

Gerrymandering In the Courts

**Baker v.
Carr
(1962)**

Federal courts have jurisdiction to consider constitutional challenges to state legislative redistricting plans.

**Reynolds
v. Sims
(1964)**

Apportioned substantially according to population.

Exception from strict population equality to give representation to minorities and create compact districts of contiguous territory.

Districts should be redrawn at least every 10 years.

**Miller v.
Johnson
(1995)**

A district becomes an unconstitutional racial gerrymander if race was the "predominant" factor in the drawing of its lines.

(2018)

Four partisan gerrymandering cases came to the Supreme Court.

- Gill v. Whitford – Wisconsin's 2011 congressional map

- Benisek v. Lamone - Maryland 2011 congressional map

- Rucho v. Common Cause - North Carolina's 2016 congressional map

- Turzai v. League of Women Voters of PA – Pennsylvania's 2011 congressional map

Political Gerrymandering And The Courts

Erwin Chemerinsky



Political Gerrymandering And The Courts:

Political Gerrymandering and the Courts Bernard Grofman, 1990-05 This volume is motivated by three concerns First is the belief that the issue of political gerrymander will play a significant although far from dominant role in redistricting litigation in the 1990s and thereafter In the 1980s the legislative and or congressional redistricting plans of all but a handful of states were subject to lawsuits Grofman 1985a Many of these lawsuits involved the issue of racial vote dilution Grofman Migalski and Noviello 1985 In the 1980s hundreds of local jurisdictions that used at large or multimember district elections had their electoral system chal

Political Gerrymandering and the Courts Bernard Grofman, 1990 This volume is motivated by three concerns First is the belief that the issue of political gerrymander will play a significant although far from dominant role in redistricting litigation in the 1990s and thereafter In the 1980s the legislative and or congressional redistricting plans of all but a handful of states were subject to lawsuits Grofman 1985a Many of these lawsuits involved the issue of racial vote dilution Grofman Migalski and Noviello 1985 In the 1980s hundreds of local jurisdictions that used at large or multimember district elections had their electoral system challenged OCo and most of the jurisdictions under challenge were forced to change their system to a single member district plan that was not dilutive of minority voting strength see e g Brischetto and Grofman 1988 Although partisan gerrymandering is less prevalent than racial vote dilution in the 1990s we can expect to see challenges to partisan gerrymandering like those in the 1980s to racial vote dilution In particular numerous local jurisdictions that use partisan multimember district or at large elections may be subject to challenge Second in commissioning essays I sought to involve a number of the leading scholars in the field so as to put together a largely selfcontained compendium of the major points of view on how issues of partisan gerrymandering are to be litigated While the ultimate issues in constitutional interpretation are ones that the Supreme Court must resolve and these will be resolved only after an extensive series of case by case adjudications just as the actual numerical features of the one person one vote standard evolved only in the decade of litigation after Baker v Carr Grofman 1989a OCo there is an important role for social scientists to play Social science testimony proved important in the area of racial vote dilution by aiding courts to interpret the provisions of the Voting Rights Acts e g in defining the operational meaning of terms like racially polarized voting Grofman Migalski and Noviello 1985 Grofman 1989b In like manner I believe that research by social scientists will aid attorneys and the federal courts in specifying manageable standards to define and measure the effects of partisan gerrymandering I hope this volume will prove instrumental as the beginning of such a dialogue The third concern that motivated this volume is my view that egregious partisan gerrymandering is a violation of the Fourteenth Amendment rights of political groups and that it is both appropriate and necessary for courts to intervene when such rights are significantly impaired However I recognize that the courts must steer a careful line so as to avoid encouraging frivolous lawsuits while at the same time sending a clear message to potential gerrymanders that intentional egregious political

gerrymanders which eliminate competition and are built to be resistant to electoral tides will be struck down Court intervention to end egregious partisan gerrymandering is necessary for a number of reasons **Gerrymandering, the Supreme Court and the Constitutional Revolution of 2004** Anthony J. McGann, Charles Anthony Smith, Michael Latner, Alex Keena, 2016-04-04 This book provides a standard to gauge partisan gerrymandering which increased after the Supreme Court ruled it a non justiciable issue **The Partisan Court** Ryan J. Rebe, 2021-10-11 The Era of Political Partisanship on the U S Supreme Court challenges conventional notions of consensus building and neutral decision making on the U S Supreme Court and argues that the justices vote their partisan preferences on election law cases By focusing specifically on election law Rebe reveals a consistent pattern of partisanship on the Court The findings controvert popular perceptions of non biased decision making and fundamental fairness The aggregate analysis shows that the justices vote along party lines in a majority of election law cases and consensus building is rare when there is a contentious electoral issue at stake Moreover these decisions often conflict with principles of stare decisis originalism or judicial restraint The topics covered include gerrymandering campaign finance voter ID laws and mail in voting among others Rebe also conducts a content analysis of the most controversial election law cases of the past twenty years such as *Vieth v Jubelirer* *Crawford v Marion County Citizens United v FEC* and *Shelby County v Holder* This book provides a thorough overview of two decades of election law cases and sheds light on the impact these decisions have had on remaking America s electoral institutions

Ground War Nicholas Goedert, 2022 Partisan gerrymandering the drawing of legislative district lines to deliberately favor one political party has been present and controversial in American politics since before the ratification of our Constitution Yet in the past couple of decades parties in power at the state level have developed greater expertise than ever before at redistricting to their own advantage Since 2010 a series of legislative electoral and judicial events have given this issue a prominence it has never before seen especially as it applies to the United States Congress In *Ground War* Nicholas Goedert tackles the controversies litigation and effects surrounding partisan gerrymandering of Congress He contends that the appropriate actors to address the fairness of a map are nonpartisan commissions within each state not the US courts Goedert illustrates how existing measures and legal standards are too narrow while they are well adapted to evaluating maps in swing states in close elections they fail to properly address states or national electoral environments that favor one party In turn Goedert demonstrates that the bias and responsiveness of partisan maps is highly sensitive to both the make up of a state s electorate and the ephemeral election conditions under which individual elections take place But this does not mean that partisan gerrymandering must be excused as a dilemma without a reasonable remedy Using multiple empirical approaches and a novel metric to measure the partisan fairness of maps *Ground War* shows that nonpartisan commissions adopted state by state represent the best alternative to legislative districting These commissions foster competitive elections produce unbiased delegations and give consideration to representational claims distinctive to each state A rigorous account

that explains how our system works and provides practical solutions for improving it Ground War is an essential work for all scholars of US elections

Election Systems and Gerrymandering Worldwide Steve Bickerstaff,2020-05-30 This book explores the similarities and differences among national election systems around the globe and sheds light on how election systems are susceptible to gerrymandering which is the process by which an incumbent or a political party attempts to manipulate the boundaries of electoral districts for their own advantage Presenting research showing that some of the worst electoral system manipulation occurs in the oldest established democracies the book explores how nations have modified the form of government to meet local conditions and how democracy is threatened by gerrymandering

The Parties in Court Robert C. Wigton,2013-12-11 American political parties have long existed in a gray area of constitutional law because of their uncertain status Parties in this country are neither fully public nor fully private entities This constitutional ambiguity has meant that political parties are considered private organizations for some purposes and public ones for others This public private entity problem has arisen in many different legal contexts over the years However given their case by case method of judicial review courts have typically dealt with only very discrete parts of this larger problem This work is an endeavor to describe and analyze the constitutional status of political parties in this country by synthesizing the best judicial and scholarly thinking on the subject In the final chapter I draw on these ideas to propose my own scheme for how political parties might be best accommodated in a democracy

Gerrymandering Stephen K. Medvic,2021-05-04 For nearly as long as there have been electoral districts in America politicians have gerrymandered those districts Though the practice has changed over time the public reaction to it has remained the same gerrymandering is reviled There is of course good reason for that sentiment Gerrymandering is intended to maximize the number of legislative seats for one party As such it is an attempt to gain what appears to be an unfair advantage in elections Nevertheless gerrymandering is not well understood by most people and this lack of understanding leads to a false sense that there are easy solutions to this complex problem

Gerrymandering The Politics of Redistricting in the United States unpacks the complicated process of gerrymandering reflecting upon the normative issues to which it gives rise Tracing the history of partisan gerrymandering from its nineteenth century roots to the present day the book explains its legal status and implementation its consequences and possible options for reform The result is a balanced analysis of gerrymandering that acknowledges its troubling aspects while recognizing that as long as district boundaries have to be drawn there is no perfect way to do so

The Court v. The Voters Joshua A. Douglas,2024-05-14 An urgent and gripping look at the erosion of voting rights and its implications for democracy told through the stories of 9 Supreme Court decisions and the next looming case In *The Court v The Voters* law professor Joshua Douglas takes us behind the scenes of significant cases in voting rights some surprising and unknown some familiar to investigate the historic crossroads that have irrevocably changed our elections and the nation In crisp and accessible prose Douglas tells the story of each case sheds light on the intractable election problems we face as a result and highlights the

unique role the highest court has played in producing a broken electoral system Douglas charts infamous cases like Bush v Gore which opened the door to many election law claims Citizens United which contributed to skewed representation but perhaps not in the way you might think Shelby County v Holder which gutted the vital protections of the Voting Rights Act Crawford v Marion County Elections Board which allowed states to enforce voter ID laws and make it harder for people to vote The Court v The Voters powerfully reminds us of the tangible real world effects from the Court's voting rights decisions While we can and should lament the democracy that might have been Douglas argues that we can and should double down in our efforts to protect the right to vote

No Democracy Lasts Forever Erwin Chemerinsky, 2024-08-20 A groundbreaking work from one of America's leading legal scholars No Democracy Lasts Forever audaciously asserts that the only way a polarized America can avoid secession is to draft a new Constitution The Constitution has become a threat to American democracy Due to its inherent flaws its treatment of race dependence on a tainted Electoral College a glaringly unrepresentative Senate and the outsized influence of the Supreme Court Erwin Chemerinsky the dean of Berkeley Law School and one of our foremost legal scholars has come to the sobering conclusion that our nearly 250 year old founding document can no longer hold Much might be fixed by Congress or the Supreme Court but they seem unlikely to do so One might logically conclude that amending the Constitution would solve the problem yet logic seldom takes precedent given that only fifteen of the 11 848 amendments proposed since 1789 have passed Chemerinsky contends that without major changes the Constitution is beyond redemption in that it has created a government that can no longer deal with the urgent issues such as climate change and wealth inequalities that threaten our nation and the world Yet political Armageddon can still be avoided Chemerinsky writes if a new constitutional convention is empowered to replace the Constitution of 1787 Just as the Founding Fathers replaced the faulty Articles of Confederation that same year we must No Democracy Lasts Forever argues rewrite the entire Constitution from start to finish Still Chemerinsky goes further than that suggesting that without serious changes Americans may be on the path to various forms of secession based on a recognition that what divides us as a country is in fact greater than what unites us No Democracy Lasts Forever asserts with exceptional clarity that if the problems with the Constitution are not fixed we are ineluctably heading toward a crisis where secession is indeed possible and where it will be necessary to think carefully about how to preserve the United States as a world power in a very different form of government Despite these troubles Chemerinsky remains hopeful revealing how the past offers hope that change can happen The United States has been through enormously challenging and divisive times before with a civil war and the Great Depression and Chemerinsky ultimately shows that it may still be possible to cure the defects and save American democracy at the same time

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