabid partisanship, intense voter interest, massive turnout, and fever-pitched competition. For example, between 1870 and 1890, nearly 45 percent of House elections were decided by a vote margin of 10 percent or less (Dubin 1998). Compare that to House elections in the 2000s, in which only 22 percent were decided by such a narrow margin (Jacobson 2009, 32). The deep competitiveness of district-level congressional elections also reflected, and reinforced, intense battles over control of the national government.

Throughout most of the 19th century, the national vote in House elections was very close. As a result of the fever-pitched local and national competition, party ratios in the House could, and often did, change dramatically. For example, in 1854, Democrats lost a monumental 74 seats. The House only had 234 members total, so the seat swing accounted for nearly 30 percent of the membership. In 1874, Republicans were on the losing end of another massive wipeout—surrendering 94 seats. In 1894, Democrats lost 114 seats (in a chamber of 357). These impressive seat swings reflected, and reinforced, intense competition between the parties for control of national government. Notably, from 1870 to 1900, each party controlled the House exactly half of the time.

The fierce competition for elected office radiated down to the individual career decisions of representatives. Today, Congress is filled with career politicians. In a typical year, nearly 95 percent of incumbents run for reelection and win. By contrast, in the 19th century, many fewer incumbents ran and fewer won. In 1852, for example, only 52 percent of incumbents sought election. Consequently, tenures in Congress tended to be brief. Representatives tended to serve one or two terms before perhaps returning to their home state to pursue local office, receiving a federal appointment, or returning to the private sector. The result was immense turnover in the membership of the House. At the beginning of the 28th Congress in 1843, for example, 73 percent of the members were freshmen. This rapid turnover shaped both the internal structure of the House and the legislative process. For example, committee memberships and committee chairs were incredibly fluid, making the reciprocal tit-for-tat relationships necessary to forge durable policy coalitions incredibly difficult to foster.

While these facets of 19th-century electoral and legislative politics constitute agreed-upon facts, the reasons for them remain uncertain

and controversial. Unfortunately, past scholarly research fails to provide a fully satisfying explanation for the tumult of 19th-century politics and its replacement by the professionalized politics of the 20th century. The dominant scholarly narrative emphasizes realignment and critical elections. According to this narrative, American political history can be divided into long periods of electoral normalcy and brief periods in which traditional voting patterns and ideological cleavages are abruptly overturned. Though considerable debate exists within the realignment literature about what exactly constitutes a critical election, some common patterns in the literature can be identified.

According to its foremost proponents—V. O. Key (1955), Walter Dean Burnham (1970), and James L. Sundquist (1983)—critical elections feature abrupt, permanent changes in traditional voting patterns. These changes in mass-voting behavior are accompanied by intense battles at the elite level over party nominations, party platforms, and ideological alignments. Finally, the realignment of ideological coalitions creates "a unified majority party capable of enacting major policy shifts" (Brady 1988, 29). Critical elections thus are defined by sudden shifts in voting patterns, reshaped party platforms, and sweeping changes in public policy.

Although considerable ink has been spilled debating whether or not certain elections meet the criteria of a critical realigning election, the general consensus is that, at a minimum, the elections of 1828, 1860, 1896, and 1932 deserve a spot on the electoral equivalent of Mount Rushmore. These elections, according to the chief advocate of the realignment narrative, constitute the "mainsprings" American politics (Burnham 1970); they reshaped electoral and policy coalitions for succeeding generations. The realignment narrative also serves as a normative baseline against which many political observers judge modern American politics. Moreover, the supposed absence of transformative elections in the post–World War II era provides the evidence that many commentators, in and out of academia, have used to impugn modern U.S. politics.

The realignment narrative also provides a potentially satisfying explanation for the modernization of American politics—and the House in particular—in the 20th century. Again, the dominant scholarly storyline follows in the footsteps of Burnham. In particular, the election of 1896, so the argument goes, swept aside the fever-pitched party competition of the 19th century and replaced it with low turnout, less partisan elections, and professionalized political institutions. By turning the North into the preserve of the Republican Party and the South into the preserve of the Democratic Party, the tumultuous partisan elections of the 19th century were gradually replaced by candidate-centered elections.

In the context of congressional elections, the consequences of the 1896 realignment meant that members of Congress could control their own district in a way that had been previously impossible. Fewer representatives suffered electoral defeat. Moreover, the creation of single-party dominated districts also drastically reduced voluntary retirements from Congress. Incumbents increasingly decided to run for reelection and win. The result was to transform the House from a body of amateurs to a body of professionalized, careerist politicians. The consequences of this transformation cannot be overstated. Indeed, the vast literature on congressional politics—including research on the incumbency advantage, the electoral connection, the vanishing marginals, committee powers, campaign finance, pork-barrel politics, etc.—can be framed as the search for the causes and consequences of candidate-centered elections. Thus, the realignment narrative provides a sweeping explanation for the dynamics of American political history. It offers an account for both the turbulence of 19th-century politics and its replacement by the professionalized politics of the 20th and 21st centuries.

Yet this traditional narrative suffers from a number of problems. One problem is that the critical election perspective downplays the importance of other elections. Noncritical elections are typically subsumed into the category of "normalcy." Yet one does not have to look far to find other 19th-century elections that were rife with hot-button campaign issues and significant policy consequences: consider the election of 1874. The congressional seat swings in this election easily matched those of other elections typically deemed realigning. Nor was the election of 1874 without profound long-term policy consequences (Mayhew 2004). This election brought Democrats to power for the first time since the late 1850s. With majority control of the House, Democrats rolled back the federal government's commitment to Reconstruction in the south. The impact of these policy decisions are hard to overstate. The actions halted Reconstruction in its tracks—fundamentally altering the trajectory of American politics for the next century.

One can readily tell similar stories about other elections. Consider, for example, the election of 1888. Although mostly ignored in the vast realignment genre, the election of 1888 produced dramatic changes in both parliamentary procedure and economic policy. The subsequent 51st Congress featured a fundamental reworking of the legislative process (i.e., Reed's Rules), an elaborate extension of the tariff system (i.e., the McKinley Tariff), and a radical manipulation of the currency market (i.e., the Sherman Silver Purchase Act). Each of these legislative acts looms large in the United States' political and economic history. Yet the election that selected this Congress rarely musters notice in the realignment narrative. Delving even

further back into American electoral history, one could point to the election of 1802. In this election, Republicans gained 38 seats, solidified their grip on the national government, and set about reversing a decade worth of pro-Federalist public policy. Notably, the subsequent Congress voted to fund the Louisiana Purchase (see chapter 2), which altered the course not just of American history, but of world history. Yet despite the dramatic influence the 1802 election had on the future trajectory of American history, this election garners nary a mention in the realignment narrative.

One could easily point to other examples of transformative elections and pivotal legislative sessions throughout the 19th century. But even if we were to allow for a more expansive definition of "critical elections," the notion that some elections are more consequential than others, and elicited more excitement among voters, raises more questions than it answers. Even more problematic is that when scholars have gone looking for evidence of the massive swings in popular opinion that a critical election explanation would predict, the evidence has been far from clear-cut. Indeed, in the context of congressional elections, the vote swings of the 19th century were not especially large when compared to the corresponding seat swings. For example, in the congressional election of 1854–55, Democrats lost only 4 percent of their vote share from the previous election, yet lost a stunning 74 seats. In 1894, Democrats lost 11 percent of the vote from the previous election, but lost 114 seats. These massive seat swings do not square well with the notion of critical elections being driven by equally large swings in popular opinion.

In an influential modification of the realignment narrative, David Brady (1985; 1988) first uncovered this striking pattern of 19th-century House elections. He found evidence that in two of the "realigning eras" of the 19th century—the Civil War and 1890s realignments—big seat swings were brought on not by big shifts in mass opinion, but a systematic small shift in the vote being reproduced across a number of highly competitive districts. The result was an avalanche of legislative turnover. Based on this evidence, Brady argued that the Civil War and 1890s realignments were the result of "structural factors" rather than "the result of changes in mass voting behavior" (1985, 29).

Brady went on to argue that in a realigning period elections are dominated by an overriding national issue (i.e., slavery in 1860; the economy in 1896). Because the parties take clear-cut, distinct positions on issues in these elections, voters are presented with stark alternatives. This nationalization produces a systematic vote swing across districts, a corresponding seat swing, and, ultimately, large tranches of legislative turnover. The

result is the election of a new majority party that then enacts bold new policies on the dominant issue cleavage. According to Brady, both the Civil War and 1890s realignments meet these criteria. Thus, Brady provided a major refinement of the realignment narrative for the tumultuous patterns of 19th-century elections and policy.

While Brady's argument and evidence are persuasive, they beg a series of important—and unanswered—questions. First, falling into the same trap as prior work on critical elections, the argument implicitly dismisses other elections as irrelevant or inconsequential. But other elections such as 1802 and 1874 display a strikingly similar pattern—small swings in the vote leading to large swings in seats. In 1802, for example, Republicans' seat share in the House increased from 59 percent to 71 percent, although their vote share only increased from 56 percent to 57 percent (Rusk 2002, 215–17). In 1874, Republicans' vote share dropped from 53 percent to 45 percent, yet their seat share collapsed—falling from 69 percent to 37 percent (matching the losses suffered in 1854 and 1894). Thus, lumping elections into only one of two categories—critical and noncritical—does too much violence to the nuanced patterns of American political history.

Second, one is left wondering why, in some years, electoral outcomes become nationalized, and not in others. The historical record of the 19th century is chock-full of national issues that dominated electoral campaigns and party rhetoric: war, western expansion, national banks, the extension of slavery, Reconstruction, suffrage, currency, tariffs, economic regulation, and civil-service reform. All of these issues, at one time or another, pervaded 19th-century electoral campaigns. Beyond the much-discussed programmatic elections of 1860 and 1896, one finds national issues permeating campaign platforms and contemporary newspaper coverage (Bensel 2000; Gerring 2001; Kernell 1986). To put this in the language of statistics, there is little to no variation on the independent variable. National issues permeated 19th-century campaigns. Thus, nationalization alone cannot serve as a satisfactory explanation for variation in party swings and legislative turnover.

Third, even if we were to allow for a more expansive definition of "nationalized" congressional elections, a much larger puzzle remains unanswered. Why did small shifts in the vote lead to massive legislative turnover in some elections, but not others? Why were 19th-century congressional electoral results, and subsequent policy outcomes, so tumultuous? Why are modern congressional elections tame, compared to their 19th-century counterparts? These questions cut to the heart of how we understand American political institutions—past and present.

Gerrymandering and the Construction of American Democracy

To answer these questions, this book turns the spotlight on partisan gerrymandering. The rest of this book is devoted to showing that the strategic manipulation of congressional districts played a fundamental but, until now, ignored role in shaping the historical trajectory of American politics and public policy. Aside from a few initial forays by political historians, research on American electoral development has radically downplayed district design. Yet politicians of this era often acted as if little else beyond gerrymandering mattered. Redistricting roiled legislatures across the country, biased electoral outcomes, made and ruined political careers, and fundamentally shaped political control of the national government.

In this era, before the one-person, one-vote doctrine and the Voting Rights Act, state legislators had nearly free reign over *when* and *how* to redistrict. Congress occasionally added provisions to various apportionment acts mandating that district populations be as equal as possible, but there is little evidence that these provisions were ever enforced, much less achieved. Aside from the requirements that districts maintain geographical contiguity, and after 1842 that districts select only one representative, there was almost no oversight of the districting process.[1] Thus, mapmakers of the 19th century had a much broader strategic menu to choose from than do their modern counterparts.

Political parties in control of state government took full advantage of this freedom. Unlike the modern period in which states redraw congressional boundaries at regular 10-year intervals, in the 19th century, states redistricted almost whenever they wanted. In every year from 1862 and 1896, with one exception, at least one state redrew its congressional district boundaries. Ohio, for example, redrew its congressional district boundaries six times between 1878 and 1890. Other states went long stretches with the same boundaries. Unless prodded by a reapportionment, which added or subtracted seats to a states' congressional delegation, state legislatures could opt out of redistricting altogether. Connecticut, for instance, kept the exact same congressional district lines for 70 years (1842–1912).

The importance of incumbency and careerist aspirations among congressional incumbents, although on the rise, had yet to fully take root. The norm of using seniority in allocating committee chairmanships had yet to emerge. Thus, protecting incumbents was less important than simply capturing as many seats for your side as possible. As a result, parties were willing to push partisan advantage to the edge. To do so, partisan mapmakers carved states into districts with narrow, yet winnable, margins. For exam-

ple, consider the pro-Democratic redistricting of Indiana in 1852 where Democrats carved the state into a remarkable 10 (out of 11) Democratic districts despite only garnering 53 percent of the statewide vote.

These state-level redistricting decisions aggregated together to shape party ratios in the House. For much of the 19th century, and especially in the period after the Civil War, the national division of the congressional vote was razor thin. With electoral mobilization at its maximum, parties looked in other directions for electoral advantage. Redistricting offered one such tool. The timely partisan shift of a few seats could make the difference between majority and minority status in the House. In 1878, for example, the mid-decade redistricting perpetrated by Democrats in Ohio and Missouri created just enough seats to allow Democrats to hold onto the House. Similarly, in 1888, Republican legislators in Pennsylvania engineered a last-minute redistricting that helped ensure a narrow Republican majority in the House.

By making districts competitive in the quest for short-term partisan advantage, parties were often able to wring a disproportionate number of seats out of their vote share. Yet this strategy sometimes backfired. By manufacturing competitive districts, state parties, at times, created an electoral system where small swings in the national vote could lead to immense swings in seats. For instance, in 1874, the Republican percentage of House seats dropped from 69 percent to 36 percent (94 seats) despite their national vote dropping only 7 percent. The explanation for these dramatic reversals in electoral fortunes lies with the highly competitive congressional districts of the 19th century. And, pushing the argument back one step further, this competitive electoral system was, to a large extent, the product of strategic mapmaking.

The consequences of highly partisan, and unpredictable, redistricting also extended to the career decisions of politicians. Because states drew such competitive districts, political careers were often cut short. Incumbent members of Congress faced a more variable redistricting schedule, and one that was more partisan when it happened. These two factors provide part of the explanation for the short tenure of 19th-century representatives. Directly, the partisan redrawing of districts could end a career. Indirectly, because redistricting was less predictable, planning for a long-term career in the House was hampered. The uncertainty surrounding when, and if, one would be redistricted likely decreased the willingness of members to make long-term investments in a congressional career.

Not only does redistricting provide a key to unlocking the puzzle of 19th-century electoral patterns, subsequent changes in the frequency and

nature of redistricting help explain the emergence of candidate-centered politics in the 20th century. By the 20th century, the frequent and highly partisan redistricting gave way to an era of limited redistricting. Where redistricting in the 19th century was frequent, in the 20th, redistricting became comparatively infrequent. Because the courts had yet to enter the political thicket, there was no compulsion for states to redraw district boundaries. As competition for the state legislatures declined from their earlier heights during the early to mid-20th century, the incentives to frequently redistrict for partisan advantage lost much of its steam. Many states consequently opted out of the redistricting game altogether.

As I show in chapter 8, redistricting became less frequent, less partisan, and, hence, less transformative in its consequences. Representatives could plan and build careers in the Congress without having to fear that their district would be redrawn at any moment. And as careerism took off, changes in the internal distribution of power in the House—and, by implication, American national politics—radically shifted. With more members serving for longer, norms of seniority emerged to allocate positions of power such as committee chairmanships. The net result of these changes in redistricting practices was to lay down the building blocks for the rise of candidate-centered elections.

Gerrymandering and Public Policy

While this book is ultimately about political history, its subject is of tremendous political and practical importance. The collisions between party elites during the 19th century profoundly shaped the policy landscape, and the reverberations of these collisions continue to roil American politics.

To take one example, the American South is still emerging from a legacy of Jim Crow laws and one-party domination. The federal abandonment of Reconstruction and African-American suffrage rights in the 1870s and 1880s shaped Southern, and national, politics for succeeding generations. Indeed, it is little exaggeration to say that much of national elections and policy making between the 1870s and 1960s revolved around the dynamics of Southern politics. The one-party South guaranteed Democrats a nearly 100-seat head start in the race for majority control of the House, and, for much of this period, gave the southern wing of the Democratic Party a de facto veto over national policy making (e.g., Katznelson and Mulroy 2012; Key 1949). The subsequent transformation of Southern politics and society that has taken place since the 1960s has shaped not just policy and soci-

ety in the South—it has also transformed American politics at the national level.

While this part of the narrative of American politics is well known, I show in chapters 4 and 5 that gerrymandering played a central role at pivotal junctures in Southern history. For example, gerrymandering strategies in the early 1870s helped bring Democrats to national power for the first time since the Civil War. In Southern states, gerrymandering was used as a tool to oust Republicans and bring Democrats into power both in the state legislatures and Southern congressional delegations. In the North, highly responsive gerrymanders swept Democrats into power for the first time since the Civil War.

Back in control of the House, the Democratic majority proceeded to undermine the foundations of Reconstruction policy. The result was to return the South to Democrats. In 1892, Democratic gerrymanders helped Democrats gain a majority in the House. With majority control, they were able to put the final nail in the coffin of African-American suffrage rights in the South by officially repealing the federal statutes that had been created to enforce the 15th Amendment. The federal abandonment of suffrage protection would profoundly shape Southern politics and society for the next century. It would be another 70 years before the federal government would intervene in Southern electoral politics. The legacies of these events continue to cast a long shadow over American politics and society.

Gerrymandering also shaped other foundational policy trajectories of the 19th century. As we will see in this book, the Louisiana Purchase, the Kansas-Nebraska Act, tariff regimes, and currency policy were all influenced by political alignments that had been manufactured by gerrymandering. Similarly, in the 20th century, district design fundamentally altered the policy priorities of the federal government. For example, malapportionment in House districts in the early to mid-20th century consistently produced rural majorities in the House. The result was to bias federal policy making toward agricultural interests at the expense of policies favored by metropolitan interests. From sugar subsidies to funding of school lunches, gerrymandering and malapportionment was implicated.

Gerrymandering also played a starring role in the parliamentary evolution of the House. Consider, for example, the passage of Reed's Rules—arguably the most consequential parliamentary development in the history of the House (Binder 1997; Cox and McCubbins 2005; Strahan 2007; Vallely 2009). In the 51st Congress, following the 1888 election, the Republican Speaker of the House, Thomas B. Reed (R-ME), successfully enacted a series of parliamentary rule changes that allowed the majority party—

and the speaker in particular—to break the ability of the minority party to obstruct and delay legislation.

Reed's gambit centralized legislative scheduling in the hands of the Speaker and reduced the power of minorities to obstruct legislative business; in effect, transforming the House into the highly partisan institution that it is to this day. Indeed, prominent congressional scholars like Gary Cox and Mathew McCubbins (2005) have argued that the history of the House can be divided into two periods: before and after Reed's Rules. Left out of the story, however, is that Speaker Reed, and his fellow Republicans, owed their narrow majority to a timely pro-Republican gerrymander in Pennsylvania just prior to the 1888 election. Without the strategic gerrymander in Pennsylvania, Republicans likely would have been in the minority in the 51st Congress. The subsequent development of the House—and American politics—would have been quite different.

In addition to these long-term policy and parliamentary reverberations, the evolution of redistricting created political and legal reverberations that continue to mold modern redistricting politics. The current set of laws and regulations surrounding redistricting emerged directly out of the consequences of redistricting politics in the mid-20th century. In the final chapter, I examine the current political and legal nature of modern redistricting and how it has been directly shaped by the earlier history of redistricting.

Gerrymandering Dismissed?

It is natural at this point to ask: if district design has been so influential throughout political history, why have students of U.S. politics missed its importance? I believe that the primary reason is because modern political science research has radically underestimated the importance of gerrymandering. For most political scientists, gerrymandering has more bark than bite when it comes to explaining electoral outcomes. Indeed, the majority of political-science research concludes that congressional redistricting has "minimal effects" on elections and the national distribution of seats. Bruce Cain and David Butler (1991) summarize this conventional wisdom among political scientists: "Virtually all the political science evidence to date indicates that the electoral system has little or no systematic partisan bias, and that the net partisan gains nationally from redistricting are small" (Cain and Butler 1991).[2]

Past research has offered a number of explanations for these modest effects. These explanations generally fall into one of two camps. The first

focuses on the legal constraints under which modern redistricting takes place. The second argues that gerrymandering is inherently a limited tool for achieving political power. These two perspectives are not incompatible, but they do put different emphasis on the reasons why modern gerrymanders have been limited in impact.

Turning first to the legal constraints, modern mapmakers face a number of hurdles that may limit their ability to pursue full out partisan gerrymanders. Perhaps most important is that states must create congressional districts with equal population. This requirement is the outgrowth of a series of Supreme Court decisions handed down in the mid-1960s that outlawed the malapportionment of legislative districts in both House and state legislative districts. The aftermath of these cases fundamentally reshuffled political power in both the state legislatures and in Congress (Ansolabehere and Snyder 2008; Cox and Katz 2002). Across the country, political power was redistributed away from rural areas to urban and suburban regions (Ansolabehere and Snyder 2008; Cox and Katz 2002; McCubbins and Schwartz 1988).

Beyond the immediate impact on political alignments in the 1960s, the legal doctrine set down in these cases, and elaborated upon in subsequent litigation, continues to shape contemporary redistricting controversies. First and foremost, the reapportionment revolution fully enmeshed judges in the redistricting process. Redistricting nowadays takes place under the watchful eye of the courts. Although partisan gerrymandering per se has not been ruled unconstitutional, there are a number of judicially enforced rules that place limits on the creativity of partisan mapmakers. The ruling that districts must contain nearly equal population presumably has narrowed the strategic options of partisan mapmakers. Moreover, the need to adjust for intrastate population inequalities compels every state (with more than one representative) to redraw districts once a decade. Prior to the 1960s, states had much more leeway over when, and even if, to redraw district boundaries. One result was that in many states, district lines remained frozen for decades—often leading to gross inequalities in district populations and substantial partisan biases.

Alongside the one-person, one-vote doctrine, the Voting Rights Act has also given the judiciary and the Department of Justice the statutory basis for overseeing parts of the redistricting process (Canon 1999). Section 5 of the Voting Rights Act requires states with a history of discrimination against minorities—most in the South—to preclear their redistricting maps with the Department of Justice or with courts. Moreover, Section 2 of the Voting Rights Act allows the Department of Justice or private par-

ties to challenge a redistricting plan that would dilute the voting power of racial minorities. The upshot of these various constraints is that full-blown partisan gerrymanders may be difficult to engineer without running afoul of some established statute or legal doctrine.

A second perspective argues that the partisan gains to be had from redistricting are simply limited. Politicians are often more interested in protecting themselves than in knocking off members of the opposition. This leads incumbents of both parties, it is argued, to collude with each other and create electorally safe districts for both sides. Moreover, the frequency of divided government in the states—where both parties hold a veto over any new plan—creates further conditions favorable to pro-incumbent plans. Finally, a pro-Democratic gerrymander in one state may be cancelled out by a pro-Republican gerrymander in another state, cumulating into a minimal nationwide effect. Thus, for many scholars, the political conditions for gerrymandering to matter nationally are very hard to produce.

Overall, then, the dominant view in scholarly literature is that redistricting has minimal impact on elections and public policy. Yet this research is based on the redistricting cycles that have occurred since the court-led reapportionment revolution of the 1960s. This narrow focus has led to three disadvantages. First, it has caused a huge blind spot for students of American political history. If one is told by modern researchers that gerrymandering does not matter in the present, it becomes natural to assume gerrymandering failed to matter in the past as well—this would be a fallacious conclusion. By moving beyond the relatively fixed institutional and political context of modern redistricting, 19th-century elections provide a unique opportunity to assess the competing explanations for the supposed minimal effects of contemporary redistricting.

The second disadvantage concerns contemporary efforts to reform the politics of redistricting. Contemporary politicians, Supreme Court justices, appellate judges, lawyers, and citizen-reform groups wrestle with these complex issues every decade. Too often, however, current debates over reforming redistricting are devoid of any historical context. It is my hope that this book will add some much-needed historical clarity to these debates.

The third disadvantage of this narrow focus is that a failure to understand the history of gerrymandering has led to an underestimation of gerrymandering on contemporary politics. Modern political science has been asking the wrong counterfactual. The standard approach to assessing gerrymandering is to ask whether electoral competition changes immediately

after a redistricting. Because of the preoccupation with short-term, year-to-year changes, scholars have missed the long-term structural impact of districting. Did redistricting in one year alter the partisan balance nationally? But this is not the only, and maybe not the best, way to frame the counterfactual. Another, reasonable, counterfactual is to ask: what would elections to Congress look like if districting returned to pre-*Wesberry* standards?

Modern studies of redistricting analyze marginal year-to-year changes. For example, a typical study will ask: did electoral competition in Congressional elections shift between 2000 and 2002 in relation to party control of state legislatures? If not, many scholars conclude, gerrymandering does not matter. But this focus on marginal changes ignores the "base." Think of the districting system as like an iceberg. Studying electoral changes over a simple two-year cycle is like looking to see if the iceberg alters its course if a few ice chips are taken off. But this misses the impact of the iceberg itself.

Thus, one also needs to consider other counterfactuals beside a change from one year to the next. Another counterfactual is what gerrymandering and its consequences would be like if we returned to pre-*Wesberry* standards. Once we begin to look at gerrymandering through this lens, it throws into sharp relief the idea that strategic district design has, and will continue, to shape American politics. We need to ask: what is the full range of districting possibilities, and how does that stack up against contemporary practices?

Thus the wide variation in 19th century districting practices provides for a powerful and unique research opportunity. This variation can allow us to test whether the conventional political-science wisdom of minimal effects holds generally, or reflects the institutional constraints peculiar to modern redistricting. In analyzing redistricting plans and their electoral results before the 1960s, this book demonstrates substantial consequences of gerrymandering. In both the original decision by Congress to mandate single-member districts, and the subsequent state-level discretionary decisions to redraw district boundaries, the strategic calculations of political parties drove the nature and timing of institutional choice. In turn, the redistricting plans drawn by state governments in this era systematically shaped the competitiveness of congressional elections, the career paths of representatives, the partisan composition of congressional delegations, and, on occasion, even decided party control of the House of Representatives.

Plan of the Book

This book is divided into three sections. The first section (chapters 2 and 3) analyzes the causes and consequences of districting during the early republic—from 1789 to 1842. In chapter 2, I examine how district design and the rise of political parties interacted to shape the trajectory of electoral politics in the early republic. This chapter shows that districting became a partisan weapon almost from the very beginning of the republic. Moreover, some states opted not to use districts at all. Although we now take election by single-member districts for granted, the Constitution makes no mention of them. In fact, during the early republic, a number of states elected their House representatives in a system of statewide at-large elections, known as the "general ticket." Under this system, each voter cast as many votes as there were House seats to fill; the winners were the top *M* vote-getters, where *M* was the number of seats to fill. Congress banned the practice in 1842 when, as an amendment to the decennial Apportionment Act, they mandated that all states use geographically contiguous, single-member districts.[3]

Chapter 3 examines the politics behind this pivotal, but often overlooked, transformation in America's electoral structure. The majority party in Congress at the time—the Whigs—calculated they would be the losers in most general-ticket states heading into the upcoming midterm election (1842). By carving up general-ticket states into districts, Whigs stood to gain extra seats in the election and preserve their narrow majority status. The analysis of floor debates, electoral returns, and roll-call votes reveals how short-term political calculations led to the creation of this defining and enduring electoral institution.

The second, and longest, section of this book (chapters 4 through 7) examines the causes and consequences of redistricting between 1842 and 1900. This 60-year period overlaps with what political historians have dubbed "the partisan-factional" era of American politics (Silbey 1991). These years constituted a distinct political era, with unique political and partisan characteristics. The historian Joel Silbey summarizes these features: "To put it broadly, what happened in the era between 1838 and 1893 was the replacement of a political nation based on personal, family, and clan ties, and deferential informal structures, with one based on collective behavior and regularized, impersonal institutions. . . . Most critically, the political world now became deeply partisan. The primacy of political parties was the dominant fact of this political era (and of no other). Parties

defined the terms of political confrontation and shaped the behavior of most participants in the many levels of political activity" (1991, 8–9).

Nowhere was the primacy of partisan politics more fully prevalent than in the design of congressional district maps. State legislatures in the 19th century did not hesitate to redistrict whenever they wanted. Some states redistricted frequently—often more than once a decade—while other states opted out of redistricting altogether. Chapter 4 investigates the timing of redistricting events during the 19th century. When a new majority party captured state government, and the existing districts were drawn by the out party, the probability of redistricting dramatically spiked up. On the other hand, when there was divided party control, or one-party domination—and the state neither gained nor lost seats at the decennial apportionment—the probability of redistricting was close to zero.

Once a state party chose to redraw district boundaries, it then faced the decision over *how* to redistrict. Chapter 5 examines the effects of redistricting on state congressional delegations and the resulting partisan composition of the House. Using statewide electoral data, the first section of this chapter shows that when a single party controlled the districting process, they were able to systematically engineer a favorable statewide partisan bias. The second part chapter 5 turns to a detailed district-level investigation of redistricting. Using county-level electoral data, the chapter demonstrates that when a single party controlled the districting process, they used districting to systematically stack the electoral deck in their favor. These partisan biases systematically structured the partisan composition of state congressional delegations and, at times, even determined party control of the House.

Chapter 6 examines competition in congressional elections. 19th-century congressional elections are notable for their intense competitiveness. Modern research argues that redistricting either reduces competition or has no effect. The results from the 19th century show that redistricting was actually used to *increase* competition. In an attempt to maximize their seats, parties carved states into districts with narrow, yet winnable, margins. The result was to manufacture competition. This chapter also explores the consequences of these strategic decisions and shows that redistricting helped contribute to the landslide elections of 1854, 1874, and 1894.

Chapter 7 explores how the variegated redistricting cycle of the 19th century shaped the decisions of congressmen to run for reelection. One of the long-noted features of the 19th-century House of Representatives, which distinguishes it from the modern Congress, is the substantial turn-

over in membership. This chapter shows that redistricting was a significant contributor to the high levels of 19th-century turnover. When districts were redrawn, incumbents were much less likely to run for reelection. Through a series of counterfactuals, I show that redistricting acted as a drag on the development of careerism in the House.

Chapter 8 examines the causes and consequences of malapportionment (i.e., unequal district sizes). It was the inequality of legislative districts, after all, that finally goaded the judiciary into action in the 1960s. This chapter examines the level of malapportionment and the causes of malapportionment. I show that while malapportionment did indeed exist, it accounts for only a small portion of partisan biases in the 19th century.

The final section of the book (chapters 9 and 10) carries the story forward to the present. Chapter 9 explores redistricting between 1900 and the 1960s, when the federal courts finally entered the redistricting arena. Chapter 10 concludes the book by reviewing what this research implies for the modern theory and practice of redistricting. I conclude chapter 10 by discussing the lessons provided by this book for recent developments in redistricting politics.

SIX

Electoral Competition and Critical Elections

Few doubt that contemporary House of Representatives elections are, on the whole, uncompetitive. The average vote margin for winners in recent House elections hovers at 70 percent of the vote (Jacobson 2009). The vast majority of House races are blowouts. In 2004, for example, only 32 contests, out of 435, were decided by 5 percent or less of the vote. The striking absence of competition in modern House elections has prompted much scholarly concern. Indeed, one might frame the vast contemporary literature on congressional elections as a quest to uncover the causes of uncompetitive elections.

In this quest, scholars have examined a number of suspects. One that has occurred to many scholars is redistricting. The suspicion is that incumbents of both parties have colluded to draw lines that protect themselves (e.g., Hirsch 2003; McDonald 2006; Tufte 1973). As a result, seats are safe for members of both parties. For example, in an editorial published in the *Los Angeles Times*, constitutional scholar Mitchell Berman (2004) voiced a common belief stating that "Both Democrats and Republicans have sought to manipulate the system by drawing 'safe seats' for their own members. The result: fewer competitive elections."

A number of other scholars, however, have argued that redistricting has had little impact on declining competition. Indeed, the general thrust of the research literature appears to be that while redistricting may marginally depress competition here and there, it can only account for a small proportion of the overall decline in competition (e.g., Abramowitz, Alexander, and Gunning 2006; Friedman and Holden 2009).[1] But, much like the

subject of the previous chapter, the debate about the impact of redistricting on competition revolves around research conducted almost entirely on post–1960s redistricting cycles. It is still an open question whether this minimal impact is inherent in gerrymandering, or reflects the institutional constraints of modern redistricting.

In this chapter, I explore the impact of redistricting on competition in 19th-century congressional elections. Examining district-level vote margins and statewide swing ratios, I find that parties in control of redistricting often manufactured competitive districts in the search for partisan advantage; redistricting in this era often *increased* district-level competition. Beyond establishing that gerrymandering can, at times, have pronounced effects on district-level competition, these findings also help explain one of the more striking features of 19th-century national elections—the sharp swings in partisan fortunes. Specifically, in this chapter, I provide a detailed examination of the impact of redistricting on congressional elections in three periods: 1850–54, 1870–74, and 1890–94. These three election periods constitute, by far, the largest seat swings in U.S. history. The reversals of fortune were startling. In 1854, Democrats lost 74 seats (in a chamber of 234). In 1874, Republicans lost 94 seats (in a chamber of 292). And in 1894, Democrats lost 114 seats (in a chamber of 357 seats). No elections before, or since, have approached the seat swings found in these three elections.

I argue that strategic redistricting played a fundamental role in creating a competitive environment and set the table for these huge swings in House seats. The logic of the argument is as follows. In all three periods, one party was in charge of redistricting for the vast majority of states: Democrats in 1852 and 1892, and Republicans in 1872. Following the standard partisan strategies of the day, they drew electoral maps with narrow, yet winnable, margins for fellow partisans. This produced an overabundance of marginal Democratic seats in 1852 and 1892, and an overabundance of marginal Republican seats in 1872. Thus, the relatively moderate anti-majority vote swing in the subsequent elections—1854, 1874, and 1894—produced a huge swing in seats. Previous research has demonstrated the presence of massive vote-seat distortions in 19th-century elections (Brady 1985; 1988), but no one has identified the critical aspect that strategic redistricting played in helping to construct these vote to seat ratios.

Competition in House Elections

Congressional elections throughout much of the 19th century were fiercely competitive. Certainly compared to modern standards, the mar-

gin between winners and losers was much closer. In the late 19th century, nearly 40 percent of House elections were decided by 5 percent or less (Brady and Grofman 1991). This threshold is a traditional way of classifying districts as either competitive or noncompetitive (Jacobson 2009; Mayhew 1974b). A steep drop off in the number of close contests occurred near the end of the 19th century. By 1920, only 25 percent of House races fell into this competitive range. This decline was followed by another drop off in the 1960s, where it has resided ever since. Competition reached its nadir in 2004, when only 7 percent of House contests were decided by less than 5 percent of the vote. A further inkling of the decline in competition can be seen by considering the 2010 election. This election, by many accounts, was one of the most competitive in recent memory. Nearly 25 percent of the contests fell into the marginal category. Yet, even though this number is high by modern standards, it still pales in comparison to levels of competition in the 19th century. In 1870, for example, half of all House races met the definition of a marginal district.

One consequence of the intense competition at the district level in the 19th century was that national elections, and House majorities, could turn on a dime. A landslide election in one direction could easily be followed two years later by a landslide in the other direction. No majority was seemingly safe. For instance, Republicans gained 64 seats in the 1872 election, only to surrender 94 seats in the following election of 1874. These whip-saw elections were common, especially in the Gilded Age. That sharp swings in national-party fortunes should correlate with competitive district elections is unsurprising; the two factors are intimately related. The more districts that are competitive the more districts that will shift with changes in the national vote (Mayhew 1974b). For instance, a district that is split 52–48 in favor of Democrats will more likely flip if there is a small shift in the vote to the opposition party; however, a district split 70–30 in favor of Democrats will be much less likely to flip even if there is a major national vote swing to the opposition party. In other words, the more districts that are evenly split the more districts that have the potential to change party hands. Thus, as individual districts become more competitive, the responsiveness of congressional membership to changes in the national vote surges.

Against the backdrop of this hypercompetitive system, 19th-century mapmakers weighed their strategic options. As we saw in the previous chapter, partisan mapmakers had two basic strategies they could pursue (e.g., Cain 1985; Cox and Katz 2002; Owen and Grofman 1988). One strategy was to pack out-party supporters into one or few districts while distributing in-party supporters evenly throughout the rest of the state. This packing

strategy ensured a number of easy victories for the in party, yet conceded some districts to the opposition. The second strategy involved drawing districts that are a microcosm of the statewide vote—in other words, constructing as many marginal, yet winnable, seats as possible. A party that was confident of its ability to win the statewide vote over the foreseeable future could maximize its seat share by having each district mirror this favorable statewide partisan distribution (Cox and Katz 2002). Under such a strategy, "the dominant party magnifies its popular vote by creating many districts it can reliably but narrowly carry" (Argersinger 1992, 75). This strategy has been termed "efficient gerrymanders" (Cain 1985) or "dispersal gerrymanders" (Owen and Grofman 1988).

Throughout the 19th century, state political parties were notorious for pursuing the efficient strategy—crafting district plans with an eye toward winning as many seats as possible (Argersinger 1992). In Maine, for example, Republicans gerrymandered the state into a solid five Republican districts despite only having 55 percent of the statewide vote. In other words, with 55 percent of the vote, they were able to capture 100 percent of the seats. This map was a masterful example of an efficient gerrymander. No Republican vote was wasted, and no seat was conceded to Democrats. Indeed, from 1884 to 1892, Republicans completely shut out Democrats, winning every single congressional race over this eight-year period.

As the example from Maine demonstrates, the potential gains from efficient gerrymandering were immense. But the strategy also carried many risks. With so many districts on the knife-edge, a slight shift in the vote to the opposite party could spell electoral doom. So, why were parties more willing to pursue these efficient gerrymanders? First, on the legal side, they faced fewer constraints than their modern counterparts. In this era before one-person, one-vote, redistricting took place out of the watchful eye of the judiciary. Beyond adhering to the congressional mandate requiring single-member and contiguous districts (after 1842), states could redistrict whenever and however they wanted.

On the political side, many of the factors that constrain modern mapmakers from pursuing full-blown partisan gerrymanders were absent. The importance of careerism and seniority within the House had yet to fully take hold, creating less pressure by sitting congressmen for incumbent-friendly districts (Kernell 1977; Price 1975). Even if there was incumbent pressure for safer districts, local party managers had fewer reasons to heed their wishes. Partisan control over nominations and balloting gave party managers the incentives to pursue collective party interests at the expense of any individual candidate (Brady, Buckley, and Rivers 1999; Carson and

Roberts 2005). Individual politicians, therefore, owed their electoral fortunes to their local party organization, and had little opportunity or incentive to engage in the candidate-centered activities typical of modern House members (e.g., Fenno 1978; Mayhew 1974a). If the party wanted to tinker with congressional districts, incumbents might grouse, but there was little else they could do.

Consider the 1886 redistricting in Ohio. Congressional incumbents of both parties reacted with dread upon learning that the states districts would be redrawn yet again. In 1886, Republicans controlled the state legislature and sought to undo the gerrymander perpetrated by Democrats two years earlier. While the new districts stood to advantage Ohio Republicans collectively, sitting Republican incumbents were not thrilled. The *New York Times* reported that "Many members of the [state] House opposed the measure and it would have undoubtedly failed but for the very spirited manner in which the Washington contingent opposed it and excited the hostility of certain members in both branches here" (*New York Times*, May 18, 1886). Ultimately, the interests of incumbents were overridden by the collective good of party success.

Similarly, the importance of seniority in allocating committee assignments had yet to fully take root in the House (Polsby, Gallaher, and Rundquist 1969). The lower value placed on House seniority may have led state parties to refrain from pro-incumbent gerrymandering. Seniority puts a premium on holding existing seats and lessens the importance of targeting opposition held seats. Cox and Katz note this possibility arguing, "The more valuable seniority is, the more valuable it is to keep one's own incumbents and the less valuable it is to knock off the other party's incumbents" (Cox and Katz 1999, 823). The converse naturally follows. The less valuable seniority is, the less important it is to protect incumbents. Thus, we might reasonably suspect partisan mapmakers to shy away from pure incumbent-protection plans solely for the purpose of increasing their delegations seniority. Having more partisans in Congress also increased access to federal patronage. Federal appointments were lubricants that helped keep the local- and state-party machines running. Thus, state parties had a vested interest in securing as many congressional seats as feasible.

Efficient gerrymandering was further aided by the structure of voting in the 19th century. The party-ticket balloting system, in which voters cast ballots listing the candidates of a single party, induced a high degree of straight-ticket voting (Rusk 1970). The result was fairly predictable short-term voter behavior that further allowed mapmakers to trim districts into small, but winnable, margins.

All told then, gerrymandering in this era was less about protecting incumbents and more about maximizing the dominant parties' (or dominant factions') share of the congressional delegation. In many cases, these gerrymanders manufactured a surplus of seats despite relatively narrow statewide margins. As an example, consider the pro-Democratic redistricting of Indiana in 1852. Democratic mapmakers essentially fashioned the state into a winner-take-all system. With only 54 percent of the vote, in 1852, Democrats won a remarkable 91 percent of the seats (10 out of 11 seats).

Gerrymandering and Electoral Margins

If parties were pursuing efficient gerrymanders, then we should expect to see three things. First, at the district level we should expect that parties in control of drawing the maps will trim the margins of their uncompetitive districts (i.e., make them more competitive), and shore up the margins of their very close seats (Cain 1985). Moreover, they should pack their opponents districts with surplus supporters. Second, the variance of the vote should go down in districts of the controlling party. Third, at the state level, we should see redistricting plans with steep vote-to-seat translations. And, as a corollary, the vote-richer party should receive a substantial seat bonus.

Examining these claims requires a measure of the partisan intent of the mapmakers. Fortunately, following the behavior of 19th-century politicians offers a solution. In the 19th century, state legislators would take the most recent election results, broken down by counties, wards, and towns, and combine this data to forecast the partisan effects of changes to district lines. Because counties were most often the building blocks of congressional districts, politicians could readily aggregate county-vote returns and calculate the likely electoral consequences of new district lines. With the aid of 19th-century electoral-returns and historical-district maps, the contemporary researcher can do the same and, in essence, look over the shoulder of these mapmakers.

The procedure was to take the two-party congressional vote by county from the most recent election before a new redistricting, and then aggregate these votes into the newly drawn district boundaries. County-level electoral returns for the House come from Clubb, Flanigan, and Zingale (1987). Data on congressional district boundaries comes from Kenneth Martis's *Historical Atlas of U.S. Congressional Districts* (1982). In those

instances where a county contained more than one district (i.e., urban areas such as Philadelphia or New York City) or congressional district lines cut across county boundaries, where available, I turned to historical newspapers and state legislative manuals for ward- and town-level results.

District Vote Margins

The first test examines the vote margins in districts before and after a redistricting. If states were constructing efficient gerrymanders, parties in control of the districting process would draw maps such that the seats they control have, on average, narrower margins than in the previous election. The construction of an efficient gerrymander implies that, under pro-Democratic plans, Democratic districts will be trimmed (i.e., those with large margins in the previous election), while those with very narrow margins will be shored up (Cain 1985). Under pro-Republican plans, the few Democratic districts not converted into Republican districts should be packed with more pro-Democratic voters.

To test this, I constructed a dependent variable that takes the projected margin of victory in the newly redrawn district *minus* the margin of victory in the election just prior to redistricting. The margin of victory is measured as the value of the winners' two-party vote minus 50 percent. Critical to constructing this dependent variable is correctly matching up districts across a redistricting. In essence, one needs to identify the old, or parent, district for each new district. This was done by identifying the old district that contributed the largest share of population to the new boundaries. The dependent variable, then, is the projected margin of victory in the newly drawn district minus the margin of victory in the parent district. A negative value indicates a district was made more competitive; a positive value, less competitive.

The key independent variables are whether or not the district was intended to be a Democratic district (i.e., a projected post-redistricting vote above 50 percent) and a series of dummy variables for each type of redistricting plan (i.e., Partisan Democrat, Bipartisan, Partisan Whig/Republican). To measure how Democrats are treated under different redistricting plans, the *Democratic District* variable is interacted with each of the plan-type dummy variables. If Democratic mapmakers, on average, trimmed the margins of Democratic districts, then the coefficient on the stand alone *Democratic District* variable will be negative. Moreover, the interactive variable between *Democratic District* and *Whig/Republican Plan* should be positive, indicating that under pro-Republican plans Democratic districts had their margins increased (i.e., more likely to be packed).

The model is estimated using Ordinary Least Squares (OLS). Because states differ in their mean level of competition, separate state intercepts are included (α_j). Moreover, because changes in district-level margins within states are likely not independent of each other, the analysis is clustered by state-year and estimated with robust standard errors.

The results are presented in table 6.1. Consistent with expectations, Democratic-controlled districts that were drawn by Democratic state parties had their margins reduced by an average of 1.8 percentage points. The interactive variable between Republican/Whig-drawn plans and Democratic districts is positive and significant. The value of the coefficient is 3.09. This result indicates that under a Whig plan, Democratic districts were made less competitive. The net effect was to increase the average margin in Democratic districts by 1.3 percentage points. Thus, districts were treated very differently depending on which party controlled the mapmaking process.

Overall, these results support the argument that throughout the 19th century, mapmakers helped strategically manufacture competitive congressional districts for their fellow partisans. This provides strong evidence that parties were following an efficient gerrymander strategy; making districts they controlled more competitive and making the opposition less competitive.

TABLE 6.1. The Impact of Partisan Gerrymandering on District-Level Vote Margins, 1840–1900 (dependent variable = district level difference in margin before and after redistricting; OLS, clustered by state with robust standard errors)

	Coefficient
Democratic District	−1.80*
	(.72)
Democratic District ×	3.09*
Whig/Republican Plan	(.88)
Democratic District ×	.07
Bipartisan Plan	(1.95)
Whig/Republican Plan	−.64
	(.54)
Bipartisan Plan	1.39
	(1.04)
Constant	.50
	(.52)
Adjusted R^2	.15
Number of Observations	1,189

Note: Robust standard errors, clustered by state-year, are in parentheses. State fixed effects were also estimated but not reported.

*$p < .05$.

A second implication of the efficient-gerrymander thesis is that plans should reduce the variance of the vote in districts for the controlling party. Because uncompetitive districts will be trimmed and very marginal districts shored up, there should be a reduction in the variance around the mean vote in Democratic districts. Each Democratic district should come to resemble every other Democratic district in the state. Consider the pro-Democratic gerrymander of New York in 1884. The map, devised by Democrats, carved the state into 23 Democratic districts and 11 Republican districts. This was all the more remarkable given that Democrats and Republicans had exactly half of the statewide vote. The standard deviation of the Democratic vote in districts controlled by Democrats was 6.6. In Republican districts, the standard deviation of the vote was 18.2.

To examine this visually, figure 6.1 shows the standard deviation of the vote across districts, within a state, before and after redistricting. The x-axis displays the standard deviation of the two-party vote in districts before redistricting; the y-axis is the standard deviation after redistricting. Note that I only include districts controlled by the redistricting party in calculating these standard deviations. So, for example, in states where Democrats redrew districts, the "before" standard deviation is the variance of the vote for districts won by Democrats prior to redistricting. The "after" standard deviation is the variance of the vote across districts where the majority of the projected two-party vote, under the new maps, favored Democrats. I then did the same for Whig/Republican plans. This produces the two panels displayed in figure 6.1. The 45-degree line indicates no change. States above the line had an increase in the variance of the vote; states below the line had a decrease. If parties were implementing efficient gerrymanders, then we should expect to see the observations fall below the 45-degree line.

In figure 6.1, this is largely what we see. In both panels, the bulk of observations fall below the 45-degree line. This is strong evidence that states were distributing their voters in a more efficient manner. In other words, districts for the controlling party came to resemble a microcosm of the statewide vote. Of course, not every state hewed to this strategy—a few observations do fall above the 45-degree line. But almost all of these were in states where the variance of the vote was small to begin with. Here the votes were already roughly allocated in an efficient manner.

One can further demonstrate this pattern by performing an F-test on the difference in the standard deviations before and after redistricting. For Democratic states, the average standard deviation before redistricting was 10.6, and after, it declined to 6.6. This difference of four was statistically significant ($p < .01$). In Republican states, the standard deviation before and

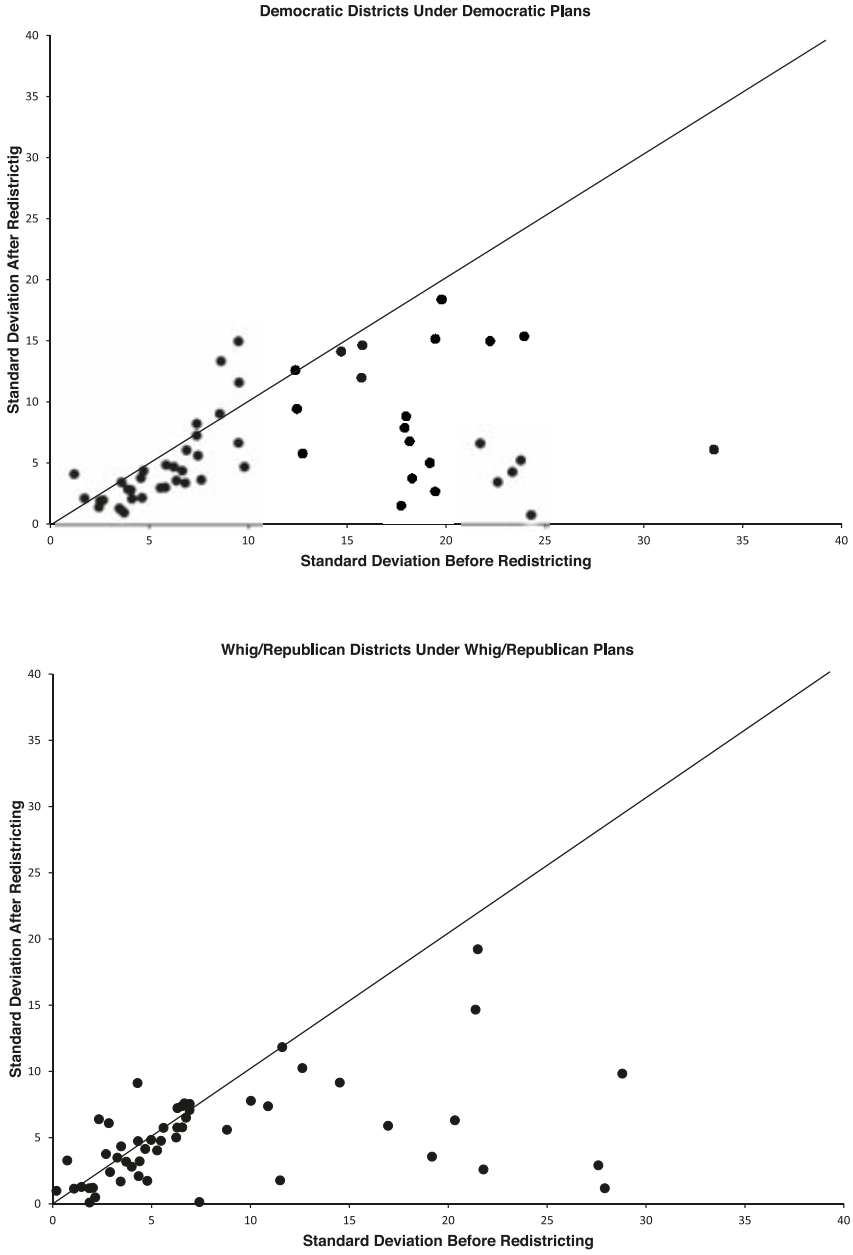


Fig. 6.1. Variance of the vote before and after redistricting. The figure displays the standard deviation of the two-party vote in districts held by the dominant party before and after redistricting. The top panel displays Democratic-controlled districts in states controlled by the Democrats. The bottom panel shows Whig/Republican-controlled districts in states controlled by Whigs/Republicans. The x-axis is the standard deviation before and the y-axis is the standard deviation after. The solid line is drawn at 45 degrees. Dots falling below the 45 degree line indicate a reduction in the variance of the vote across districts.

after was 8.3 and 5.1, respectively. This difference of 3.2 was also significant ($p < .01$).

Overall, the results show that parties in command of redistricting made the seats they controlled, on average, more competitive. This stands in contrast to most research on modern redistricting, which finds that it either reduces competition or has no effect. The results here suggest that redistricting can amplify electoral competition. When parties are motivated to maximize seats rather than protect incumbents, redistricting can increase competition and accelerate seat swings. The next section considers how these district-by-district decisions added up to hyperresponsive state electoral systems.

Votes and Seats

If state parties used redistricting to manufacture extra seat shares, via competitive elections, then one should expect that state governments with unified party control constructed vote-seat translations with steep swing ratios. This would be further evidence of efficient gerrymandering. Districting plans where the districts have very narrow margins will exhibit high swing ratios. Moreover, the swing ratio also indicates the size of the "seat bonus" that accrues to the party winning the statewide vote. The larger this number, the larger the size of the dominant party's seat bonus.

Increasing the swing ratio increases the seat bonus that accrues to the dominant party. To see this, consider holding the vote share constant at 55 percent and then varying the swing ratio. To see this, figure 6.2 presents an example of how increasing the swing ratio can increase a party's seat bonus. A party's vote percentage is placed on the x-axis. The party's resulting seat percentage, at different values of the swing ratio, is presented on the y-axis. In the example, the party's vote percent is 55 percent. With a swing ratio of three, the dominant party can expect to receive 65 percent of the state's seats with 55 percent of the vote. But increasing the swing ratio to a value of five raises the expected seat share to 75 percent. Thus, manipulating district lines and efficiently distributing votes across districts can greatly enhance a party's seat bonus. However, as the graphic also reveals, this strategy comes with increased risk. A shift in the vote leftward on the x-axis (i.e., against the dominant party) will be magnified in a highly competitive system. Not only are seats on the razor-edge when drawn competitively, but there are also more of them total. Thus, a large swing ratio also can portend large losses.

To test how redistricting changed the translation of votes into seats, I

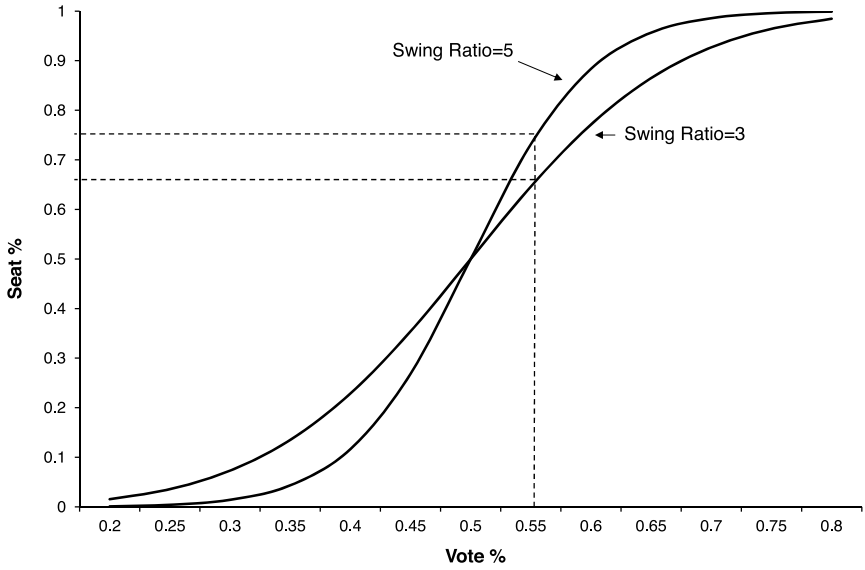


Fig. 6.2. Example of seat bonus at different values of the swing ratio

estimate the average state-level swing ratios before and after redistricting. Building on standard practice in the electoral systems literature (e.g., Cox and Katz 2002; Grofman 1983; King and Browning 1987; Tufte 1973), the following vote-seat equation is estimated.

$$\ln(s_{it}/(1 - s_{it})) = \lambda_1(Pre) + \lambda_2(Post) + \rho_1[Pre \times (\ln(v_{it}/(1 - v_{it})))] + \rho_2[Post \times (\ln(v_{it}/(1 - v_{it})))] \quad (2)$$

where s_{it} is the statewide proportion of seats won by Democrats, and v_{it} is their statewide vote share in state *i* at time *t* (the constant is suppressed to avoid perfect collinearity). The rho coefficients (ρ_1 and ρ_2) measure the swing ratio for pre- and post-redistricting plans, respectively. The focus here will be on those states with partisan redistricting plans. Those few plans passed under divided government are excluded.[2] The critical test is whether the swing ratios are significantly higher after redistricting. If parties were ratcheting up the swing ratio in search of partisan advantage, then the forecasted election under the newly drawn maps should have higher swing ratios than the election just prior to redistricting.[3]

The lambda coefficients (λ_1 and λ_2) on the stand-alone *Pre* and *Post* variables measure partisan bias for pre- and post-redistricting plans, respec-

tively. Partisan bias is defined "as the difference between the expected seat share that the Democrats would get with an average vote share of 0.5 and their 'fair share' of 0.5 (half the seats for half the votes)" (Cox and Katz 1999, 820). So, if a party wins 60 percent of a state's House seats when its candidates receive 50 percent of the statewide vote, we say there is a 10 percent bias. It is standard to transform the raw estimated lambda coefficient and calibrate it to what would have happened if the vote were split 50–50. This is done by passing the lambda coefficient through the following equation: $\exp[\lambda]/(\exp[\lambda] + 1) - 0.5$.

Because the dependent variable is based on a proportion—the proportion of seats going to Democrats—the model is estimated using maximum likelihood with an extended beta binomial distribution. Using this distribution also accounts for any potential correlation in the probability across districts (within a state) of a Democratic victory.[4]

The results are presented in table 6.2. If state parties were ramping up the swing ratio in attempt to secure more seats for their side, then the swing ratio in the newly drawn districts should be higher than those just prior to redistricting. In table 6.2, this is what we see. The average swing ratio in the states during the election just prior to redistricting was 3.46. Under the newly drawn maps, the average expected swing ratio jumped to 4.96. The difference of 1.5 is statistically significant ($p = .02$). These

TABLE 6.2. The Conversion of Votes into Seats before and after Redistricting

	Coefficient
Swing Ratio Before	3.46*
	(.38)
Swing Ratio After	4.96*
	(.50)
Partisan Bias Before	2.33
	(2.35)
Partisan Bias After	4.28
	(2.48)
γ	.12*
	(.02)
N	262
Log-Likelihood	−1,423.59

Note: The cell entries are maximum likelihood estimates that follow an extended beta binomial distribution. Standard errors are in parentheses. The difference between the swing ratio coefficients was significant at .05 ($p = .02$).

*$p < .05$.

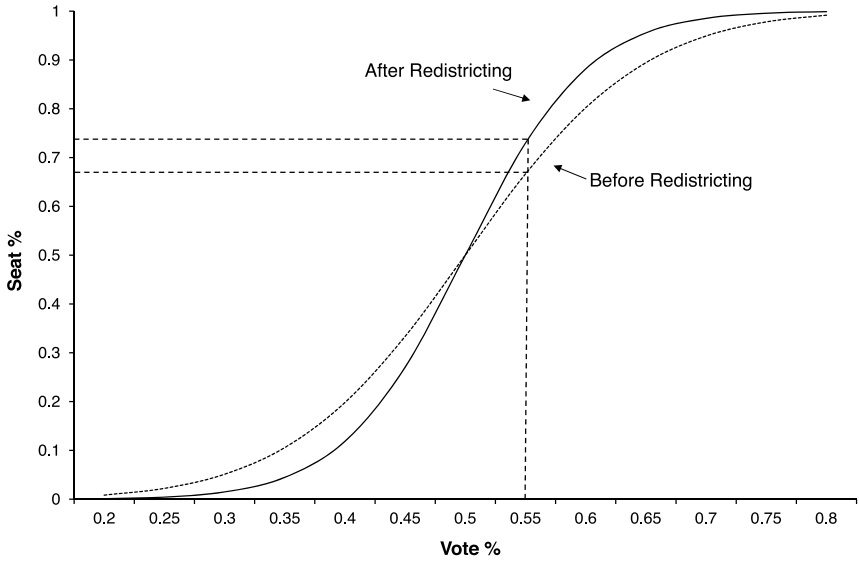


Fig. 6.3. Estimated vote to seat translations before and after redistricting

results suggest that the new maps pushed the states towards winner-take-all systems.

To better visualize the impact of these changes, figure 6.3 traces out the vote-seat curves associated with these swing ratios. Dashed lines indicate the estimated pre-redistricting swing ratio and solid lines the expected post-redistricting swing ratio. First, one can see the increased seat bonus that accrues with steeper swing ratios under the new redistricting plans. For example, at 55 percent of the vote, a dominant party could expect to win 66 percent of a state congressional delegation before redistricting. After redistricting, the percentage of seats they could expect to win, with 55 percent of the vote, jumps to 73 percent.

Thus, there were clear benefits to gerrymandering efficiently. But figure 6.3 also illustrates the potential risks. Ratcheting up the swing ratio magnified a party's seat share, but it also meant that the dominant party now had more to lose. Moreover, steeper swing ratios meant that changes in the vote produced larger changes in seats. An unexpected vote swing could parties on the wrong side of these steep slopes. Even a relatively small shift in the vote could produce an avalanche of losses. Consider a party whose vote share drops from 55 percent to 45 percent. Under the pre-redistricting swing ratio of 3.45, their percentage of seats would go

from 66 percent to 33 percent. Under the post-redistricting swing ratio of 4.95, the percentage of seats would plummet from 73 percent to 27 percent.

The Promise and Perils of Hyper-Responsive Gerrymanders

Thus, the redistricting strategies of the 19th century took an already competitive system and made it even more competitive. While in the short term the strategy of efficient gerrymandering produced big partisan gains, it also set the parties up for big losses. Some inkling of this possibility can be seen by noting that the three largest seat swings in congressional history occurred soon after major redistricting happened across the country: the elections of 1854, 1874, and 1894.

The seat losses in the congressional elections of 1854, 1874, and 1894 were astounding. In 1854, voter reaction to the Democratic-led passage of the Kansas-Nebraska Act, combined with rising nativism in many Northern states (Holt 1978), led to widespread defeat for Democrats.[5] In House elections, they lost a startling 74 seats in a chamber of 234. The bulk of those losses were concentrated throughout the Midwest and Mid-Atlantic. In Ohio, for example, Democrats suffered a crushing defeat. In 1852, they won 12 of the states' 21 districts. In 1854, they won none. The consequence was a dramatic reshuffling of party coalitions and sectional alliances that placed the nation on a path eventually ending in civil war (Aldrich 1995; Gienapp 1987; Holt 1999).

In the midterm election of 1874, Republicans were on the losing end of the seat swing. Republicans lost 94 seats (in a House of 292 total members). The shift in fortunes handed Democrats control of the House of Representatives for the first time since 1856. The precipitating event was the economic panic of 1873. With Republicans controlling both the White House and Congress, voters punished the party in power. Moreover, Democratic resurgence in a number of southern states put Democrats back in control of congressional delegations throughout the South (Perman 1984). But even after taking these important events into account, the seat swing in this election was dramatic; especially when placed against the vote swing. Democrats' share of the vote only increased by 5 percent, yet their seat share rose by 32 percent.

The midterm election of 1894 was another massive reversal of fortune for Democrats. The Panic of 1893—the second-worst depression in American history—propelled the opposition Republicans into majority status in

the House for the next 16 years (Glad 1964). Democrats lost a staggering 114 seats. In the Northeast, Democratic representation plummeted from 44 seats to 7 (McSeveney 1972). In New York, for example, Democrats surrendered 14 seats—their state delegation dropping from 19 to 5. Democratic losses were also devastating in the Midwest. In 1892, the midwestern states had sent 44 Democrats to Washington. Two years later, they sent 4.

When placed within the historical time-series of congressional elections, these three elections stand head and shoulders above the rest. The top panel of figure 6.4 displays the absolute value of the swings in Democratic House seats from 1840 through 2006. The seat swings in 1854, 1874, and 1894 clearly stand out. Indeed, the swings in more recent, but no less famous, elections pale in comparison (e.g., the Watergate election of 1974; the Republican revolution of 1994; the Democratic resurgence of 2006).

Placed against the seismic shifts in legislative seats, however, the vote swings in these two elections were comparatively tame. The bottom panel of figure 6.4 shows the absolute value of national Democratic vote swings from 1840 to 2006. The elections in 1854, 1874, or 1894 do not stand out. The Democratic percentage of the national two-party vote dropped 7.6 percent and 7.4 percent in 1854 and 1894, respectively (Rusk 2001, 217–18). In 1874, Democrats increased their vote share by 6.8 percent. Of course, one should not downplay the size of these vote swings—they are indeed substantial. However, within the time-series of congressional elections, they are not outliers. Thus, we are presented with a puzzle: what was present in these elections that caused small vote swings to translate into massive seat swings?

Past research has not entirely ignored these abnormal seat swings. In a series of important works, David Brady (1985; 1988) found that the electoral transformations of the 1850s and 1890s were not the product of overwhelming shifts in partisan loyalties. Instead, razor-thin margins in numerous congressional districts led to big seat swings. Because so many districts were near the tipping point, it only took a moderate anti-Democratic national vote swing to produce an avalanche of seat losses. Although Brady did not focus on the 1874 election, his logic would almost certainly apply there as well.

Brady's argument and evidence are certainly compelling. Yet his findings raise important questions: Why were these districts so competitive to begin with? Why did modest vote swings produce massive seat swings in these particular elections and not others? There are several reasons to suspect that redistricting helped set the table for the massive seat swings in 1854, 1874, and 1894. First, in the redistricting cycles that began these

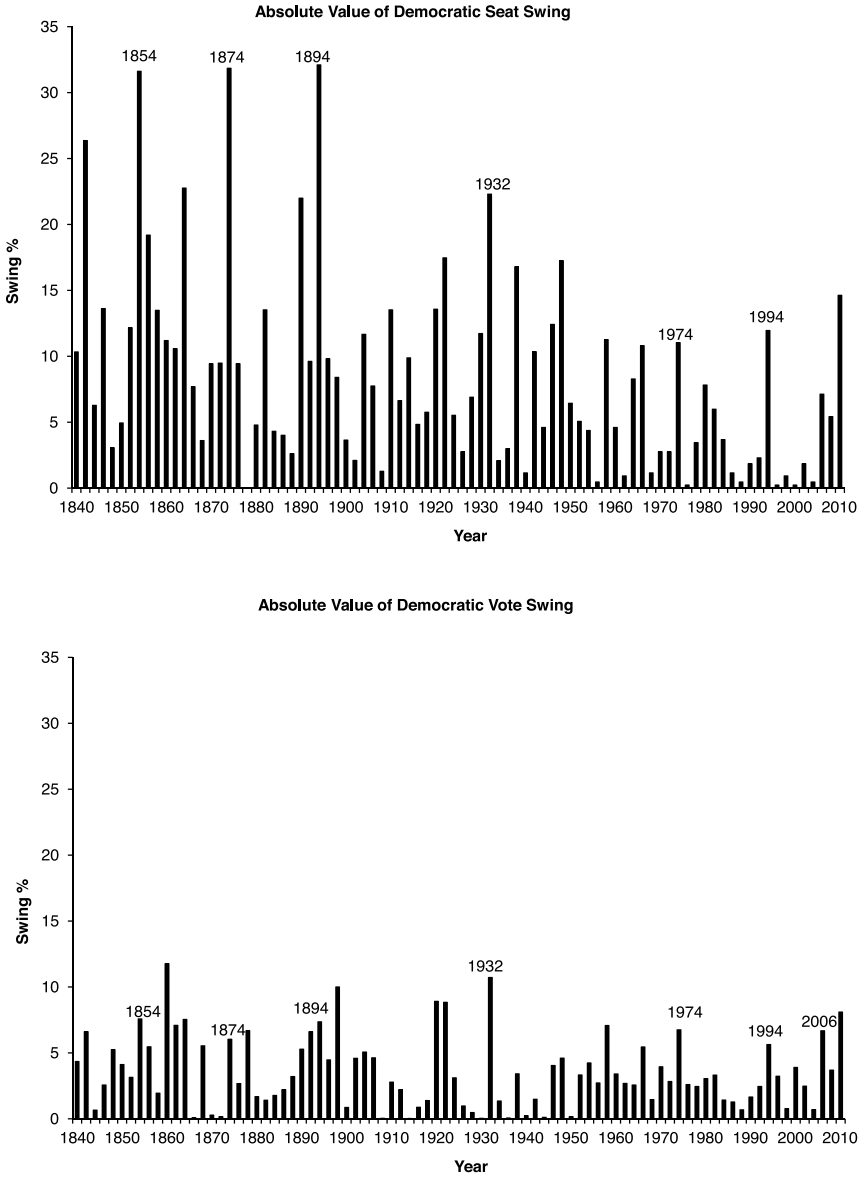


Fig. 6.4. Seat and vote swings in the U.S. House of Representatives, 1840–2006

decades, Democrats found themselves in the position of controlling the state legislature and the governorship in a disproportionate number of states. The numbers in table 6.3 illustrate the imbalance of partisan control of redistricting in these cycles. In the 1850s, Democrats were the majority

TABLE 6.3. Partisan Control of Redistricting in 1852, 1872, and 1892

1852–54		
Partisan Democrat	Bipartisan	Partisan Whig
ME (6)	PA (25)	VT (3)
MA (11)	LA (4)	NY (33)
NH (3)	MD (6)	GA (8)
NJ (5)	NC (8)	TN (10)
IL (9)		
IN (11)		
MI (4)		
OH (21)		
VA (13)		
AR (2)		
SC (6)		
MO (7)[a]		
AL (7)[a]		
MS (5)[a]		
Total Districts: 110	43	54
1872–74		
Partisan Democrat	Bipartisan	Partisan Republican
MO (13)	CA (4)	MA (11)
VA (9)		RI (2)
NC (8)		NJ (7)
KY (10)		IL (19)
MD (6)		MI (9)
AR (4)[b]		OH (20)
GA (9)[b]		WI (8)
TX (6)[b]		IA (9)
TN (10)[b]		MN (3)
MS (6)		
PA (27)[b]		
IN (13)[b]		
KS (3)[b]		
FL (2)[b]		
LA (6)[b]		
SC (5)[b]		
Total Districts: 75	4	150

TABLE 6.3.—*Continued*

1892–94		
Partisan Democrat	Bipartisan	Partisan Republican
NY (34)	MN (7)	OH (21)
MI (12)	NE (6)	CO (2)
WI (10)	MA (13)	CA (7)
MO (15)		OR (2)
AL (9)		NJ (8)[c]
AR (6)		
GA (11)		
NC (9)		
TX (13)		
IL (22)[c]		
SC (7)[c]		
Total Districts: 148	26	40

Note: The number of districts in each state is indicated in parentheses. In 1852–54 there were 234 total representatives in the House. In 1872–74 there were 292 total representatives in the House. Tennessee also redistricted in 1872 but that is not listed here. In 1892–94 there were 356 total representatives in the House. New Jersey redistricted in 1892 (partisan Democrat) and again in 1894 (partisan Republican). Only the latter is included in this table.

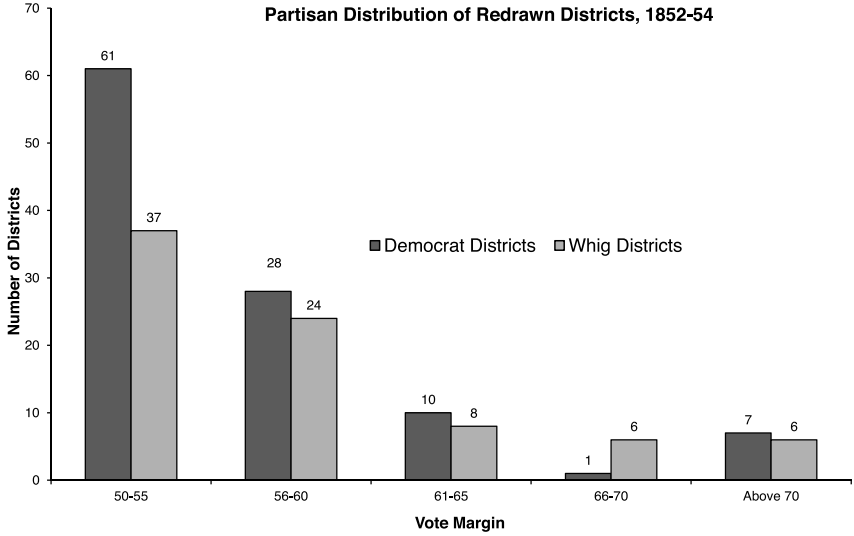
[a]Redistricting conducted prior to 1854 election.

[b]Redistricting conducted prior to 1874 election.

[c]Redistricting conducted prior to 1894 election.

party in 14 out of the 22 redistricting states. They controlled the drawing of 110 districts, while Whigs were responsible for drawing only 54 districts. A similar pattern emerged in the 1870s. Republicans controlled redistricting in 16 states, compared to Democrats' 9. Republicans were, therefore, in charge of drawing 150 districts, compared to Democrats' drawing 75 districts. The same thing happened in the 1890s—when Democrats controlled 11 of the 19 redistricting states. This included the populous Midwestern and Mid-Atlantic states, giving them a district-level advantage in drawing new lines of 148 to Republicans' 40 districts. Thus, in each period, one party had a disproportionate opportunity to redraw vast swaths of the country's political map.

If parties were constructing efficient gerrymanders, and the bulk of plans were pro-Democratic, then the national distribution of seats should display a surplus of marginal Democratic seats with a lesser number of marginal Whig/Republican seats. In figure 6.5, one can see exactly this pattern playing out. The x-axis plots the winners vote share based on the



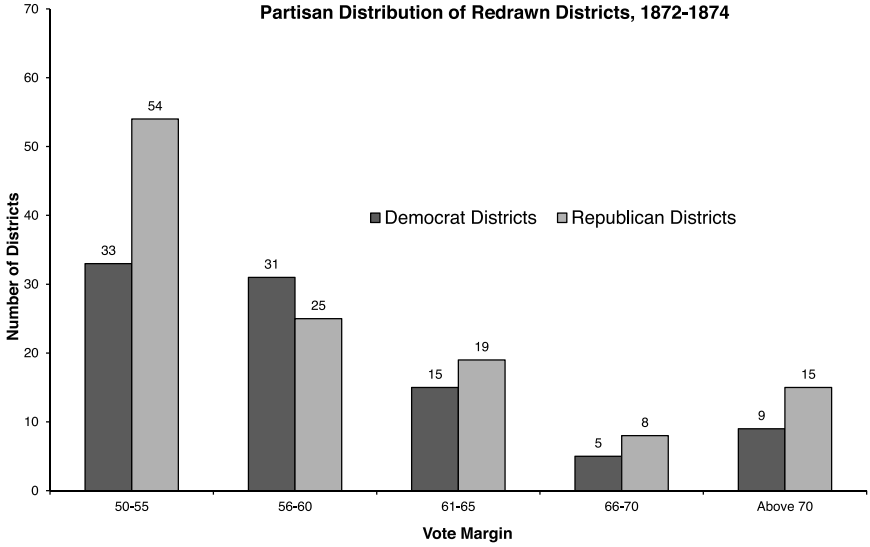


Fig. 6.5. The distribution of redrawn districts

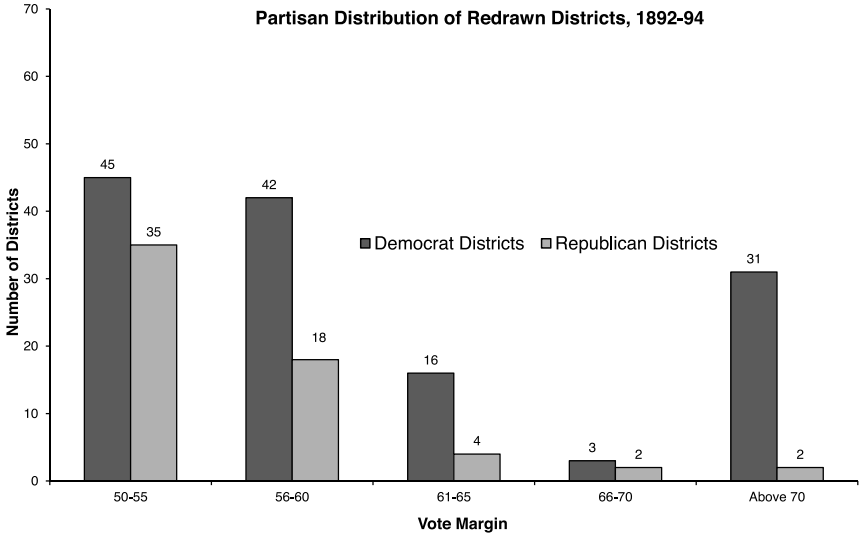


Fig. 6.5. *(cont.)*. The distribution of redrawn districts

expected vote in the newly drawn districts. In the 1852–54 round of redistricting, Democrats emerged with 89 districts between 50 percent and 60 percent of the vote. By comparison, Whigs had only 61 districts in this range. After redistricting in 1872–74, Republicans had 54 districts in the marginal range, while Democrats had only 33. Turning to 1892, we again see a stark asymmetry in the distribution of districts. Democrats had 87 districts between 50 percent and 60 percent of the vote, while Republicans only had 53.[6]

This figure provides a proximal answer for the sudden reversal of political fortunes. First, because Democrats controlled a disproportionate number of seats they had more to lose. This surplus of seats was well above Democrats' equilibrium level of seats for those particular eras (Oppenheimer, Stimson, and Waterman 1986). Second, the bulk of their redrawn districts were in a range where it would only take a modest national swing to turn over a great number of seats. Thus, when voters reacted in response to the Kansas-Nebraska Act, the Panic of 1873, and the Panic of 1893, they each produced a deluge of losses.

A couple of examples further illustrate the point. In Indiana, heading into the 1854 election, Democrats controlled 10 of the state's 11 congressional seats. This was all the more astonishing considering Democrats only captured 54 percent of the statewide vote in 1852. Thus, as long as partisan

tides stayed in Democrats' favor, they stood to reap huge rewards. But it also set them up for big losses if national tides turned against them, as it did in 1854. In 1854, Democrats won only two seats, although their vote share had only fallen to 46 percent.

In 1892, Democrats in Missouri fashioned 13 Democratic districts out of 15 total. This was especially remarkable given their statewide vote share was only 50.1 percent. In 1894, Democrats' vote share dropped by six points to 44 percent. Despite this somewhat modest drop in their vote share, they lost a stunning eight seats. In other words, with a six-point swing in the vote, Democrats' share of the congressional delegation dropped from 87 percent to 33 percent.

What If the Swing Ratios Had Not Been So Large?

Overall, how much did redistricting contribute to these seat swings? One way to gauge the impact of gerrymandering is to examine a counterfactual. Perhaps, the most appropriate counterfactual is to assess what the seat swing would have been had a "neutral" vote-seat translation been in place. The baseline typically used in the literature to characterize and assess single-member district systems is a swing ratio of three (i.e., the cube law) (Tufte 1973). This is also the baseline that Brady uses, and will be the one used here as the counterfactual.

The strategy is to run the 1852 (or 1872 or 1892) vote, for each state, through a vote-seat translation of three, and then do this again for 1854 (or 1874 or 1894). Specifically, I ran the statewide vote through the following formula: $\ln(Seats/(1 - Seats) = 3 \times (\ln(Vote/(1 - Vote))$. This produces an expected number of statewide seats. Note that this model sets partisan bias to zero in order to focus the attention on the comparative impact of different swing ratios. Taking the difference between the predicted number of seats between the two adjacent elections (e.g., 1854 minus 1852) will tell us how many seats would have swung had a neutral set of district lines been in place. As an example, consider New York between 1892 and 1894. In 1892, the Democratic statewide vote was 48.8 percent. Passing this vote share through the above formula leads us to expect Democrats to win 16 of New York's 34 seats. In 1894, Democrats' vote share dropped to 41.4 percent. At this value of the vote, the expected number of seats would have been 9 seats. Thus, the simulated swing in seats for New York was 7 seats ($16 - 9 = 7$). In actuality, Democrats' swing in seats in New York was 15 seats (from 20 to 5).

Table 6.4 reports the results of this simulation and the actual seat swings. These numbers reveal a substantial discrepancy between the actual and counterfactual seat swings. In 1854, under a neutral-districting system, Democrats would have lost only 21 seats compared to the 74 they actually lost. The biggest difference is located in states with partisan Democratic redistricting plans. In 1874, the simulation indicates that Republicans would have lost 37 seats under neutral-districting plans. This is much lower than the 94 seats they actually lost. The largest share of losses occurred in states drawn by Republicans. A similar pattern emerges in 1894. Again, Democrats suffered much greater losses than they would have under neutral districts. The counterfactual is 59 seats compared to the actual 114. The greatest contributors to this difference were Democratic-controlled Northern states.

TABLE 6.4. Counterfactual Seat Swings

1854–55 Election		
Type of Redistricting Plan	Seat Swing in Neutral Districts	Seat Swing in Actual Districts
Partisan Democrat	16	41
Partisan Whig	10	18
Bipartisan	2	11
Did Not Redistrict	2	7
Total	21	74
1874 Election		
Type of Redistricting Plan	Seat Swing in Neutral Districts	Seat Swing in Actual Districts
Partisan Democrat	15	25
Partisan Republican	13	42
Bipartisan	2	11
Did Not Redistrict	7	16
Total	37	94
1894 Election		
Type of Redistricting Plan	Seat Swing in Neutral Districts	Seat Swing in Actual Districts
Partisan Democrat	29	69
Partisan Republican	3	6
Bipartisan	2	11
Did Not Redistrict	25	28
Total	59	114

This does not mean that Democrats would not have found themselves in a deep hole or would not have been the minority party in the House. Losing 21 or 59 seats is nothing to dismiss. This counterfactual does illustrate, however, that Democrats would not have had an overabundance of seats in 1852 and 1892. The national seat swings in 1854 and 1894 would have been substantially dampened. And for scholars looking backwards, and subsequently constructing an elaborate political theory of change and stability, they would not stand out.

The Policy Consequences of Hyper-Responsive Elections

1854: The Kansas-Nebraska Act

As this chapter has shown, Democratic representation in the House just prior to the 1854 election was well above its historical average and well above what its vote share might indicate. Nationally, Democrats won 50.7 percent of the vote in the 1852 election (or 53.7 percent of the two-party vote), yet they ended up controlling a whopping 67.5 percent of House seats. A huge fraction of these seats came from states gerrymandered in favor of Democrats.

We can trace this extreme boost in seat shares back to the wave of pro-Democratic gerrymandering following the 1852 reapportionment. The lopsided Democratic margins in the House had enormous short-term policy consequences and long-term political reverberations; in fact, the reverberations can still be felt to this day. Notably, these manufactured seat shares provided Democrats with enough congressional votes to pass the infamous Kansas-Nebraska Act. The act was a pivotal juncture in the ongoing political battle over the extension of slavery into the American West.

Notably, the act repealed the Missouri Compromise of 1820 and allowed for popular sovereignty in determining whether slavery would be allowed in the territories of Kansas and Nebraska (and future territories). By repealing the Missouri Compromise, the Kansas-Nebraska Act undid the fragile armistice over the issue of westward expansion of slavery that had lasted 30 years. The act passed the House on May 22, 1854, by a margin of 113–100 (Holt 1999, 821). The bulk of support for the bill came from Democrats who voted in favor by a margin of 100–44. Northern Democrats voted in favor 55–43, while Southern Democrats voted in favor 45–1. Northern Whigs voted 7–44, while Southern Whigs voted 6–7. Four Free Soilers and one Independent also voted against the bill.

We can see the pivotal role of gerrymandering on this transformative policy decision by examining how many seats Democrats would have had under a set of neutral redistricting plans. Passing the state vote through a neutral districting plan—one with no bias and a swing ratio of three—produces an estimate in which Democrats would have had 121 seats (or 51.7 percent of the House seats). In actuality, however, with the same vote share, they ended up with 158 seats (or 67.5 percent). Given the split within the Northern wing of the Democratic Party, it is more than reasonable to assume that Democrats would have fallen short of enough votes to pass the Kansas-Nebraska Act.

To see this, we can consider the outcome of the vote on the Kansas-Nebraska Act had the House been elected through neutral state-electoral systems. As an approximation, consider that an individual Democratic representative had a .7 chance of supporting the bill, while a Whig representative had a .2 chance. Using these proportional propensities to support the bill, we can make some rough counterfactual estimates of the outcomes of a Kansas-Nebraska vote under this set of neutral redistricting plans. With 121 seats multiplied by .7 we get an estimated 85 Democratic votes in favor, and 36 against. Whig support was at .2, thus under the counterfactual, we get an estimate of 23 votes in favor, and 90 votes against. (Under the counterfactual estimates, Whigs would have had 113 seats total). Hence, after further counting the four Free Soilers and one Independent as opposed to the act, there would have been an estimated 108 total votes in favor, and 126 votes against. In other words, the Kansas-Nebraska Act would have failed.

Although one should be cautious when forecasting alternative historical trajectories, there is little disagreement about the massive consequences of the Kansas-Nebraska Act. As seen in this chapter, the passage of the act interacted with a highly responsive electoral system to produce the massive swing against Democrats in the subsequent 1854–55 election. The trajectory of American history was fundamentally altered. The termination of the Whig Party, the emergence of the Republican Party, and the fractious split within the Democratic Party placed the country on a collision course that ended in the Civil War. The war still may have happened when it did. However, had Democrats not passed the Kansas-Nebraska Act, there is ample reason to suspect that the course of the next decade would have been different.

These electoral ramifications directly fed into the policy course of the government over the next five years. In the years preceding the Kansas-Nebraska Act, the North and South had operated under a tacit contract.

Every admission of a free state would be accompanied by the admission of a slave state. This so-called balance rule gave the South equal representation in the Senate, from which they could maintain and protect the institution of slavery. But, as Barry Weingast (1998) has powerfully argued, the breakdown produced by the Kansas-Nebraska Act and the resulting election threw the commitment of the North to the balance rule into question. Without explicit Northern commitment to the balance rule, Southern states no longer viewed Northern statements to protect slavery as credible. Once a Northern Republican was elected president, the South decided to secede. It is critical, however, to remember that this unraveling of the Northern and Southern détente over the slavery question can be traced back directly to the Kansas-Nebraska Act and the resulting election of 1854–55.

Gerrymandering further contributed to the political tumult by producing the massive swing in party fortunes in the following elections. As seen in this chapter, although the national vote swing against Democrats in 1854–55 was modest, it nevertheless resulted in a massive swing in seats. The highly responsive gerrymanders drawn by pro-Democratic state legislatures directly fostered these seat swings.

The results of the election threw the subsequent Congress into tumult. For example, the House spent eight weeks fighting over who would be the Speaker (Jenkins and Stewart 2001). Had Democrats not been wiped out, the fight over the Speaker likely would have been shortened, and Democrats would have wielded more influence. The implications went well beyond the narrow confines of Capitol Hill politics. The fight over the speakership shaped policy over the next Congress and determined policy toward the westward extension of slavery. Indeed, the political battles fought within the halls of Congress over slavery in the early 1850s would eventually erupt into civil war, and engulf the whole nation, only a few years later (Holt 1999).

1874: Reconstruction and Suffrage Rights

A similarly dramatic policy consequence of gerrymandering can be seen in the policy outcomes following the 1874 election. As seen in this chapter, Democrats captured the House of Representatives for the first time since the Civil War. The new Democratic majority spelled doom for Reconstruction policy in the South. Because the Republican Ulysses S. Grant still occupied the White House, Democrats could not outright repeal Reconstruction or the enforcement acts that had been passed in the years prior to 1874. However, Democrats were in a position to radically affect appropria-

tions and spending decisions. In other words, they could halt the enforcement of Reconstruction policies through budget starvation.

Democrats' position of power stemmed from the asymmetric bargaining power that can arise in the federal appropriations process. In particular, if an appropriation bill fails to pass, then spending in that policy area reverts to zero. Thus, a legislative party that wants to reduce spending, even if it only controls one branch of government, can be granted a position of real leverage (Kiewiet and McCubbins 1988; Stewart 1991). Democrats used this leverage to their advantage to reduce spending on enforcement in the South whenever they gained control of the House.

In effect, Democrats' sweeping victory in the election of 1874 began the death knell of Reconstruction. The federal government ceded the South to local elites. The dramatic consequences of federal abandonment of the South could most readily be seen in Mississippi, where the Democratic state government passed a radical plan to disenfranchise African Americans. Thus, even before the national government formally pulled federal troops out following the presidential election of 1876, the commitment of the federal government to protection of voting rights had been severely undermined. As the historian Kenneth Stampp has argued, "After the Democrats gained a majority in the House, there was no chance that additional federal protection would be given to southern Negroes. Instead the House Democrats, in 1876, refused to pass an army appropriation bill in order to force the President to withdraw federal troops from the South. . . . Under these circumstances the absence of federal intervention when the Mississippi Plan went into operation is understandable" (Stampp 1965, 209).

The rapidly diminished role of the federal government in Southern elections can also be seen in federal prosecutions of electoral fraud in Southern congressional districts. In the early 1870s, Republicans passed a sweeping set of laws which empowered the federal government to challenge and prosecute violations of the Fifteenth Amendment. The purpose was to prevent violations of African-American voting rights in the South (and voting rights in the North). Before 1874, the Justice Department investigated 1,973 cases of electoral fraud in the South. Following Democrats' takeover of the House, and the reduction in appropriations for federal marshals, the number of prosecutions declined almost to zero (Wang 1997, 300–301). Between 1871 and 1874, the Justice Department successfully prosecuted 1,022 cases of fraud and vote suppression in the South. Between 1875 and 1880, after Democrats took control of the House—and control of the Justice Department budget—the number of prosecutions

plummeted to 38 total cases (Gillette 1979, 43; Wang 1997, 300). In effect, the guarantee of federal enforcement and protection of African Americans' Fifteenth Amendment suffrage rights vanished following Democrats' sweeping capture of the House in the 1874 election.

1892–94: The Repeal of Federal Enforcement and the One-Party South

The fight over enforcement of Fifteenth Amendment and the suffrage rights of African Americans continued, after 1874, for the next 20 years. As party power shifted back and forth in Washington, the fortunes of African Americans in the South shifted as well. The tenuous battle over enfranchisement finally came to end in 1894. The boost to Democrats' majority in the 1892 election, which, as we have seen, owed much to gerrymandering, gave Democrats a sufficient majority to enact one of their longstanding policy goals—repeal of the Federal Enforcement Act. Thus, in 1894, before surrendering majority control, Democrats enacted legislation that pulled the plug on the Federal Enforcement Act (Wang 1997).

As seen in the previous chapter, a centerpiece of Republican-policy agenda following the passage of the Fifteenth Amendment was the creation of the Federal Enforcement Act. As the title of the act telegraphed, its purpose was to provide a statutory basis for the federal government to enforce the suffrage rights of African Americans laid out in the Fifteenth Amendment. The act had originally passed in the early 1870s; over the next 20 years, the two parties fought over the support of the act. When Democrats controlled the House, they sought to starve the enforcement bureau of appropriations. But with firm control of Congress following the 1892 election, and a Democrat in the White House, Democrats were finally in a position to pass legislation repealing the Federal Enforcement Act.

Absent highly responsive gerrymanders, Democrats' majority would have been much more modest. Using our counterfactual baseline of a swing ratio of 3 and no partisan bias, we would predict that the vote share in the 1892 election would result in 182 Democratic seats (or 51 percent). Democrats still may have had the necessary votes to repeal the Federal Enforcement Act, but the vote would have been much tighter. Or Republicans may have found it possible to amend the bill and save parts of the repeal act. The vote split right along party lines. 194 Democrats voted in favor, and 102 voted against. No Republican voted in favor, and no Democrat voted against (Wang 1997, 256). The long-term consequences of this act for the trajectory of subsequent American political and social history

were, obviously, enormous. It would be another 60 years before the federal government intervened in the Southern electoral process. The legacy of these decisions continues to shake American politics.

Conclusion

Starting with Edward Tufte's (1973) pioneering article, which suggested a link between gerrymandering and the declining swing ratio of 20th-century congressional elections, there has been considerable debate in the political-science literature over the impact of redistricting on competition in congressional elections. The current status of the debate is that redistricting either reduces, or has no effect, on competition. In this chapter, though, I have found that redistricting in the 19th century often *increased* competition. These results suggest that the impact of redistricting on electoral competition is conditional upon the broader institutional environment affecting the strategies of partisan mapmakers.

The findings in this chapter also cast a new perspective on electoral change in American political history. A traditional, organizing perspective of American politics is that periods of realignment produce large-scale transformations in public policy and political institutions. Critical elections are the manifestation of pent-up public demand for changing the status quo, currently frustrated by the regime in power. But what if the elections typically considered critical were, if only unintentionally, manufactured by politicians via institutional design? What if instead of large shifts in mass opinion, the swings in party fortunes were the unintended byproduct of strategic politicians manipulating electoral districts?

The elections of 1854, 1874, and 1894 brought together a rare confluence of events: manufactured competitiveness, an overabundance of marginal districts for one party created by redistricting, and a vote swing against that current dominant party. High vote-seat ratios were a necessary, but not sufficient, condition for a huge seat swing toward one party. It also required that the party on the losing end of the vote swing had an overabundance of marginal seats. One can see this by considering what would have happened had there been an equivalent five-point swing the other way, in favor of the dominant party. Even in this extremely competitive party system, such a swing would have generated comparatively modest gains for Democrats in 1854 and 1894, and Republicans in 1874. In this regard, 1854, 1874, and 1894 would have looked more like the elections of 1958 or 1964—a majority party adding to its already substantial

advantage—than the "critical elections" they have since been christened by historians and political scientists.

This argument is not meant to deny the historical and political importance attached to events such as the Kansas-Nebraska Act, the Panic of 1873, or the Panic of 1893. The majority party at the time, in all three instances, would have suffered at the polls, regardless of district design. Yet, the magnitudes of the seat swings were directly influenced by the particular redistricting strategies pursued by state political parties. These results remind us that that in interpreting change in political representation it is critical to recognize how the strategic design of electoral districts channels political events to accelerate or decelerate changes in public preferences.