Fall 11-2013

Every Picture Tells a Story: The 2010 Round of Congressional Redistricting in New England

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Abstract
The United States Constitution requires that the number of representatives in Congress be reapportioned among the states based on a decennial census, and the U.S. Supreme Court ruled half a century ago that congressional districts within each state must be, as nearly as practicable, equal in population. However, the actual drawing of district lines for our national lower house and the methods employed for doing so are largely left to the individual states. Redistricting thus presents a fertile field for the comparative examination of state politics and political institutions.

Keywords
Redistricting, New England

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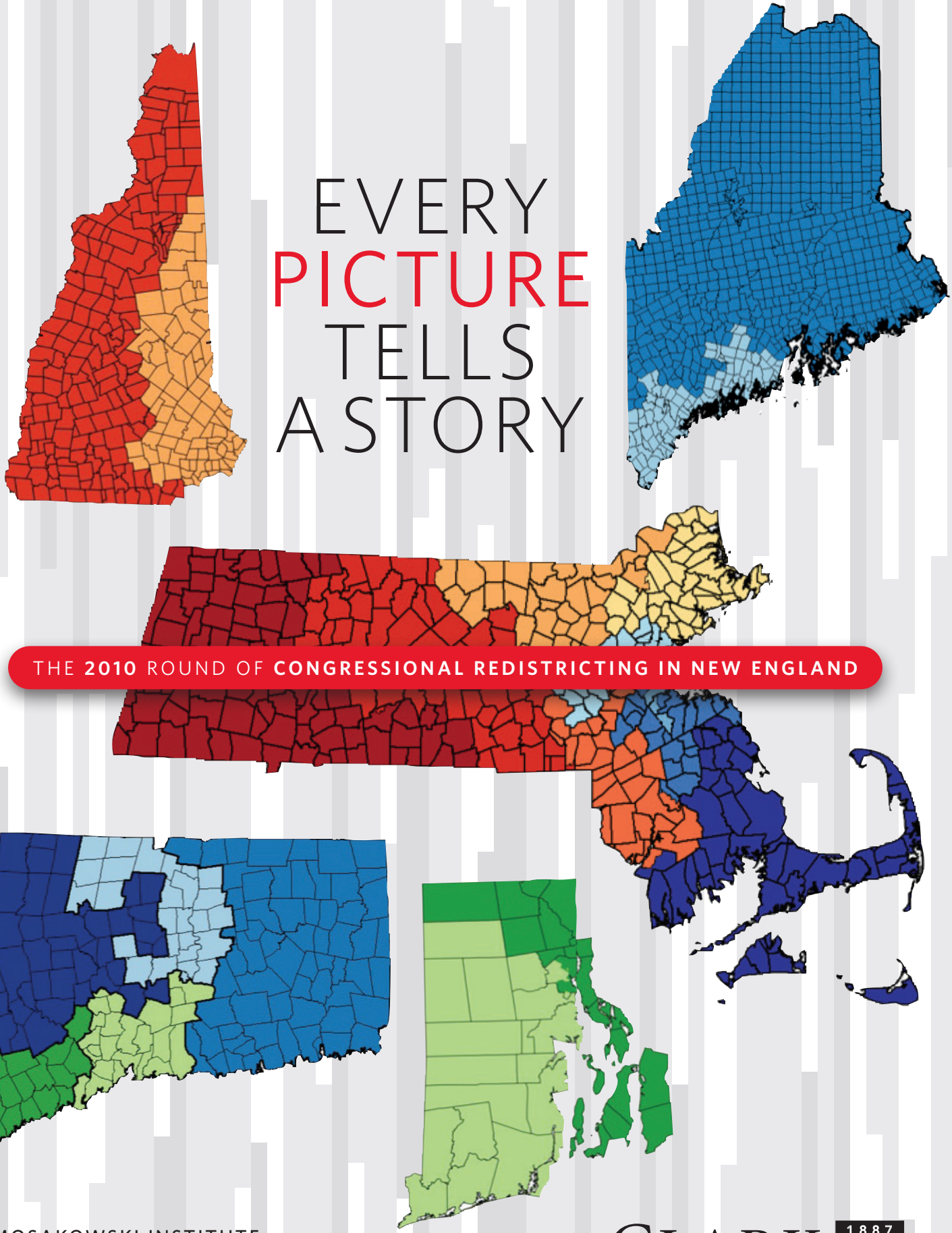

EVERY PICTURE TELLS A STORY

THE **2010** ROUND OF **CONGRESSIONAL REDISTRICTING IN NEW ENGLAND**

MOSAKOWSKI INSTITUTE
FOR PUBLIC ENTERPRISE

Robert Boatright and Jim Gomes, Editors

NOVEMBER 2013

CLARK UNIVERSITY 1887

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INTRODUCTION

In the spring of 2012, we were privileged to organize and present a panel on "Redistricting in New England" at the Annual Meeting of the New England Political Science Association (NEPSA) in Portsmouth, New Hampshire. This booklet consists of papers that are based on the presentations made by the panelists and, in one case (Rhode Island), a paper written by two of our students in a 2011 Congressional Redistricting course at Clark University.

The United States Constitution requires that the number of representatives in Congress be reapportioned among the states based on a decennial census, and the U.S. Supreme Court ruled half a century ago that congressional districts within each state must be, as nearly as practicable, equal in population. However, the actual drawing of district lines for our national lower house and the methods employed for doing so are largely left to the individual states. Redistricting thus presents a fertile field for the comparative examination of state politics and political institutions.

New England has become, by many measures, the most Democratic-leaning region in the United States. It might seem, at first, that this would make redistricting in this region rather uninteresting. However, in four of its five states that redrew congressional district lines after the 2010 census (Vermont, because of its small population, has had but one district since 1933), partisan considerations played a significant part in the recent round of redistricting. As the papers collected here vividly demonstrate, the outcomes of each state's redistricting processes reflect the interplay of a variety of factors:

- the very different responses by the majority party in the state legislature to a perceived electoral threat to a co-partisan member of Congress (New Hampshire and Rhode Island);
- the possibility of achieving partisan gain — even in the "zero sum" situation of the two-district states — through the delicate calculus of improving a party's chances enough to win one district, while diminishing their chances just enough so as not to lose the other (Maine, New Hampshire, and Rhode Island);
- the possibility that, because of the unusual state laws regarding the allocation of electoral votes, redistricting could conceivably affect the outcome of a future presidential election (Maine);
- the role of independent, nonpartisan redistricting entities in redrawing a state's district lines (Connecticut and Maine);
- the appeal, to legislators, judges, and citizens, of maintaining the status quo or something close to it when drawing new district boundaries (Connecticut, Maine, and New Hampshire).

The only state where complete one-party control of the congressional delegation appeared secure from the outset — Massachusetts — was also the only state in the region that was losing a seat, due to the Bay State's slow growth relative to the rest of the nation over the past decade. The "musical chairs" nature of that process was unique in the region for this decade.

One theme that emerges from this examination of the 2010 round of redistricting in the five states is the relative invisibility of the process to voters. There are many possible explanations for this. It may be because most voters tended to wind up in a similar district to their previous one, because most voters calculated that line-drawing decisions would have little impact on things they cared about, or simply because voters were unaware of the process (an unawareness no doubt abetted by the relative lack of media coverage of redistricting). Whatever the reason, the state-by-state accounts here show that there is little citizen engagement in the redistricting process. Also, because of the relative homogeneity of the population in the region and its relatively placid recent history regarding voter qualifications and procedures, considerations of race and the Voting Rights Act played only a small role in the region's drawing of new district lines.

We are publishing these articles in part because we believe that today, far more than in previous years, citizens have the tools to engage constructively in redistricting. In our experience at Clark teaching students about the process (discussed in our article "Teaching Redistricting to Undergraduates: Letting the People Draw the Lines for the People's House," PS: Political Science & Politics 46 (2): 387-394), we were struck by our students' interest in the process and their efforts to consider the broader public interest in their own line-drawing efforts. We offer these essays with the hope that we can add to the historical record that will guide policymakers and citizens the next time New England's congressional district lines are drawn.

We are grateful for the knowledge, insight, and expository skills of all of our colleagues who authored the articles in this compendium: John Baughman, Diana Evans, Amelia Najjar, Nicholas Rossi, and Dante Scala. We also thank Maureen Moakley who made the presentation on Rhode Island at the Portsmouth meeting and advised on the Rhode Island article herein. We owe a special debt of thanks to Nicholas Giner, our co-author on the Massachusetts article, who also applied his skills as a geographer to produce the maps for each of the state articles. Finally, we gratefully acknowledge the generous support of Clark University's Mosakowski Institute for Public Enterprise, which made both the NEPSA panel and this booklet possible.

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REDISTRICTING IN CONNECTICUT, 2011-2012

*Diana Evans**

Redistricting in Connecticut is not the usual raw partisan affair, although partisanship plays a significant role. The Connecticut Constitution, Article III, Section 6, requires the appointment of a bipartisan "reapportionment committee" by legislative leaders of both parties; the committee consists of an equal number of Republicans and Democrats. The timeline is as follows:

By Feb. 15, "the general assembly shall appoint a reapportionment committee consisting of four members of the senate, two who shall be designated by the president pro tempore of the senate and two who shall be designated by the minority leader of the senate, and four members of the house of representatives, two who shall be designated by the speaker of the house of representatives and two who shall be designated by the minority leader of the house of representatives" (Connecticut Constitution, Article III, Section 6). Those leaders virtually always select themselves and a top deputy or other loyalist.

If that committee agrees on a plan before Sept. 15, it is presented to the General Assembly, which must adopt the plan by a 2/3 majority for it to take effect. If the redistricting committee fails to adopt a plan by Sept. 15, the governor is required to appoint a "reapportionment commission" which, in practice, consists of the existing eight-member committee and a ninth member chosen within thirty days by the original eight members. Although the ninth member obviously was intended to serve as a tie-breaker, historically he played that role only in the 1981 redistricting; in other years, that member has been neutral, as he was, by explicit agreement among commission members, in 2011. If the commission adopts a redistricting plan by a simple majority by November 30, the plan becomes law.

However, if the commission fails to meet the November 30 deadline or if an adopted plan is appealed, the Connecticut Supreme Court takes over. The court may order the redistricting commission to alter its plan or it may draw up its own plan. The Supreme Court must issue or approve a final plan by February 15. In 2011, the commission failed to adopt a plan for Congress and the Supreme Court intervened.

Redistricting in Connecticut is designed to be controlled by the General Assembly's party leadership; therefore, partisanship is inevitably and intentionally at the heart of the process. However, each party is given equal power; even the appointment of the ninth member must be minimally bipartisan. As long as the redistricting commission controls the process, any plan to which it agrees must be bipartisan. If the commission is committed to devising a plan before the Supreme Court has a chance to take over, each party can be expected to minimize its losses. That is because neither party is in a position to make major gains at the other party's expense, as would be the case with purely partisan gerrymandering. Thus, if the two parties enjoy an even division of seats, any plan to which the commission agrees is likely to protect the status quo, meaning incumbents.

However, several factors can introduce a potentially destabilizing set of threats and opportunities: the loss or gain of a seat in the decennial reapportionment, the emergence of one or more open seats, or the existence of substantial seat advantage to one party. Such circumstances increase the incentive for one party or the other to withhold agreement and gamble on the Supreme Court. That is what happened in 2011-12.

REDISTRICTING IN 2001: CONNECTICUT LOSES A DISTRICT

In the 1990s, Connecticut's population grew less than that of many other states; as a consequence, the state lost one of its six congressional districts in the 2001 reapportionment. Not surprisingly, the ensuing redistricting process was unusually contentious but nevertheless produced a bipartisan compromise: it essentially combined the 5th District, represented by Democrat Jim Maloney, and the 6th District, held by Republican Nancy Johnson. The commission did so by shifting the boundaries of the surrounding districts in such a way that their partisan balance was not upset, and by drawing the new 5th district to make it as competitive as possible, giving both incumbents a reasonable chance of winning it.[1]

The resulting 5th district encompassed much of northwestern portion of the state. Approximately 21 percent of the population is in Republican-leaning Litchfield County, which had been part of Johnson's old district. Some of the more Democratic-leaning cities of the of old 5th district, cities that had been in Maloney's base, were also included in the new 5th district. However, in the interest of creating a competitive 5th district and protecting incumbents in the other four districts, one of the key Democratic towns — Bristol — was carved out and placed in the heavily Democratic 1st district, as were some of the smaller Republican-leaning towns of the northeastern part of the old 6th district. The resulting 2001 map (Figure 1) was characterized by a "claw" shape (formed by the 1st district) on its eastern boundary,

[1] The Republican, Nancy Johnson, won the 2002 election by a relatively narrow 54 percent.

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laying the groundwork for a Republican challenge to any Democratic map that preserved that shape.

In the first two elections following the 2001 redistricting, Republicans enjoyed an advantage, holding three of the five House seats (including the new 5th District), despite the fact that the state had been trending Democratic for a number of years. However, in the Democratic wave elections of 2006 and 2008, all three Republicans lost their seats, upsetting the partisan balance and giving Republican redistricters in 2011 less to lose by proposing a more radical redistricting plan, one that was virtually certain to throw the decision to the Supreme Court.

REDISTRICTING IN 2011

The leaders of each party in each chamber appointed themselves and a member of their respective leadership teams to the redistricting committee. The co-chairs were Senate President Pro Tempore Donald Williams (D) and House Minority Leader Lawrence Cafero (R). The other two legislative leaders on the committee were House Speaker Christopher Donovan (D) and Senate Minority Leader John McKinney (R). However, Speaker Donovan, as a candidate for the open 5th District House seat, was pressured by Republicans to resign (although that pressure did not come from the Republican members of the commission itself), which he did on Nov. 30 after the state legislative district plan was completed but before significant work began on the congressional map. He appointed Majority Leader Brendan Sharkey to take his place.

The committee held six public hearings in July 2011, in Hartford (two hearings), New Haven, Norwich, Norwalk and Waterbury. Testimony was given by a number of state House members as well as citizens' groups such as Common Cause and the Latino and Puerto Rican Affairs Commission, along with a number of interested individuals. Much of the testimony pertained to state legislative districts, but there was some comment on congressional districts as well.

The Reapportionment Committee (as it was officially known) took as its first task the redrawing of the state's 187 House and Senate districts. The Committee acknowledged on September 9 that, as in 1991 and 2001, it would fail to meet its Sept. 15 deadline to redraw lines for the state districts, necessitating the appointment of a ninth member. (Pazniokas, Sept. 9, 2011). After the Sept. 15 deadline, the Committee officially became the Reapportionment Commission and appointed former Democratic State Auditor Kevin Johnston as its ninth member. However, the Commission, following past precedent, was committed not to cede the process to Johnston's potentially tie-breaking vote; rather, they decided either to reach a bipartisan compromise or turn the process over to the Supreme Court for the first time ever (Pazniokas, November 30, 2011). Indeed, according to the *Connecticut Mirror,* Johnston was not part of the daily negotiations at all (Pazniokas, Nov. 22, 2011).

The Commission unanimously approved state legislative districts in late November, but had made little progress on congressional districts, ensuring that formal control of the redistricting process would pass to the Supreme Court. However, the Court,

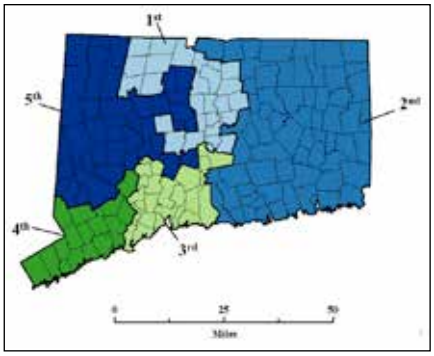

FIGURE 1: CONNECTICUT CONGRESSIONAL DISTRICTS, 2002-2010

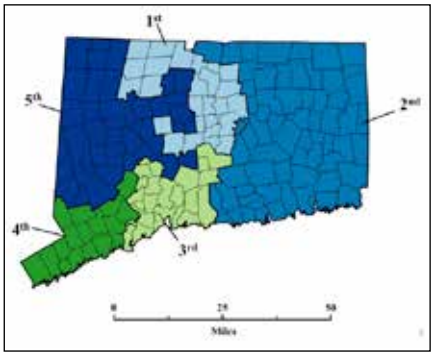

FIGURE 2: HOUSE/SENATE CONGRESSIONAL DISTRICT EXCHANGE, 11/10/2011

in an effort to keep redistricting in the hands of legislative leaders, extended the Commission's deadline until December 21.

In Connecticut, congressional districts have to be (as in every other state) as nearly equal in population as practicable. Given shifts in the state's population of 3,574,097 (United States Census 2010), the largest change was to be made to the 2nd District, comprising the entire eastern portion of the state; 15,000 people in that district would have to be moved to adjacent districts to produce an average district size across the state of approximately 714,819 people. Although it is not legally required, redistricters generally attempt not to split any of the state's 169 towns into more than one district.

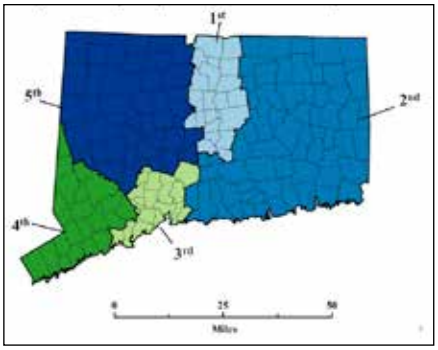

FIGURE 3: MAP PROPOSED BY CONNECTICUT REPUBLICANS

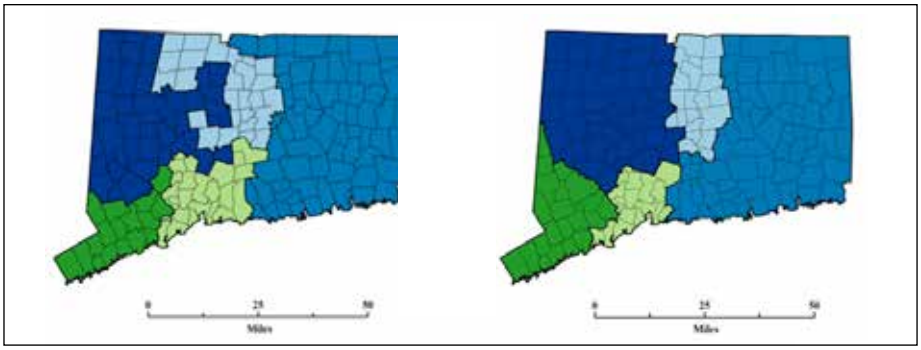

FIGURE 4: DEMOCRATIC (LEFT) AND REPUBLICAN PLANS COMPARED

The large number of towns relative to population makes this relatively easy to achieve, with only a few exceptions as required to achieve population equality or political goals.

If the objective were to maintain the status quo, the relatively small changes required by population shifts between 2000 and 2001 would mean that the pre-existing partisan balance could rather easily be maintained. Thus, the Commission's four Democrats proposed a map that largely maintained existing boundaries, while shifting lines slightly to add population to all but the 2nd District (Figure 2).

Yet despite the fact that the largest changes were required in the eastern part of the state, Republican redistricters focused on the western districts, where they saw the greatest potential for gains (Figure 3). They proposed a map that would have made the newly Democratic 4th District solidly Republican, and shifted the 5th to a more Republican leaning as well. Indeed, until Democrat Jim Himes' defeat of Chris Shays in 2008, the 4th district had consistently elected moderate Republicans to the House. The Republicans' major proposal for that district would have moved the Democratic city of Bridgeport out of the 4th District into the already heavily Democratic 3rd District, home to New Haven, another overwhelming Democratic city. That change would have left the 4th district even more heavily dominated by affluent Fairfield County, with its more Republican inclinations. This proposal prompted accusations from minority group representatives, including the NAACP, that Republicans were attempting to "bleach" the 4th District without significantly increasing the probability of electing a minority representative in the 3rd District.

By the court-imposed December 21 deadline, Republicans on the redistricting commission had backed off that proposal but continued to pursue the second part of their plan, which involved drawing the 5th District's lines in a manner more favorable to Republican candidates (Altimari, Dec. 22, 2011). As the 5th District was to be an open seat in 2012, it offered the best chance for a Republican gain in 2012. The Republican plan again moved a heavily Democratic city — New Britain — from the 5th District to the already Democratic 1st District. It also moved Torrington, which is competitive, and some smaller Republican towns from the 1st into the 5th; both changes would make the 5th more Republican.

To accomplish this goal, Republican map-makers increased the compactness of the district. Their map eliminated the 1st District's claw around heavily Democratic New Britain, drawing that city into the 1st District and moving back into the 5th District six Republican-leaning towns currently in the northwestern part of the 1st District: Colebrook, Hartland, Barkhamsted, New Hartford and Granby. Figure 4 compares the Democrats' and Republicans' proposals.

However, Democrats, especially African-American Democrats, strenuously opposed those changes as well: although the 1st District's minority population would have grown from 35 percent to 40 percent, the minority population in the 5th District would have declined from 27 percent to 20 percent. Given that the 1st District was already solidly Democratic and the 5th District was much more competitive, that change might have resulted in a net decline in minority group influence by making it no more likely that the 1st District would elect a Democrat and less likely that the 5th District would do so. "Black and Latino politicians, all Democrats, said the Republicans' claim that their plan would have enhanced chances for a minority candidate to eventually be elected in the 1st was a pretext. If the GOP was interested in helping minorities, they might

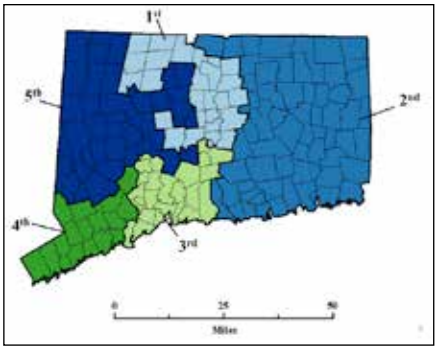

FIGURE 5: SPECIAL MASTER'S PLAN; CONNECTICUT CONGRESSIONAL DISTRICTS 2012

have consulted with the legislature's Black and Puerto Rican Caucus, said Rep. Gary Holder-Winfield, D-New Haven. 'That didn't happen,' he said" (Pazniokas, Dec. 21, 2011).

Given the disparity between the two parties' proposals and the lack of incentive of either to compromise, the commission failed to reach agreement by its court-imposed deadline of Dec. 21. House Minority Leader Lawrence Cafero said that the two parties had agreed on all but 13 towns, "with most of the disagreement centering around the ragged border of the 1st and 5th districts. 'I think it boils down to New Britain,' Cafero said" (Pazniokas, Dec. 21, 2011).

On December 28, the *Hartford Courant* reported that the Supreme Court would appoint a special master (from candidates nominated by commission members) to redraw the district lines. On December 30, the Court chose political scientist and lawyer Nathan Persily of the Columbia University Law School. Within days, the Court essentially tied the special master's hands, issuing the following instructions:

2. In developing the plan, the Special Master shall modify the existing congressional districts only to the extent reasonably required to comply with the following applicable legal requirements:
   a. Districts shall be as equal in population as is practicable.
   b. Districts shall be made of contiguous territory.
   c. The plan shall comply with 42 U.S.c. § 1973(b) and with other applicable provisions of the Voting Rights Act and federal law.
3. In no event shall the plan of the Special Master be substantially less compact than the existing congressional districts and in no event shall the plan of the Special Master substantially violate town lines more than the existing congressional districts. (Supreme Court, Jan. 23, 2012)

The key to the eventual outcome is in the instructions on compactness: in (3) above, the Court ordered that districts not be made less compact than they currently were, but did not require that they be made *more* compact, a key feature of the Republican proposal. Given that the special master was also ordered to approve only minimal changes to the existing map, it was unlikely that he, or, more importantly, the Court, would approve the Republican proposal.

Indeed, the Democratic proposal had the clear advantage. As the *Connecticut Mirror* reported, "The Democratic plan makes no changes in 164 of the 169 towns. It equalizes the populations of the districts by shifting the lines in four communities currently divided between two districts: Glastonbury, Middletown, Shelton and Waterbury. Durham, now split between the 2nd and 3rd districts, would be united in the 3rd. Torrington, which is split between the 1st and 5th, would be unchanged" (Pazniokas, January 6, 2012).

In a public hearing before the special master, held on Jan. 9, Republican commission members argued correctly that the current 5th district acquired its "bizarre" shape as a result of the merging of districts in 2001. Given that the 5th District was gerrymandered to make it competitive between two incumbents, Republicans essentially argued that its lines should not be considered sacrosanct and that greater compactness should and easily could be achieved in redistricting. As Republicans argued in an earlier brief to the Supreme Court, between the reapportionment of 1964, when Connecticut was awarded its sixth congressional district, and 1991, the maps "reflected compact districts and aligned communities of interest." Thus, Republicans argued that the Court should return to that standard and treat the 2001 map as an anomaly. (Supreme Court, Reply of the Republican Members of the Reapportionment Commission, 2011).

By contrast, Democrats argued that their own map, which largely preserved the status quo, had stood the test of time and had not been subject to legal challenges. Moreover, they noted that the district had proved competitive, as it had been won twice by a Republican and three times by a Democrat.

On January 13, Special Master Persily issued his draft report; as instructed, he made minimal changes to the existing map (Figure 5). He noted that while his plan achieved slightly greater compactness, "Both the Special Master's Plan and the Democrats' Plan reunite Durham and split Glastonbury, Middletown, Shelton, Torrington, and

Waterbury" (Persily 2012, p. 25). Thus, the towns contested by the Republicans stayed where they were placed in 2001.

On February 10, only five days ahead of the Constitutional deadline, the Connecticut Supreme Court adopted the special master's recommended map, handing victory to the Democratic members of the Reapportionment Commission and setting the stage for a more competitive race for the open 5th District seat than the Republicans would have preferred. Republicans' fears were realized in 2012 as Democrat Elizabeth Esty won the seat by a 52 to 48 percent margin. The state's other four representatives all won comfortably.

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CAN'T GET THERE FROM HERE: Maine's Circuitous 2011 Redistricting

*John Baughman**

Nationally, the 2010 election gave Republicans not only a large majority in the U.S. House of Representatives by recent standards — and their largest caucus since the Truman Administration — but enough victories in state legislatures to suggest they could use the redistricting process to maintain their majority past 2012. After that election, they had legislative majorities in 25 states, the most since 1928. This gave Republicans arguably their greatest advantage in redistricting in a century, and certainly since the advent of the modern redistricting process in 1962.[1]

The results in Maine seemed to be of a piece. For the first time in almost half a century, Republicans won the governorship and majorities in both chambers of the state legislature. Not only had the party won control, but the conservative Tea Party wing was ascendant at the expense of the more moderate state Republican establishment. To the surprise of many both inside the party and out, conservatives were able to replace the establishment's party platform with a much more conservative, Tea Party-inspired alternative (Wickenheiser 2010). With these victories came great expectations, including the hope that redrawing the state's legislative and congressional districts might help Republicans. As one Republican voter said at a public hearing on the party's map, elections have consequences.

Nevertheless, the experience in Maine appears at odds with these expectations. After Republicans proposed a bold redrawing of the state's two congressional districts, the state legislature approved a plan that was nearly identical to the previous map and provided the GOP negligible advantage. Institutional and political constraints prevented Republicans from using their majority to reshape Maine electoral politics, although they could claim a small victory in shifting the redistricting calendar to conform to the rest of the country.

HISTORY AND PROCESS

Maine is one of three states that use an advisory panel to hold public hearings and to draft redistricting recommendations for the state legislature, here called the Legislative Apportionment Commission. The commission has 15 members, seven appointed by the Democrats and seven by the Republicans, with the fifteenth member selected by the other commissioners and serving as chair.[2] In practice, because the major parties typically submit two competing plans for consideration, this means the recommended plan is determined by that fifteenth commissioner. After a recommendation has been made, the legislature has 120 days to act. Congressional redistricting in Maine occurs through an act of the legislature, signed by the governor, and requires a two-thirds vote of each chamber. Should they fail to act by the deadline, the Maine Supreme Judicial Court takes responsibility for the redistricting.

In other ways Maine has been even more unusual in its electoral practices. Throughout much of the 19th century, election dates varied widely from state to state, sometimes by more than a year. An 1872 federal law standardized federal elections on the first Tuesday after the first Monday in November of even numbered years. However, that law made an exception for those states which had an election date specified in their state constitutions. So it was for Maine. Not until 1958, several decades after the last state, did it revert to the national standard.

Two more recent deviations from national practice are relevant here. First, since the 1972 election Maine has allocated its Electoral College votes by congressional district, one elector per district plus two for the candidate winning the statewide vote. Second, by state law starting in 1983, congressional redistricting has been conducted in the third year after a decennial census, rather than in the second year as in every other state. Both of these variants, the latter unique in the country and the former nearly so, affected party strategy in the redistricting that occurred following the 2010 census.

REPUBLICAN GAMBIT

The strategy of Maine Republicans had two linked elements, to draw a map more favorable to their candidates and to change the date the map would take effect in order to increase its impact. To redraw the map, the most direct route would be to have it approved by the commission, and they would need to convince its nonpartisan chair. As a result, in addition to a strategic motivation the plan put forward had also a public rationale.

Ever since Maine went from three congressional districts to two following the 1960 census, the line dividing the first district from the second has followed a very similar path:

[1] Because there was no reapportionment following the 1920 census, the last time the Republican Party had such influence over redistricting was after the 1910 census.

[2] To be more specific, three commissioners are selected by the state House majority leader and three by the minority leader, two each from the state Senate majority and minority leaders, one by the chair of the Maine Democratic Party, and one by the chair of the Maine Republican Party. Each party's contingent of six appointees chooses a seventh from the public, and these two partisan commissioners select the fifteenth member.

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A southern, largely coastal district ranged from Kittery at the New Hampshire border northeast to Camden and inland to Augusta, with the second district comprising the much sparser and more expansive remainder of the state. The two districts corresponded roughly to what some call the "two Maines" with one poorer, more rural and more conservative than the other (Fried 2012). Adjustments to account for population migrations following *Baker v. Carr* involved shifting towns from the first district to the second — usually in Kennebec, Waldo and Knox counties — creating districts that became progressively even more divergent in their land mass and urbanicity. Figure 1 shows Maine's two congressional districts as they stood before redistricting.

Instead, Republicans proposed using a north-south boundary to divide the first and second districts, as shown in Figure 2. It was a dramatic shift from practices of the previous half century, and also yielded a sharp contrast with the Democratic plan (shown in Figure 3), which would retain something far closer to the status quo. In a state of 1.3 million people, about 300,000 would have changed districts under the Republican plan whereas only a few thousand would have done so in the incremental Democratic alternative. The Maine GOP reasoned that their plan would reduce the socioeconomic divisions between the two districts, but the Republican plan, would also serve a strategic purpose. The shifts would have added far more Republican voters to the first district, making the seat less safely Democratic, and at the same time the current Democratic incumbents, Chellie Pingree and Mike Michaud, would be forced to run against each other in the second district (Metzler 2011). If the cards fell right, the strategy could net Republicans two seats in the House. As a further constraint on the Democrats, they insisted that any redistricting plan ought to leave a population difference of only a single resident, as theirs did.

The second prong in their strategy involved moving the effective date for Maine's congressional redistricting to 2012 in order to conform to the rest of the country. Under state law, redistricting would not occur until 2013 and take effect with the 2014 midterm election. Two Republicans living in the 1st district, which had gained several thousand residents since the previous census compared with the 2nd, filed suit in federal district court, arguing that this diluted the value of their vote in the 2012 election in violation of the one-person, one-vote principle outlined in *Baker v. Carr* (Hench 2011). Named as defendants were Gov. Paul LePage, President of the Maine Senate Kevin Raye, Speaker of the Maine House Robert Nutting, and Maine Secretary of State Charles Summers. All these defendants, however, were Republicans and supportive of the lawsuit, and Raye was running in the Republican primary to be the party's nominee for the 2nd district race.

Although Republicans did not say so publicly, presidential politics helped to motivate their strategy. The reason has to do with another of Maine's peculiarities. As noted above, since the 1972 election Maine has allocated its Electoral College votes by congressional district. It has not yet resulted in a split vote, but it has affected election strategy in the state on multiple occasions.[3] Ross Perot came closest in 1992, finishing less than five percentage points away

[3] Nebraska, which has also allocated its electors by congressional district since 1992, did split its votes in 2008, with Barack Obama winning the 2nd district in Omaha while John McCain won the other Nebraska districts and the state popular vote.

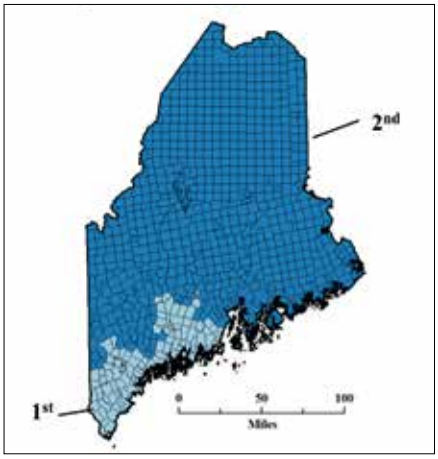

FIGURE 1: MAINE CONGRESSIONAL DISTRICTS, 2002-2010

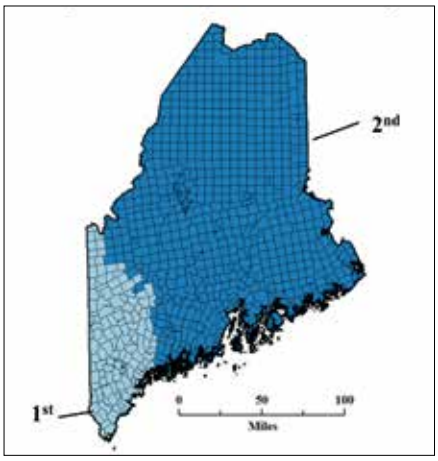

FIGURE 2: MAINE CONGRESSIONAL DISTRICTS — REPUBLICAN PLAN

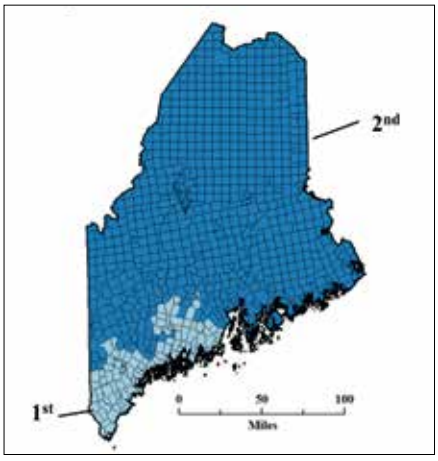

FIGURE 3: MAINE CONGRESSIONAL DISTRICTS — DEMOCRATIC PLAN

from winning an elector. With the state becoming more Democratic over the last two decades of presidential elections, Republicans have seen the 2nd district as their best, and arguably only, shot at winning an electoral vote in the state, with the George W. Bush and John McCain campaigns devoting resources there. Barack Obama received 55 percent of the district's vote in 2008 and would receive 53 percent in the new district in 2012.

Even the 2nd district, consistently the more conservative of the two, has begun to slip out of reach for Republicans — in 2010, an excellent year for Republicans, Mike Michaud (D) won reelection by 13 percentage points (Sambides 2010) — raising the stakes for this redistricting effort. Moving Republican voters from the 1st district to the 2nd would cede three of four electoral votes to Democrats while making the race for that fourth elector more competitive. Not since Rutherford Hayes vs. Samuel Tilden in 1876 has a presidential race come down to a single electoral vote, but there were plausible scenarios that would have produced a 269-269 outcome in 2012 — or 270-268 in favor of Republicans were they to peel away an elector in Maine (Goodman 2011).[4]

The strategy was in keeping with national GOP conversations about how to tilt the electoral map in their favor in 2012 and beyond. Pennsylvania Republicans, for example, came close to enacting a law to allocate its electoral votes by congressional district in the manner of Maine and Nebraska. The state has voted for the Democratic nominee since 1992 and in recent years has been shedding its reputation as a swing state to become solidly Democratic in presidential elections. State GOP leaders believed that such a system, together with strategic redistricting, would benefit the party's presidential chances (Silver 2011; Seelye 2011).

DEMOCRATIC RESPONSE

The Democrats chose to defend the status quo, or at least something very close to it. The plan they put forward proposed only incremental changes of the sort used since 1962, shifting a single town from the 1st district to the 2nd in order to create more equal populations but preserving the shape of the previous map (Metzler 2011). This would have kept the 1st district solidly Democratic, the 2nd district leaning Democratic, and both of the party's incumbents in safe and familiar constituencies. Indeed, it was precisely the incrementalism that they used in trying to persuade the nonpartisan commission chair, Michael Friedman, to adopt their plan over the Republican one. Friedman asked the parties to submit new plans in order to find compromise, so Democrats offered a variation on their previous plan, this time shifting six additional towns but reducing the population difference to one resident, as Republicans had insisted (Russell 2011a).

If the presidential election helped to motivate the Republican strategy, it also helped to drive the Democratic response. Protection of their two incumbents also played a part. Because the governor would not defend the state against the lawsuit to move up the redistricting date, the Maine Democratic Party filed an intervening brief in order to avoid a default judgment in favor of the plaintiffs (Kim 2011). Democrats argued that the population difference was still small and that the court ought to defer to the orderly process set out in state law and used for the three previous redistrictings. Case law and data were not on their side, but they hoped for a cautious court that would defer judgment to the state.

OUTCOME

The first shoe to drop was the federal district court ruling on the redistricting date. On June 9, the three-judge panel announced that Maine had to resolve the population inequity between the districts prior to the 2012 election (Canfield 2011). In order to have a map in place by the date candidates could file for the 2012 primaries, the court required the state legislature to enact its plan by September 30, and, failing that, for the state judiciary to approve a plan no later than November 15. If the latter date were not met, the federal court would impose its own plan by January 1, 2012.

Maine Republicans wanted to arrive at a district map through the legislative process, where they retained some control, rather than through state or federal courts, especially because the latter would be more likely to approve a more incremental plan closer to the one preferred by Democrats. As Republican legislator and commission member Ken Fredette said in a party press release, "The vote that counts will be the one taken by the Maine House of Representatives and Senate during the special legislative session which is scheduled for September 27, 2011. I would rather the legislature, not the courts, resolve this."

The Apportionment Commission worked on the question over the summer of 2011, with a public hearing on August 23. After asking the parties to offer compromise plans, and seeing little compromise between them, Friedman cast the deciding vote on an otherwise party-line 8-7 decision in favor of an incremental plan very close to what the Democrats had offered (Metzler 2011b). Republicans immediately reminded the public that

[4] For a recent analysis of plausible scenarios which could result in an Electoral College tie, see Silver (2012).

the consequential vote would be the one taken by the state legislature and that the commission recommendation was merely that.

The legislative process presented its own hurdle, however. By law, a plan could be sent to the governor for his signature only with a 2/3 vote of both chambers; Republicans, despite their gains in 2010, were well short of that threshold in the House and the Senate. In addition to their inability to sway Democrats to their plan, some Republicans most affected by the plan began to voice concerns as well. GOP leaders from rural western Oxford County objected that they would be moved from the 2nd district, which was dominated by rural interests similar to their own, to the 1st district, which would be dominated by the interests of Portland and other population centers on the southern coast of the state (Mistler 2011).

The backlash within the party was similar to the resistance that prompted Pennsylvania Republican leaders to drop their Electoral College plans. In that case, GOP members of the U.S. House and the state legislature feared that their own electoral chances would be hurt if Democrats, in an effort to win the district-level electors, invested heavily in districts they otherwise would have written off (Hirschhorn 2011). In Maine as in Pennsylvania, local self-interest by party members induced the party to walk back a bold plan to redraw the state's electoral landscape.

In response to the dwindling prospects for their plan via the standard process, some Republicans in the legislature floated the possibility of structuring a vote such that it would require only a simple majority, noting that Democrats had pulled similar procedural maneuvers in the past on measures ostensibly requiring a supermajority. Legislative leaders quickly rejected the possibility, and there were two political reasons for them to do so. One was a threat that such a move would precipitate a people's veto question on the next statewide ballot, a procedure that allows Maine voters to reject legislative acts. Because many more residents would be switched under the Republican plan than either the Democratic alternative or the commission's recommendation, GOP leaders likely did not relish the chance to sell their more drastic version in an election. Second, Democrats further undercut Republican arguments about the need for a simple majority by pointing out that GOP leaders earlier in the year had cosponsored legislation to change the redistricting date — which included a supermajority provision (Russell 2011b).

Acting under pressure from the court, the commission recommendation, and Democrats, the Republican-led legislature adopted an incremental map (shown in Figure 4) nearly identical to the commission and Democratic schemes by a unanimous vote in the state Senate and with only three dissenting votes in the House. In the end, 13 towns in Kennebec County switched congressional districts, increasing on net the estimated number of Republicans in the second district by about 2,500 voters (Russell 2011c). The governor signed the plan into law a day before the court-imposed deadline. Fourteen months later, both of Maine's Democratic incumbents were easily reelected.

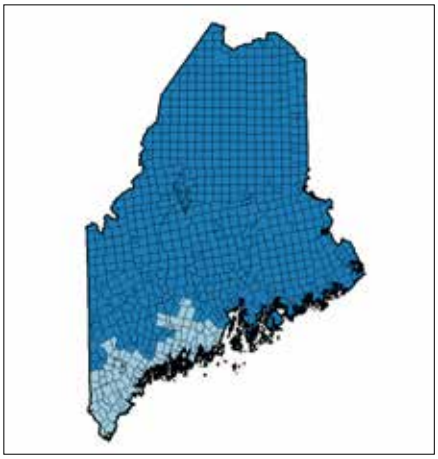

FIGURE 4: MAINE CONGRESSIONAL DISTRICTS, 2012–2020

CONCLUSION

Despite its successes in the 2010 election and the high ambitions which followed, the Maine Republican Party was unable to shift the congressional electoral calculus to any discernible degree in the first and second districts. The plan that was adopted was incremental and served largely to protect incumbent interests; the incumbents protected were Democrats. Legislative authority over redistricting was conditional both on implicit approval by the voters via a possible people's veto process and on judicial review. Together with growing rebellion in their own ranks over a more dramatic change in the map, these checks induced the Republicans to revert to the status quo.

Although the GOP failed to redraw the map for U.S. House elections, they succeeded in changing the calendar. Governor LePage and the Maine Republicans successfully sued to make Maine fall in line with the rest of the country and to have its redistricting occur in year two after a census rather than year three. To their chagrin, however, the change in calendar was much less valuable in the absence of a change in the map.

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REDISTRICTING MASSACHUSETTS 2012: A More Open Process, a More Rational Map, and No Indictments

Robert G. Boatright[1], Nicholas M. Giner[2], James R. Gomes[3]

It is generally assumed by political scientists that the primary goal of redistricting is partisan advantage. In states where one party controls the process, it will seek to maximize the number of congressional seats it holds either by packing members of the opposing party into a very small number of districts or by diluting opposition party representation by dispersing pockets of that party's supporters among a number of districts.[4] We have few theoretical guideposts, however, for looking at states such as Massachusetts — a state heavily enough Democratic that there are few ways in which one could draw districts that would reliably elect even a single Republican. Although we cannot yet know how Republicans will fare in Massachusetts' new districts over the coming years, it is clear that the Massachusetts legislature has a somewhat different set of incentives from most other American legislatures.

In our contribution to this volume we seek to explore these "second order" incentives. There are at least four such incentives that we argue are at play here. First, state legislators (and, in this case, state legislative committees) may seek to establish a reputation for performing the redistricting task well. The 2002 Massachusetts redistricting was widely viewed as a messy, undemocratic process in which personal grudges played a greater role than normative concerns. The committee, and particularly the state senator and representative who co-chaired it, had an incentive to perform in a way that would garner favorable media coverage and the respect and approval of the portion of the public, admittedly small, that pays attention to such matters. Second, personal relationships between legislators and members of Congress may determine redistricting's winners and losers. Because Massachusetts lost a seat, it was clear that at least two members of Congress would be very unhappy. Although legislators may develop relationships with members of Congress — through shared advocacy for federal projects or simply through joint campaigning — not all members of Congress will have clout with the redistricting committee. As of 2010 Massachusetts had several members of Congress who serve on powerful committees, but only five of the ten House members as of 2011 had previously served in the state legislature.[5] Third, legislators may seek to bolster the clout in Congress of particular regions of the state. Redistricting may thus be, in part, a process of evaluating the claims of different regions and discerning which cities will dominate the politics of individual districts. And fourth, state legislators may want to lay the groundwork for their own potential future runs for Congress by creating districts favorable to them. Advances in mapmaking technology — and in the availability of this technology to the public — made pursuing these goals easier for legislators, but (perhaps more importantly) these advances also gave the public a greater role in monitoring and participating in the process than had been the case in past years.

There is ultimately no way to go behind closed doors (and, despite the openness of the process this year, the doors are still closed during the crucial committee deliberations) to find out why districts were drawn as they are. It seems evident to us, however, that the political logic of the 2012 Massachusetts redistricting was shaped by factors such as those above. How else can one explain the radically different nature of the 2012 redistricting as compared to that of 2002, the fact that the resulting House districts arguably helped the Republican party more than they helped the Democratic Party, or the fact that the districts have, thus far, met with almost universal acclaim from everyone *except* the state's congressional delegation? Below we explain the circumstances surrounding these changes in Massachusetts' redistricting in light of our assumptions about what went on in the minds of those who actually drew the maps.

A RECENT HISTORY OF REDISTRICTING IN MASSACHUSETTS

Massachusetts is, by many measures, among the most Democratic states in the United States. Despite Republican gains elsewhere in the country in 2010, the state re-elected its Democratic Governor, Deval Patrick, and all ten of its Democratic members of the House of Representatives. As of 2011 the state's House of Representatives contained 128 Democrats and 32 Republicans, and the State Senate had 36 Democrats and four Republicans. Republicans have at times been successful at the state level, as the 2010 special election victory of Scott Brown and the gubernatorial victories during the 1990s and 2000s of William Weld, Paul Cellucci, and Mitt Romney show, and the state

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[4] There is truly vast literature on this subject; for a review, see Bullock 2010.

[5] These five are Representatives Frank, Keating, Lynch, Markey, and Olver. Massachusetts is typical of the rest of the United States in this regard; 220 of the 435 members of the House previously served as state legislators (Manning 2011).

congressional delegation did include several Republicans during the 1980s and 1990s. While it would be difficult to draw a district that would be likely to elect a Republican, it might be possible at the least to draw districts where Republicans would be competitive. State legislators have, however, never tried this, due no doubt to the perennial overwhelming Democratic majorities in both houses of the state legislature.

More consequentially, Massachusetts has also been losing population relative to the rest of the United States for the past several decades. Massachusetts lost a House seat in 1982 and 1992 redistrictings, and it lost another in this most recent redistricting, dropping from ten to nine seats. In the 2012 redistricting there was much reference in the media to communities of interest — some regions of the state have historically had their own seats, but population decline has made it clear that there are more communities and regions that believe themselves entitled to their own seat than there are seats.

At the time the 2012 redistricting process began, none of the state's ten incumbent House members had announced a decision to retire or to run for higher office. The redistricting math, then, was simple. At minimum, the districts would need to change such that at least two current House members were placed in the same district. The "winners" and "losers" in the process would be individual incumbents or particular regions, not Democrats or Republicans. Given that some of the state's existing districts looked to be oddly shaped, and that one area of the state that seemed reasonably coherent — the southeastern region along Buzzards Bay — had been chopped up among three congressional districts, a redistricting plan that prioritized compactness or communities of interest might well place more than two legislators in competition with each other.

Absent the overriding imperative to maximize Democratic seats, then, redistricting in Massachusetts has caused a variety of problems as legislators have used the process to reward friends and punish enemies. Governors have had a minimal role in redistricting over the past three cycles; in 1992 the Republican Party did have sufficient numbers in the state Senate to sustain a veto by Republican Governor William Weld, and the map that resulted from that round did, in fact, produce Republican victories, albeit short-lived ones, in two of the state's ten districts. In the 2002 redistricting Republican Governor Jane Swift[6] appears not to have played a role, and in 2012 Democratic Governor Deval Patrick could conceivably have vetoed a plan, although this veto would not have taken place on partisan grounds. In the 2002 redistricting then-state House of Representatives Speaker Thomas Finneran initially pushed the redistricting committee to carve up the district of one member of Congress he disliked, even though Massachusetts was not losing a seat in that year's redistricting.[7] Despite the fact that state law specifies that redistricting shall be overseen by a *joint* committee composed of state House and Senate members, Finneran, as House speaker, sought to preempt the joint committee's proceedings by introducing his own proposal. Finneran's gambit was that his evisceration of the Rep. Martin Meehan's Lowell-based district would be overshadowed by the creation of a majority-minority district. Meehan ultimately sought and received the backing of both of the state's (Democratic) U.S. senators, as well as the state's (Republican) governor. The Senate President, in response to the pushback against Finneran, announced that the senate, unlike Finneran, would take incumbency into account and avoid pitting House members against each other. A gerrymandered incumbent protection map, with oddly shaped North-to-South districts in the Southeasten part of the state (but which still included the majority-minority district proposed by Finneran), resulted. Finneran, meanwhile, ran into further trouble regarding the state legislative redistricting plan, which also appeared to play out political vendettas, was introduced so close to the state-mandated deadline that there was little public scrutiny, and was not as friendly to minorities as the congressional proposal. Finneran pled guilty to obstruction of justice in 2007 for his false and misleading testimony in a suit filed in 2003 regarding the legislative redistricting.

In short, the 2002 redistricting was a complete disaster in terms of the process, public perceptions of the process, and the resulting maps. At a minimum, it provided a lesson for future legislators on what not to do.

MASSACHUSETTS REDISTRICTING LAW AND PROCESS

Massachusetts state law specifies that a Joint Special Committee on Redistricting is to be created following the decennial census, and this committee is then to present its plan to the state House and Senate

[6] Swift, a Republican elected Lieutenant Governor in 1998, became Governor in April of 2001 when Governor Paul Cellucci resigned.

[7] A good summary of the 2000 redistricting is provided in Moscardelli (2002). Much of the discussion in this paragraph summarizes issues raised in the Moscardelli piece.

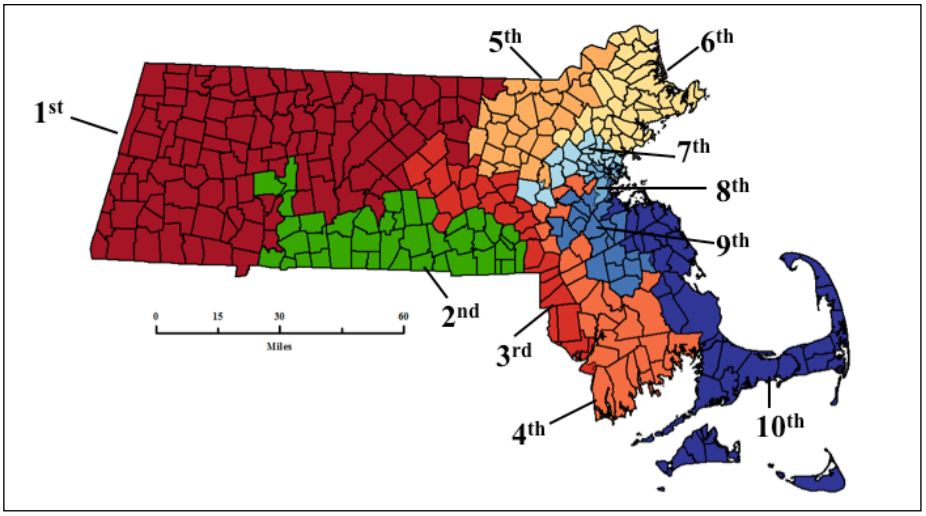

FIGURE 1: MASSACHUSETTS CONGRESSIONAL DISTRICTS, 2002-2010

for approval.[8] The governor has veto power over the eventual legislation, but his or her veto can be overridden. The 2011 act establishing the committee stated that the committee should consist of seven senators appointed by the Senate president, one of whom must be a member of the minority party, and 21 representatives appointed by the speaker, of whom four must be members of the minority party. Republicans, then, were represented on the committee in rough proportion to their presence in the legislature.

There are legal and geographic constraints on the process — the state contains sufficient, and sufficiently concentrated, minority population to construct one majority-minority district (this district was 51.4 percent minority as of the 2000 census[9]), and in places (notably the Cape Cod area) the state's geography and borders limit the creativity of line-drawers. As in most other states, there are also informal constraints, including addressing the needs and desires of different regions and, to the extent possible, avoiding dividing cities and towns.

Perhaps the most important informal constraint on the process, however, was a sentiment that the joint committee should not repeat the controversy of 2002. The bad aftertaste left by that redistricting may have prompted the legislature to open up the process in 2011; the Joint Committee scheduled 14 public hearings throughout the state. The Joint Committee also set up a website that contained summaries of Massachusetts redistricting laws, court cases related to redistricting (both at the state and federal level), past district maps, and links to public mapping programs.[10] The site listed the committee members and the public hearing dates, and after the public hearings had been completed, videos of these meetings were included. The committee also promised, and delivered, a two-week comment period between the release of proposed legislative and congressional maps and the state House vote on these maps. In the previous round of redistricting, the maps were released on a Thursday and voted upon on a Monday (see Brown 2011).

CONSEQUENCES OF THE NEW REDISTRICTING PLAN

The joint committee released its proposed congressional map on November 7, 2011. Figure 1 shows the 2002 and 2012 maps, and Table 1 shows the relationship between the geographic areas covered by the 2002 districts and those of the 2012 map.[11] Below, we describe the districting changes with reference to the criteria we expect would be of the most concern to politicians and Massachusetts citizens.

Changes from the Prior Districts: As Table 1 shows, five of the nine new districts have retained more than 80 percent of the land area of prior districts. One major change in the map was the combination of the state's two Western districts into one district, based in Springfield. The removal of this district resulted in the prior Springfield-based district shedding much of its territory in the central Southern part of the state, leading to a more compact district in the central part of the state. The central, Worcester-based district, in turn, lost a narrow corridor that had previously snaked from Worcester toward the Southeastern industrial city of Fall River. This change facilitated a second major alteration in the state's districts, as the Cape Cod district became more compact, losing the Boston-area suburb of Quincy and gaining the Buzzards Bay city of New

[8] For a full summary of Massachusetts redistricting laws, see http://www.malegislature.gov/District/Laws.

[9] This district, MA-8, has since its creation been represented by a white Democrat, Michael Capuano.

[10] See http://www.malegislature.gov/District.

[11] We provide data for shifts in territorial area here instead of population because geography remains static from one redistricting to the next while population shifts across decades. Some of the effects of population shift are addressed below in our discussion of changes in partisanship.

		2012 CONGRESSIONAL DISTRICTS								
		DISTRICT 1	DISTRICT 2	DISTRICT 3	DISTRICT 4	DISTRICT 5	DISTRICT 6	DISTRICT 7	DISTRICT 8	DISTRICT 9
2002 CONGRES-SIONAL DISTRICTS	DISTRICT 1	59.17	32.43	8.40	0.00	0.00	0.00	0.00	0.00	0.00
	DISTRICT 2	53.74	42.47	0.00	3.78	0.00	0.00	0.00	0.00	0.00
	DISTRICT 3	0.00	45.34	4.87	40.57	7.86	0.00	0.00	0.00	1.36
	DISTRICT 4	0.00	0.00	0.00	46.61	2.12	0.00	0.00	1.29	49.97
	DISTRICT 5	0.00	0.01	84.11	0.00	6.24	9.64	0.00	0.00	0.00
	DISTRICT 6	0.00	0.00	0.03	0.00	0.04	99.94	0.00	0.00	0.00
	DISTRICT 7	0.00	0.00	0.00	0.09	97.87	0.05	1.99	0.00	0.00
	DISTRICT 8	0.00	0.00	0.00	0.11	8.81	0.00	87.96	3.12	0.00
	DISTRICT 9	0.00	0.00	0.00	17.70	0.00	0.00	7.46	70.92	3.92
	DISTRICT 10	0.00	0.00	0.00	0.00	0.00	0.00	0.00	10.02	89.98
	TOTAL	112.91	120.25	97.41	108.85	122.95	109.62	97.41	85.36	145.24

TABLE 1: CHANGES IN TERRITORY OF MASSACHUSETTS CONGRESSIONAL DISTRICTS, 2002-2012

Bedford and part of Fall River. The remainder of Fall River is now in the new 4th District, which had previously contained New Bedford but now takes in more territory along the border of Rhode Island. Although the territorial changes in the South Shore area of the state are less dramatic than those in the Central and Western parts of the state, the movement of several medium-sized industrial cities has greater ramifications in terms of shifts of actual voters and in terms of the partisanship of these districts.

Incumbents: There was substantial speculation in the Massachusetts media about the new congressional maps for several weeks before they finally appeared. The proposed state legislative maps had been released in mid-October, and at that time a series of rumors had circulated about potential changes in the three congressional districts in Western and Central Massachusetts and in the Lowell-based district of Rep. Niki Tsongas (Phillips 2011a, b; Sutner 2011). John Olver, who represented a district including the Berkshires and a long swath of the northern tier of the state stretching almost to the Merrimack Valley, announced his retirement on October 26, shortly before the proposed congressional maps were released but after the publication of several news articles speculating about a matchup between Olver and another incumbent (either Springfield's Richard Neal or Worcester's James McGovern). The final map would have indeed forced Olver to run against another incumbent (McGovern), but it did not in fact look much like those rumored to be under consideration before Olver announced his resignation. In the Eastern part of the state, the residences of Representatives Steven Lynch and William Keating were drawn into the same district, a problem Keating addressed by choosing to run in the new Cape Cod district where he had a summer home, a district containing much of the territory of his old district, with the notable exception

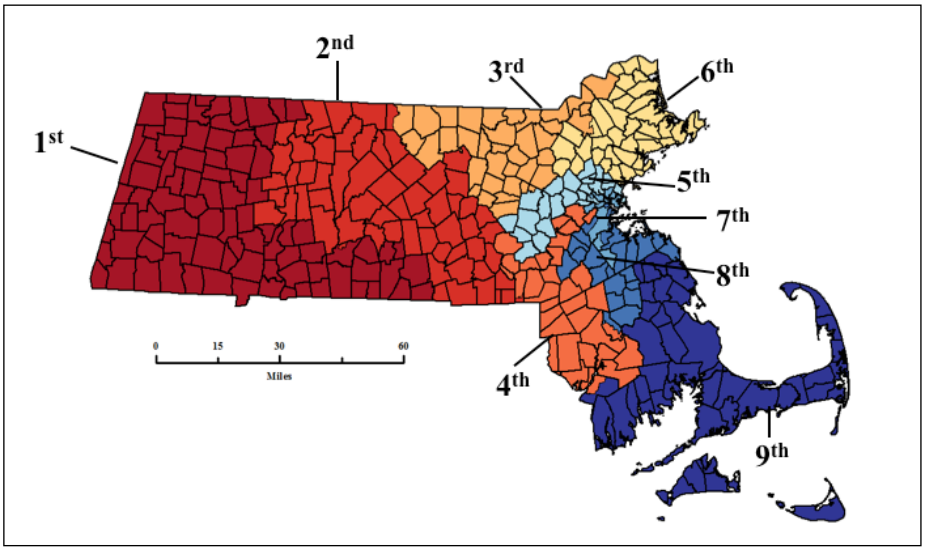

FIGURE 2: MASSACHUSETTS CONGRESSIONAL DISTRICTS, 2012-2020

DISTRICT 2012 (INCUMBENT)	INCUMBENT'S DISTRICT 2002	PCT. DEMOCRATIC 2012	PCT. DEMOCRATIC 2002	PCT. REPUBLICAN 2012	PCT. REPUBLICAN 2002	PCT. UNENROLLED 2012	PCT. UNENROLLED 2002	PCT. NONWHITE 2012	PCT. NONWHITE 2002
1 (NEAL)	2	37.31	35.97	13.29	13.23	49.40	50.79	17.53	17.12
2 (MCGOVERN)	3	33.15	33.49	12.54	13.30	54.31	53.21	14.79	16.19
3 (TSONGAS)	5	33.40	33.49	13.36	13.30	53.24	53.21	21.52	16.19
4 (OPEN / FRANK)	4	33.41	38.32	13.11	11.32	53.49	50.36	11.00	13.60
5 (MARKEY)	7	40.60	34.00	10.66	13.27	48.74	52.72	20.65	21.68
6 (TIERNEY)	6	31.43	31.33	13.32	13.40	55.25	55.27	12.02	12.46
7 (CAPUANO)	8	55.57	56.33	6.71	6.78	37.72	36.89	48.94	45.52
8 (LYNCH)	9	40.02	41.32	11.68	11.07	48.30	47.62	20.44	25.76
9 (KEATING)	10	32.31	29.99	14.27	15.67	53.42	54.34	9.44	10.30

TABLE 2: DISTRICT CHANGES IN PARTISANSHIP AND RACE
Note: Partisanship data for both redistricting plans are taken from voter registration in the 2008 election. Race data from the 2000 census.

of Quincy, his place of residence and the old district's largest city (Phillips and Bierman 2011). And Representative Barney Frank announced his retirement after the redistricting; he did not cite redistricting as a primary reason for his decision, but he did hint that he was retiring a cycle sooner than he would have liked because of his concerns about introducing himself to so many new constituents (Richmond 2011). Had he run, he may well have faced a more difficult reelection contest in 2012 than he had faced in previous years, although the larger turnout we can expect in a presidential election year would likely have aided any Democratic candidate.

The final map, then, ultimately produced one open seat and no incumbent vs. incumbent matchups, but it clearly is not an incumbent protection gerrymander. Some incumbents were safer than before, including Representatives Tsongas and McGovern, both of whom maintained their urban bases while shedding some Republican-leaning rural and suburban areas. However, their security came at a cost of taking on many new constituents. The new 1st district appears likely to remain Democratic for the near future, but the combination of his home city of Springfield with the Berkshires provided the incumbent, Richard Neal, with a somewhat competitive primary challenger. The state's most competitive race in 2012, however, was the new 6th district, on the state's North Shore. This district changed little, but ethical issues involving the district's incumbent representative, John Tierney,[12] led to a challenge from a prominent centrist Republican, Richard Tisei, and the National Republican Campaign Committee and various conservative Super PACs spent heavily on the race (Isenstadt 2011). Although Tisei led in several late polls, Tierney eked out a narrow victory. Barney Frank's retirement appeared at first to have the potential to set off a heated Democratic primary, and Frank's Tea Party-inspired 2010 opponent, Sean Bielat, again sought the Republican nomination. However, the entry of Joseph Kennedy III, son of former Representative Joseph Kennedy II and grandson of Robert Kennedy, reduced competition on the Democratic side and erased Republican expectations of winning this seat.

Partisanship: Table 2 shows changes in the partisan and racial composition of Massachusetts' districts following the 2012 redistricting. This table compares each of the incumbents' current and former districts, assuming that if Barney Frank had remained in Congress he would have run in the new 4th district. While it may oversimplify matters somewhat to argue that, for instance, the old 2nd district "became" the new 1st district, the data we showed in Table 1 clearly demonstrated that each of the incumbents who sought to remain in Congress chose to run in the new district that most resembled his or her prior district.

The partisanship data here, drawn from 2008 voter registration records, show how little Massachusetts' districts changed in their partisanship. Whether one considers Democratic registration, Republican registration, or registration as unenrolled, it is clear that mapmakers sought to change the current districts as little as possible

[12] Rep. Tierney's wife pled guilty to aiding and abetting the filing of false tax returns by her brother and served 30 days in prison.

in terms of their partisanship.[13] Two districts — those of Reps. Markey and Keating — became slightly more Democratic, and one district, formerly held by Rep. Frank, became slightly less Democratic. The partisanship changes in the districts of Keating and Frank are a consequence of the movement of the larger cities of New Bedford and part of Fall River from the 4th to the 9th districts; the change in Markey's district is a result of the movement of some of the northern towns in Frank's district to Markey's. The large number of unenrolled voters in each of these districts makes it difficult to predict what might take place in future elections, but it is clear that there is only one district (the 4th) where Republicans were arguably advantaged by the redistricting.

Race: Massachusetts continues to have one district that is nearly a majority-minority district; this district does reach that level if one sums the percentage of African-Americans, Asians, and Latinos (who may also identify themselves as white on the census). This district became slightly less white in the 2010 redistricting, although it appears that it will continue to have a white incumbent. It is technically possible to draw this district in a manner that includes more minorities — in fact, it is possible, if one draws districts very creatively, to draw two Massachusetts districts that are majority-minority — but doing so has never been a priority of the legislature or of voting rights organizations.

Major cities: The new, nine district map contains no fewer than seven districts that are either centered around a major municipality (the 1st, 2nd and 3rd are centered, respectively, around Springfield, Worcester, and Lowell), a well-recognized regional community of interest (the 5th, 6th, and 9th are centered around the Metrowest area, the North Shore, and the Cape and Islands, or a "majority-minority" concentration of people of color (the 7th includes the urban and heavily minority communities in and near Boston). Only the 4th and 8th appear to have been constructed based on population remnants, i.e., who and where was left over after accounting for the cities and communities listed above.

Compactness: Scholars have long-since concluded that there are no generally preferable ways to measure the compactness of districts.[14] However, it is not going too far out on a limb to assert that the 2012 map represents a significant stride forward, in terms of compactness, from the 2002 map. Both the western and southeastern parts of the state are divided more neatly and compactly than previously. The differences in the southeast are especially noticeable, as a region that had previously been sliced and diced among three districts has now been neatly cut in two. Although there is no way to be certain about the intentions of legislators, it appears that the notions of communities of interest and compactness won out in this round over incumbent protection, but without much, if any, harm to what is perhaps the paramount concern: protecting the interest of the majority party Democrats.

A MORE OPEN PROCESS?

The joint committee on redistricting certainly sought to make information on the redistricting process visible to the public. It is difficult to make firm connections between citizens' ideas about redistricting and the maps that were ultimately developed by the committee. Because the maps are arguably more compact than previous districts; because they do not appear to be blatantly pro-incumbent; because there are arguably more competitive districts than were produced in 2002; and because the maps remedy some long-standing complaints about communities of interest (particularly in Southeastern Massachusetts) it appears that the committee did seek to produce "fair" results and did, in fact, act upon some of the testimony it received. Although the committee invited testimony, both in writing and during the public hearings, its website does not include the written testimony that it received.

Redistricting proposals from outside the legislature can be grouped into three categories. First, local media throughout the state published pieces about ensuring representation of their regions but did not endorse comprehensive plans. Newspapers in the Berkshires (at the western end of the state) argued that they were different from residents of Springfield (the largest city in Western Massachusetts) and should thus have their own district (Davis 2011); political leaders in Worcester argued that they were different from residents of Springfield or Lowell (Monahan 2011); and editorial pages on the state's North Shore, as well, argued that they were different from their neighbors and should not be grouped with Lowell or Lawrence (Newburyport News 2011).

[13] Massachusetts allows citizens to register as "unenrolled" — essentially, to proclaim themselves to be independents. These voters are permitted to request the ballot of any party in a primary election without changing their registration status. The allegiances of unenrolled voters are a subject of frequent discussion in Massachusetts politics. Given the anemic Republican registration totals (as shown in Table 2), unenrolled voters are generally crucial to the success of statewide Republican candidates.

[14] See generally Monmonier, pp. 64-76.

Testimony at the public hearings often followed this model; at the Worcester hearing, for instance, it appeared to us that there was an organized effort afoot to ensure that Worcester and Springfield were not placed in the same district and that the region west of the Boston metropolitan area have three districts. Republicans on the joint committee also often adopted this sort of argument — a convenient one for them, perhaps, since preserving three districts in an area of the state with only two major cities would have had the effect of creating at least one largely rural, and somewhat more Republican-leaning, district.

Second, an organization called Fair Districts Massachusetts (FDM), led by former Republican Senate candidate Jack E. Robinson and advised by Republican State Representative Daniel Winslow, released two proposed maps that would have had more compact districts and would arguably have increased competitiveness in Boston's southern and western suburbs. These maps also substantially increased the minority population in the state's majority-minority district. Although FDM asserted that this was a nonpartisan effort, it claimed that its proposal had pushed Frank and Olver towards retirement, an argument made prominently enough on the group's website; one cannot but assume that it took pride in its role in ending the career of the liberal icon Frank in particular. FDM endorsed the state's final maps and stated that its advocacy had guided the committee's decision-making.[15]

Third, the New Democracy Coalition, a coalition of organizations on the left, also argued for the enhancement of the state's majority-minority district. The Massachusetts NAACP and MassVote, an organization that also advocates for increased representation for minorities, jointly developed two different proposed maps that would have also increased the population of this district, but these maps did less to increase the competiveness of other districts than did the FDM maps. These groups also issued a statement approving of the committee's process.[16] Common Cause Massachusetts did not explicitly endorse any of these proposals but it did argue for increasing the transparency of the redistricting process (as compared with the 2002 procedure) and commended the committee for allowing a two week comment period after the release of the proposed maps.[17] The national office of Common Cause issues report cards for the state on various matters of open government; although it gave Massachusetts a "C" overall, it gave it an "A" for the openness of its redistricting.[18] These groups and FDM both found an unlikely ally in April 2011 as Senator Scott Brown announced his support for empowering minorities (although Brown did not endorse any particular plan; see Emery 2011).

An interesting aspect of this round of redistricting in Massachusetts was the role of State Senator Stan Rosenberg (D-Amherst), the Senate chair of the Special Joint Committee on Redistricting. Rosenberg is a long-time member of the senate who had been mentioned as a possible successor to 1st District Congressman (and fellow Amherst resident) John Olver. In his own political interest, Rosenberg might well have wanted to keep Amherst together in a district with Berkshire County and separate from both Springfield and Worcester. But the loss of population in the western counties compared to the rest of the state would have required stretching the old 1st (Berkshires) and 2nd (Metro Springfield) districts even farther east, sandwiching but avoiding Worcester (the hub of the old 3rd Distrtict). Such a configuration might also have complicated the redrawing of the district that is home to the delegation's lone female member, Rep. Niki Tsongas. It may be that creating a favorable district for a future run by Stan Rosenberg would have required gerrymandering so obvious and bizarre as to be politically untenable, at least in the current climate.

Overall, then, it appears that citizen groups found much to like in the process, and that the only losers were residents of the Berkshires and, arguably, some of the incumbent representatives. The committee clearly sought to encourage public feedback and to provide citizens with the necessary tools with which to draw their own conclusions about the procedure. In our opinion, the process in Massachusetts was as open, if not more so, than it was in any of the other states we looked at. It is not at all clear that the committee took the various outside proposals into account (but then, how would one tell one way or the other?).

[15] See http://fairdistrictsmass.org/FDMPressRelease.pdf.

[16] See http://massvote.org/2011/11/new-congressional-maps-give-you-more-power/.

[17] http://www.commoncause.org/siteapps/advocacy/ActionItem.aspx?c=dkLNK1MQIwG&b=7809089.

[18] See http://www.commoncause.org/site/pp.asp?c=dkLNK1MQIwG&b=4847587. Common Cause certainly is not susceptible to grade inflation; Massachusetts' overall "C" grade was the tenth-highest among the states.

OUTLOOK FOR FUTURE REDISTRICTING REFORMS

What accounts for this change in the politics of redistricting in Massachusetts? We have already discussed two factors, the loss of a congressional seat that necessitated substantial redrawing of lines and the recent history of scandal that arguably set the bar higher for ethical conduct. A third factor, the much greater availability of mapping software and data, may have been the most important reason the legislature produced the eventual 2012 map.

In earlier decennial redistrictings, mapping software was more expensive, less widely available, and harder to use. By the 2012 round, however, programs such as Dave's Redistricting[19] were available to anyone with a personal computer. A modicum of skills, patience, and the inclination to try one's hand at map-making were all that was required to duplicate the process that heretofore had been confined to closed-door rooms at the State House. The website of the Joint Special Committee on Redistricting even had its own "Draw Your Own Districts" link,[20] something that surely never occurred to former Speaker Finneran.

Before the legislature began its work on new district maps, Massachusetts Secretary of State William Galvin, the commonwealth's chief elections official — and a former state legislator — had publicly called for a new independent commission to draw district lines.[21] His proposal was quickly shot down by State Senate President Therese Murray (D-Plymouth), and the near-universal praise for the results reached by the legislature in this round of redistricting will no doubt be offered as evidence a decade from now that the elected politicians are clearly capable of doing the job.

Another factor worthy of note was that Democrats had lost their majority in the U.S. House of Representatives during the 2010 midterm elections. Had Democrats remained in the majority in Washington, the state legislature may well have thought better of creating districts that disadvantaged long-time powerful incumbents like Frank and Olver. There is, of course, no way of knowing how this might have played out, although, at least in the case of Frank, maintaining the thin, north-to-south gerrymander of southeastern Massachusetts that, inter alia, provided Frank with reliable nests of Democratic voters in both the north (Newton and Brookline) and south (New Bedford and part of Fall River) of his district might have been hard to resist.

To close with a hoary cliché, ten years is a very long time in politics, so it is hard to predict the historical legacy of Massachusetts' 2012 redistricting. Population projections for the 2020s make it appear unlikely that Massachusetts will lose another seat in ten years, so the calculus for legislators will no doubt be different in 2022. It seems more likely that a Republican will win one of Massachusetts' congressional seats in the coming decade than it is that the Massachusetts legislature will become substantially more Republican, so it may well be that partisanship will play a greater role in the future than it has this year. The legacy of the 2002 redistricting, however, clearly weighed on Massachusetts legislators as they approached the mapmaking process in 2012. If the early reviews of this year's redistricting are any indication, legislators will have less to prove in the future than they did this year.

[19] http://gardow.com/davebradlee/redistricting/launchapp.html

[20] http://www.malegislature.gov/District/CreateDistricts

[21] Levenson and Phillips 2010.

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NEW HAMPSHIRE'S CONGRESSIONAL REDISTRICTING

*Dante J. Scala**

With only two congressional districts to draw and minimal changes required, the state of New Hampshire had one of the easiest redistricting tasks in the union after the 2010 Census. The final result barely shifted the contours of the two districts. Why, then, did the process itself take so long? New Hampshire was next to last in completing the task, with Governor John Lynch signing off on the new map on April 23 (*Wichita Eagle* 2012). The answer, in short, was that the process was left to the congressmen themselves. To be more specific, a simple job on paper became a more complicated zero-sum game for the two Republican incumbents, both of whom won their seats in the Republican avalanche of 2010. Now facing tough races to keep their seats during a presidential election year, both incumbents hoped to enhance their chances in their swing districts by squeezing out possible advantages in the redistricting process. The result, predictably enough, was a stand-off that ultimately yielded few net positives for either congressman.

A RECENT HISTORY OF NEW HAMPSHIRE'S CONGRESSIONAL DISTRICTS

The Granite State has possessed two congressional districts since 1882. The districts are divided by a single boundary line that runs roughly north-south, splitting the state into the eastern First Congressional District bordering Maine, and the western Second Congressional District bordering Vermont. The First District is geographically the more compact of the two, extending from the state's largest city of Manchester to the seacoast; the district includes much of the voter-rich southern tier, which now serves as the outermost circle of Greater Boston and its suburbs. The Second District extends over a significantly larger geographical area, encompassing all of northernmost Coos County, as well as the three counties bordering Vermont. Significantly for Republicans, the Second District includes a strip of prosperous towns along the border with Massachusetts that have become part of the core Republican base in New Hampshire. The district also includes Nashua, the state's second-largest city. (Traditionally, New Hampshire's two largest cities, Manchester and Nashua, have each been allocated to separate districts.)

Since 1992, New Hampshire has shifted from a strongly Republican state to a swing state in presidential elections. The last Republican presidential candidate to win a majority of the state's vote was George H. W. Bush in 1988; his son carried the state in 2000 with only a plurality of the vote. In 2004, New Hampshire was the only state to shift from Republican to Democratic, casting its four electoral votes for Senator John Kerry from neighboring Massachusetts; in 2008, Barack Obama easily carried the state over John McCain, who won the state's heralded first-in-the-nation Republican presidential primary in 2000 and 2008. The bellwether nature of the Granite State has been reflected in recent elections in the state's two congressional districts.

The First Congressional District is a true bellwether, with a Partisan Voting Index (PVI) of R+0. Three different politicians have occupied the seat since 2006. In that year, little-known progressive activist Carol Shea-Porter captured the Democratic nomination, and then pulled off one of the biggest upsets of the cycle in upending Republican incumbent Jeb Bradley. Two years later, Shea-Porter successfully fended off Bradley's attempt to regain his seat. 2010, however, was a far less friendly environment than the previous two cycles for the Democrat, and Shea-Porter was easily pushed aside by former Manchester Mayor Frank Guinta.

The Second Congressional District has acquired a distinct Democratic tilt, currently possessing a PVI of D + 3. In the Second Congressional District, Republican Charlie Bass had held the seat since the "Republican Revolution" of 1994. The Democratic wave of 2006, however, carried him out of office. Four years later, when his successor, Paul Hodes, decided to run for the U. S. Senate seat vacated by Republican incumbent Judd Gregg, Bass attempted to regain his old seat. Facing Ann McLane Kuster, a Democratic newcomer with formidable fundraising strength, Bass nonetheless prevailed, albeit with less than 50 percent of the vote.

Both Guinta and Bass faced significant challenges in 2012, when the "enthusiasm gap" in the two parties' respective bases narrowed considerably. Bass was widely considered to be the more endangered of the two, but in the end both lost their seats in the 2012 general election, Bass by a 50 to 45 percent margin to Kuster and Guinta by a 50 to 46 percent margin to Shea-Porter. Perhaps redistricting would have saved one or the other, but the election shows little evidence that either candidate benefitted from redistricting.

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THE REDISTRICTING PROCESS IN NEW HAMPSHIRE

New Hampshire's state legislature, overwhelmingly Republican after the 2010 elections, was responsible for redrawing district lines, subject to the approval of Democratic Governor John Lynch. In addition to the two congressional districts, the legislature also was responsible for drawing five Executive Council districts and twenty-four State Senate districts; it also faced the formidable task of allocating the lower State House's 400 seats among the Granite State's various towns and cities.

Compared to such work, redrawing the two Congressional districts appeared to be a fairly simple task. Population changes had been undramatic and relatively uniform across both districts, and therefore the two districts were only a few hundred votes shy of being equal in population. Furthermore, Republican leadership in the State House was intent on keeping the status quo between the two districts. "For State House leaders, dramatic change creates unnecessary drama," wrote longtime Granite State political reporter James Pindell last February (Pindell 2012a).

Given their druthers, both Republican congressmen most likely would have preferred to redraw the district lines in their favor. While Guinta clearly represented the more conservative of the two Granite State districts, the makeup of the First Congressional District did not offer him a partisan advantage. It was his colleague Bass, however, facing an electorate that clearly leaned Democratic, who doubtless saw a more urgent need to shake up the status quo in his favor.

In particular, the Second District congressman wished to acquire a number of Republican towns for his district that would have rid his electorate of its Democratic tilt. These towns lay mainly in New Hampshire's southern tier. In the 2010 elections, a small set of voter-rich Massachusetts border towns stretching across Hillsborough and Rockingham counties had proven vital to Bass's successful comeback. Bass had long had his eye on Bedford, a town adjoining Manchester, which was one of the most Republican in the state; such a shift was viewed as infeasible, though, because of the town's historic connection with the adjoining city.

In the end, Bass proposed a swap of northern towns (including the college town of Plymouth) for Republican-tilting areas such as Merrimack, Plaistow, Hampstead, and Kingston. This would have left Bass in a slightly better position, at the expense of his colleague in the neighboring district. Bass argued that making his district slightly more Republican was in the long-term interests of the New Hampshire GOP. While the congressman, who turned 60 this year, described himself as a "short-termer" in office, the benefits of such redistricting would accrue to the fellow party member who attempted to succeed him. Bass's plans beyond the 2012 election, however, were unclear.[1]

Guinta, who turned 42 in 2012 and thus had reason to anticipate a longer congressional career than Bass, saw little merit in his colleague's plan. In addition, some lawmakers from affected towns also objected to the changes. The First District congressman suggested a simpler fix: move exactly one town, Waterville

[1] See DiStaso 2012a, Pindell 2012a. Bass's proposal apparently never gained traction among fellow Republicans in the State House. In fact, a House subcommittee on redistricting put forth a proposal that would make Bass's district lean slightly more Democratic (Tucker 2012).

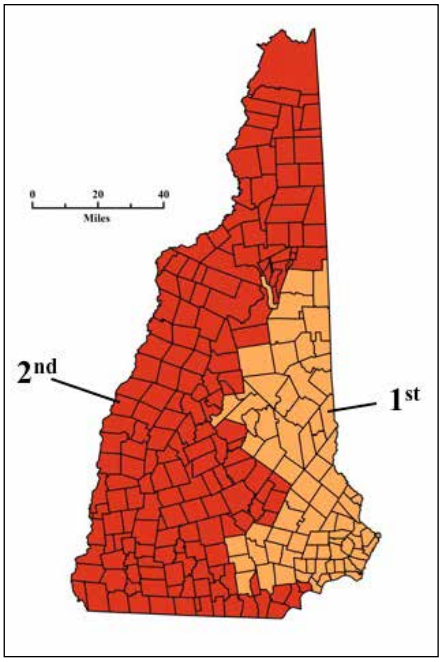

FIGURE 1: NEW HAMPSHIRE CONGRESSIONAL DISTRICTS 2002-2010

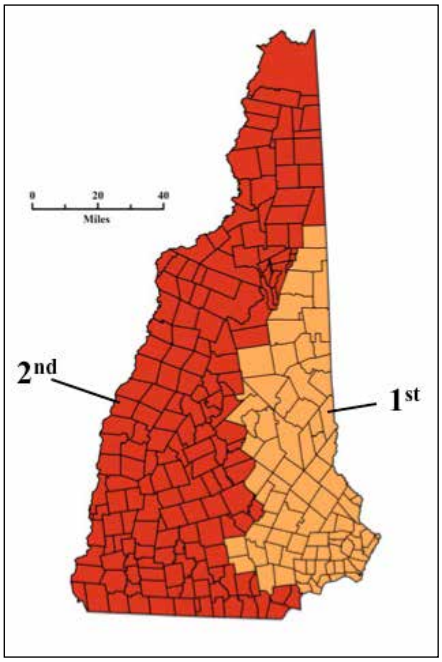

FIGURE 2: NEW HAMPSHIRE CONGRESSIONAL DISTRICTS 2012-2020

Valley, in order to address the small population imbalance (DiStaso 2012a). This minimalist approach won the approval of State House leadership, including Speaker of the House Bill O'Brien. In mid-March, a House committee voted 14-1 to approve a plan O'Brien co-sponsored, which moved Waterville Valley and Sargent's Purchase into the First District. Combined, the changes affected a mere 250 people (DiStaso 2012b).

Ultimately, the two Republican congressmen agreed on a more expansive set of changes, which helped Bass's re-election prospects slightly. In late March, the two consented to a plan that swapped six towns, affecting some 15,000 voters. Figures 1 and 2 show the old and new districting plans. Bass's district became slightly less Democratic-tilting as a result, while doing negligible harm to Guinta's re-election prospects (Pindell 2012b).

In sum, during a redistricting session in which they held almost all the cards (including a veto-proof majority in the state legislature), New Hampshire state legislative leaders deferred to the wishes of its Republican congressional incumbents. And when the two incumbents were unable to reach an agreement, the Republican legislative leadership opted for a near status-quo approach more favored by Guinta, the congressman with the more Republican of New Hampshire's two districts. A plan that would have made its Democratic-leaning Second District more competitive for the next decade was a non-starter for the GOP leadership. On the other hand, New Hampshire's GOP did not see fit to strip Bass's district of Republican towns, thus giving Guinta's bellwether district a distinctive Republican tilt for the next decade. In all, New Hampshire's GOP elected to do no harm to either incumbent and hope for the best.

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REDISTRICTING IN RHODE ISLAND: A Zero-Sum Game

*Amelia Najjar and Nicholas Rossi**

California comprises 53 districts; Florida, 27; Texas, 36. Rhode Island has two. Congressional redistricting in this small state is somewhat simple when compared to the above-mentioned states. However, the Ocean State does have its fair share of complexities, which made for a stirring and enthralling redrawing of districts during the 2010-12 redistricting cycle. This redistricting was largely characterized by a political tug of war between the two Democratic representatives, David Cicilline (D – District 1) and Jim Langevin (D – District 2), over voters in Providence. The media was quick to highlight speculation that the redrawing was unevenly benefiting the districts, helping one politician more than the other. It is not overly surprising that those involved in the process have been accused of playing politics, since a political body—the state legislature—holds almost exclusive power over redistricting; that is, current state legislators comprise the commission that redraws district maps for themselves as well as for congressional representatives. Rhode Island experienced minor population changes that needed to be accounted for,[1] but shifts in district lines were still largely political, and certainly contentious.

REDISTRICTING IN RHODE ISLAND

Historically, the districts in Rhode Island have not tended to change drastically over the years. There were three districts until 1933, when the state's slow population growth relative to the rest of the country led to the loss of one district. Since then, Rhode Island has seen two districts cutting up the state in an east-west divide. Redistricting in Rhode Island has generally not been aimed at severely altering the districts in terms of shape and communities of interest; it has mainly been about shifting certain voters along the boundary lines to change the makeup or demographic of the district just enough to achieve a particular result. 2010 was no different.

While the criteria for redistricting are essentially the same across the nation, how it is carried out can vary considerably, depending on the geography, demographics, history, and political atmosphere of each state. On June 22, 2011, Governor Lincoln Chafee signed into law Bills H 6096 and S 924, creating an advisory commission to redraw state legislative and congressional districts based on the 2010 census (Levitt 2013). This advisory commission consisted of 18 members: four representatives appointed by the House speaker, two representatives appointed by the House minority leader, four senators appointed by the Senate president, two senators appointed by the Senate minority leader, three members of the public appointed by the House speaker and three members of the public appointed by the Senate president. For the 2010 cycle, there were seven Democrats and five Republicans on the commission (excluding the public members). The six public members tended to be somewhat politically active, be it on a town planning or zoning board, as the chairman of a town political committee or as a former state politician. Some public members also had experience as small business owners, government workers, or as workers in the private sector ("A Breakdown" 2011).

The advisory commission conducted a series of public hearings, in which members of the public could hear from the commission members and the commission members could hear testimony from members of the community. Groups such as Common Cause, the Rhode Island League of Women Voters, the Urban League of Rhode Island, the Providence Branch of the NAACP, the American Civil Liberties Union, and various newspapers frequented the meetings held by the commission ("Rhode Island Redistricting Project"). Average citizens, however, do not attend public hearings, so the media therefore played a major role in informing the public about these hearings.

The political makeup of a state is an important determinant of how the redistricting process will pan out. In recent years Rhode Island has become increasingly Democratic. It is the fourth bluest state in the nation, with 40.9 percent of voting Rhode Islanders registered as Democrats, while only 10.4 percent are registered as Republicans ("Gemma" 2010). In the 2012 presidential election, Rhode Island voters cast 67.2 percent of their votes for Barack Obama ("2012 Rhode Island Presidential Results"). It is clear that in Rhode Island competition occurs mostly among politicians to the left of center fighting to ensure they are chosen to represent their demographic, rather than among opposing parties. The northern and western parts of the state, however, do tend to be more conservative than the rest of the state and can occasionally pose a threat to the Democratic establishment.

[1] All states must adhere to the 14th Amendment Equal Protection Clause-based requirement that all districts within a state be as close to equal in population as possible. *Wesberry v. Sanders,* 376 US 1 (1964).

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Additionally, with 48.6 percent of voters registered as Independents, Rhode Island is a state in which independent/unaffiliated voters can easily sway elections (Cohen 2012). This may explain why Rhode Island has not elected a Democratic governor since 1992. In 2010, while Democrats had the upper hand in their congressional general election contests, both Democrats campaigned aggressively. In the 2010 congressional election in District 2, Jim Langevin won 59.9 percent of the vote, to his Republican opponent Mark Zaccaria's 31.8 percent; however, in the open seat race in District 1, David Cicilline only won 50.6 percent of the vote to Republican John Loughlin's 44.6 percent (Cohen 2012). While incumbents are always interested in redistricting making their seats as safe as possible, given the narrow 2010 margin in District 1, in 2012 Cicilline in particular had a strong interest in the redistricting process, resulting in a more Democratic-leaning district.

Rhode Island is not only a distinctly blue state — it is also the smallest state in the nation in terms of geography. It does, however, manage to satisfy the population requirements for having two districts. Rhode Island's two districts, each somewhere slightly above 500,000 people, are smaller than most of the country's districts, which average approximately 700,000 people (Nesi 2011). There was early speculation that R.I. would become a single district state, since it was one of the slowest growing populations in the country between 2000 and 2010. According to the U.S. Census Bureau, Rhode Island gained 4,248 people (less than 0.04 percent population growth) during that decade (Mackun et al 2011). The population growth that did occur, however small, was entirely due to a growing minority population, particularly in Providence. While whites maintain a majority of the population, the number of white residents actually decreased in the last decade by 34,322 people ("Rhode Island Redistricting Project"). The Hispanic population was by far the most rapidly growing ethnic group, increasing by 39,835 (Parker 2012). The minority population increases thus have sustained Rhode Island's population growth and helped maintain its two-district makeup. However, Rhode Island does not have a large enough concentrated minority population to require the creation of a majority-minority district.

REDISTRICTING IN 2012: RAW POLITICS

Despite Rhode Island's Democratic tilt, the fact that it was neither gaining nor losing a district, and the lack of a majority-minority district, the remapping process became convoluted with much political maneuvering. The 2011 process had a distinctly political tone, and featured an unusual public spat between two colleagues within the Democratic Party. Since redistricting in Rhode Island was between two Democratic districts, decisions about who got what changes, and where, operated as a zero-sum game: any changes that benefited one politician were detrimental to the other.

The timeline for the Rhode Island process was as follows: the commission was required to make its recommendation to the General Assembly by January 15, 2012, and the General Assembly was required to vote on a plan in time for it to be effective for the 2012 elections. On December 19, 2011, the commission voted on draft congressional lines, which were then sent to the legislature for a vote. On February 1, 2012, the Senate passed S 2178, and on February 2, the House passed identical bill H 7209. On February 8, 2012, both were signed into law by Governor Chafee. Following these votes, the state House lines were challenged in the courts, but no court case was brought challenging the congressional map.

The earliest plans unveiled by the redistricting commission were scrapped due to widespread criticism from both Democrats and Republicans on the grounds that they were too drastic and too blatantly aimed at bolstering District 2 Representative David Cicilline's political fortunes. One, for example, known as "Plan E," would have moved three of the more conservative towns to District 2 and about half of Providence into District 1, shifting the districts of a total of 125, 276 people. The map eventually approved by the legislature, "Plan F," scaled back these changes but still moved significantly more people than what was needed to equalize district populations. As Figures 1 and 2 show, the districts did not look that much different in terms of geography. The town of Burrillville had been moved from District 1 into District 2 with more portions of the city of Providence being moved into District 1. However, Plan F moved about 75,016 voters, even though the difference between the old districts due to population change had been only 7,200 (Blake 2011).

The commission justified these changes by stating that it had moved more people than necessary so that minorities could have a greater voice in District 1. The newly redrawn District 1 was now 75.86 percent non-Hispanic White compared to District 2, which was 83.83 percent non-Hispanic White. As Table 1 shows, Hispanics make up the largest minority group in both districts ("Rhode Island Redistricting Project").

The commission, however, never released data on the voting behavior of minorities in these districts to demonstrate that minority groups would actually vote in a similar way, which instantly generated speculation that ulterior political motives were the real explanation for the unnecessarily large changes (Edgar 2011).

Most political leaders who supported the approved plan commended it for providing a greater voice to minorities. Critics, however, characterized it as a blatant attempt to pad the district with additional Democratic voters to protect Cicilline from what had been expected to be a tight reelection campaign (Blake 2011; Edgar 2012; Marcelo 2011; Marcelo 2012).

In the months preceding the 2012 election, Cicilline had been accused of misleading the public on the well-being of the city of Providence's finances in his former job of mayor before running for Congress. Whether these claims were true, the details of the scandal left much for his opponents to seize upon. An official state report criticized him for running a "dysfunctional" budget system during his time as mayor that left the city in a state of financial crisis by the time he left office. To make matters worse, the condition of the city's finances had not become public knowledge until the new Mayor of Providence had officially taken office, and Cicilline had already been elected to Congress. In fact, during his initial campaign Cicilline commented that the he was leaving the city's finances in "excellent condition"—a quote his political opponents eagerly took advantage of (Mulligan 2011). No ethics violations or criminal charges were ever filed, but his polling numbers suffered as a result. He appeared distinctly vulnerable going into the 2012 election (Cohen 2012).

Critics of the 2012 redistricting plan thus claimed that the changes had been motivated most by a desire to make Cicilline more secure in light of these accusations. Rep. Langevin of the second district was particularly critical of the changes, perhaps mainly because the extra margin of safety given to Cicilline had been provided at his expense from his district. Brandon Dougherty, Cicilline's Republican challenger, issued similar complaints, calling the process "political gamesmanship" (Marcelo 2011).

The most telling comment on the politics though may have come from Ray Rickman, a former Democratic state representative and a citizen member of the 2010 redistricting commission. When asked about politics in the redistricting process, Rickman noted that the new plans would definitely benefit Cicilline, and that representatives redrawing maps to assist themselves or other politicians is "an American tradition." He went on to say "Nobody says it, but [Cicilline] had a tough time getting elected the first time, and he's going to catch hell the second. The people of Burrillville are not going to vote for him. He wants to get rid of them and I don't blame him. Do I like the politics? No. Am I surprised? No," (Klepper 2011). The general consensus among close political observers seems to be that the new districts had been drawn to benefit Cicilline, and that strengthening the minority voice in the first district was not the real motivation, even if they modestly had that effect.

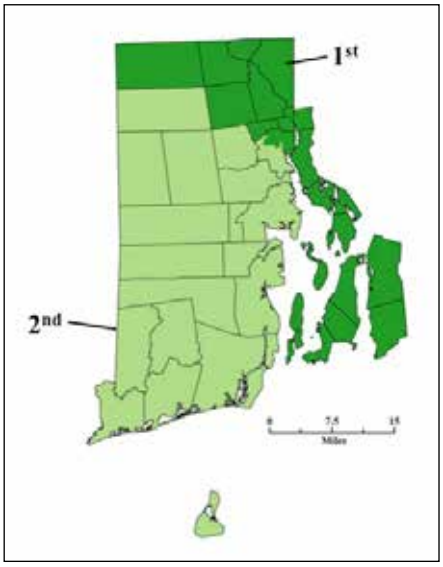

FIGURE 1: RHODE ISLAND CONGRESSIONAL DISTRICTS, 2002-2010

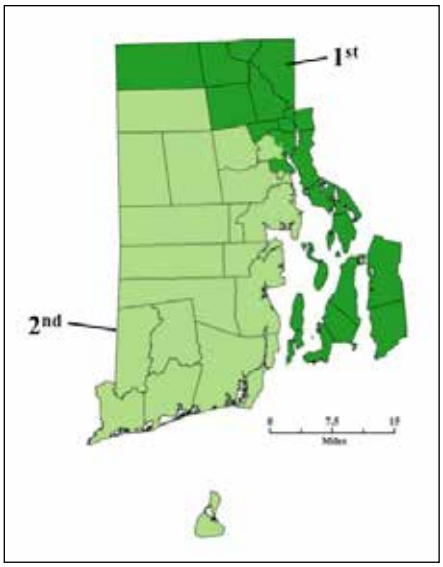

FIGURE 2: RHODE ISLAND CONGRESSIONAL DISTRICTS, 2012-2020

DISTRICT NUMBER	TOTAL POPULATION	WHITE NON-HISPANIC VAP	BLACK NON-HISPANIC VAP	ASIAN NON-HISPANIC VAP	HISPANIC VAP	NON-WHITE VAP
1	526,283	75.64%	6.15%	3.22%	11.94%	24.36%
2	526,284	83.83%	3.39%	2.90%	8.52%	16.17%

TABLE 1: RHODE ISLAND CONGRESSIONAL DISTRICTS, 2012

In addition to the controversy surrounding Cicilline, other criticisms were raised over the lack of transparency in certain aspects of the process. At one point Common Cause suggested that the redistricting process should stop, and that the commission had provided "incomplete information about maximizing minority representation to justify their decisions" (Edgar 2011). Some state representatives also complained about the lack of transparency, although in general the protests over this lack of information never moved beyond statements of disapproval (Marcelo 2011; Klepper 2011).

Aside from comments about the lack of information on the impact of minorities, few objections to the new congressional districts were raised by minority groups. This may have to do with the small size of the state's minority populations. These groups gave more attention to the state legislative districts, where minority voters and representatives were more heavily affected.

In addition, it is worth noting that the relationship between Hispanics and African-Americans in the state has been tepid at best. The two groups have competed for power in the State House, often at the expense of the other. For example, Rhode Island's voter ID law, an anomaly in such a liberal state, was passed partly out of voter concerns about corruption, but also because of some support from African-American politicians in the R.I. House (Moakley 2013). The lack of a united front by minority groups, relatively small minority populations, and a focus on state legislature districts thus meant that the effect of the new congressional districts on minorities received little attention.

Despite controversy, the final redistricting plan received overwhelming support in the General Assembly, and was signed by the governor without major incident. Governor Chafee, a former Republican U.S. Senator who won the governor's office running as an Independent, never voiced any criticisms of the redistricting plan. A veto from the governor, however, would have made little difference since Democrats have a veto-proof majority in the General Assembly. This may partially explain Chafee's relative silence on the topic (Blake 2011; Thornton 2012). No court cases were filed against the congressional districts;[2] however, the state Republican Party eventually did file one against the new state House districts map (Edgar 2012). Cicilline, meanwhile, rebounded significantly in the polls in the weeks preceding the 2012 general election, and in the end he sailed to a decisive 53.0 percent to 40.8 percent victory over Republican candidate Brendan Doherty. Langevin also held his seat without difficulty, garnering 55.7 percent of the vote (RI Board of Elections 2012).

In hindsight, Cicilline's victory is not particularly surprising. Rhode Island has a plurality of voters registered as Independent, and these voters in the past have been open to choosing Republican candidates at the state level. With that said, the state's voters have shown little taste for the policies of the national Republican Party, and candidates that get tied to more conservative national candidates, such as Mitt Romney, tend to do poorly. Cicilline's relative success then may have more to do with his campaign's ability to tie Doherty to Romney than with the relatively smaller changes to his district (Cohen 2012).

THE FUTURE OF REDISTRICTING IN RHODE ISLAND

By the end of the latest redistricting session, a significant amount of frustration with the process had been voiced by various watchdog groups. The exclusive power of the legislative branch in the process, lack of transparency, and the seemingly brazen political motivations behind the changes all rank highly on the list of grievances. Even so, the chances of actual reform in the process seem dim at best, given the current state of the system. Politicians in the General Assembly will certainly resist the idea of giving up some of their power to the executive branch, never mind a truly independent commission. Democratic Party leaders would similarly have little incentive to give up power when they dominate the political process so thoroughly, particularly during the current string of Republican and Independent governors. Perhaps more importantly, state politicians have yet to face significant pressure from Rhode Island voters on the issue, since redistricting tends to be a low visibility issue. Without significant pressure from the grassroots level, the process is unlikely to change.

A political movement to change the process before the next round of redistricting, however, may make little difference for the state's congressional districts. Rhode Island has started to lose population since the last census, after only barely managing to avoid falling to single district status in the last cycle. Unless this trend reverses, Rhode Island will more than likely lose one of its districts in 2020 and will no longer need to be concerned about redrawing its Congressional districts (Parker 2012).

[2] Given the U.S. Supreme Court's reluctance to strike down instances of partisan gerrymandering, it is hard to imagine what sort of action might have succeeded.

CONCLUSION

The last round of redistricting in Rhode Island provides an excellent example of how political the process can become, even in a state where one party dominates. Redistricting in a two-district state can actually be quite contentious at times, as this case illustrates, since it essentially boils down to a zero-sum game. Changes in Rhode Island that benefited the vulnerable Representative Cicilline were made at the expense of Representative Langevin, and many critics alleged that political maneuvering to protect Cicilline played a heavy hand in the map's design. In response, the commission attempted to justify its decision by saying that the new map tries to increase minority political power in District 1, but this claim remains only partially substantiated since the commission refused to share information on voting behavior. The process in the Ocean State is unlikely to change due to lack of visibility and political will, despite widespread frustration from certain interest groups. Even so, concerns about redrawing congressional districts will likely be rendered obsolete by 2020 if the state continues to lose population over the next decade.

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